

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

House Bill 4014

(BY BUTLER, MOFFATT, MCGEEHAN, ESPINOSA, KELLY,
FAIRCLOTH, SUMMERS, ATKINSON, HAMRICK,
AND COWLES)

[Originating in the Committee on Education; February 23, 2016.]

1 A BILL to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended,
2 all relating generally to academic standards and assessments in schools; removing reference to
3 the No Child Left Behind Act; adding digital literacy to the list of education and efficiency standards
4 to be periodically reviewed; defining “academic standards”; making a certain finding with respect
5 to the Legislature’s constitutional authority; recognizing that the state board adopted non-
6 Common Core academic standards; requiring continuing review, analysis, and update of
7 academic standards and collaboration with the Legislature; establishing criteria for academic
8 standards adopted by the state board; requiring withdrawal from Memorandum of Agreement
9 relating to adoption of Common Core State Standards; requiring withdrawal as a governing state
10 in the Smarter Balanced Assessment Consortium; requiring the Legislative Oversight
11 Commission on Education and Accountability to review proposed rules for compliance with the
12 law and legislative intent and take further action at its discretion; removing certain requirements
13 that comprehensive statewide student assessment must meet and removing associated rule-
14 making authority; requiring the state board to review and approve a summative assessment for
15 certain grade levels; requiring that summative assessments meet certain requirements;
16 prohibiting the implementation of any assessment developed specifically to align with Common
17 Core State Standards; requiring online assessment preparation; requiring the state board to
18 develop a plan and make recommendations regarding end of course assessments and student
19 accountability; establishing reporting requirements; requiring the state board to develop a policy
20 outlining accountability measures for students taking the comprehensive statewide assessment;
21 requiring that written requests by parent’s or guardian’s to opt their student out of assessment be
22 granted; prohibiting discipline, punishment, or grade reduction of a student who opts out;
23 establishing maximum percentage of instructional time for summative assessment.

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
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 successful education rather than monitoring for
14 compliance 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 educational standards are met, including, when necessary, seeking
22 additional resources 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 educational standards are, at a
33 minimum, being met and that a thorough and efficient system of schools is being provided for all
34 West Virginia 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) Digital literacy;
- 68 ~~(2)~~(3) Workplace readiness skills;
- 69 ~~(3)~~(4) Finance;
- 70 ~~(4)~~(5) Transportation;
- 71 ~~(5)~~(6) Special education;
- 72 ~~(6)~~(7) Facilities;
- 73 ~~(7)~~(8) Administrative practices;
- 74 ~~(8)~~ (9) Training of county board members and administrators;

75 ~~(9)~~(10) Personnel qualifications;

76 ~~(40)~~(11) Professional development and evaluation;

77 ~~(44)~~(12) Student performance, progress and attendance;

78 ~~(42)~~(13) Professional personnel, including principals and central office administrators, and

79 service personnel attendance;

80 ~~(43)~~(14) School and school system performance and progress;

81 ~~(44)~~(15)A code of conduct for students and employees;

82 ~~(45)~~(16)Indicators of efficiency; and

83 ~~(46)~~(17)Any other areas determined by the state board.

84 (d) West Virginia Academic Standards.

85 (1) Legislative authority –

86 (A) Sections one and twelve, article XII of the Constitution of the State of West Virginia

87 impose a duty upon the Legislature, as a separate but equal branch of government, to “provide,

88 by general law, for a thorough and efficient system of free schools” and to foster and encourage,

89 moral intellectual, scientific, and agricultural improvement in schools;

90 (2) For purposes of this subsection, “academic standards” are concise, written

91 descriptions of what students are expected to know and be able to do at a specific stage of their

92 education. Academic standards describe what students should have learned by the end of a

93 course, grade level, or grade span.

94 (3) While recognizing that on December 15, 2015, the state board adopted non-Common

95 Core College and Career Readiness Standards for English Language Arts and Mathematics, the

96 state board shall continue to review, analyze, and update the “West Virginia College – and –

97 Career – Readiness Standards for English Language Arts (Policy 2520.1A)” and “West Virginia

98 College – and – Career – Readiness Standards for Mathematics (Policy 2520.1B)” and work

99 collaboratively with the Legislature to ensure that West Virginia has rigorous academic standards.

100 (4) The state board shall withdraw from the Memorandum of Agreement entered into with
101 the Council of Chief State School Officers and The National Governors Association for Best
102 Practices which required the state board to agree that common core represents eighty-five
103 percent of West Virginia's standards in English Language Arts and Mathematics and withdraw as
104 a governing state in the Smarter Balanced Assessment Consortium;

105 (5) Any academic standard adopted by the board after the effective date of this subsection
106 shall meet the following criteria:

107 (A) Are age level and developmentally appropriate, particularly as it relates to sequencing
108 of content standards and the measurement of student academic performance;

109 (B) Are understandable to teachers, parents, and taxpayers;

110 (C) Are free of instructional strategies;

111 (D) Meet national and international benchmarks empirically proven to increase and sustain
112 student achievement;

113 (E) Are based solely on academic content.

114 (5) The Legislative Oversight Commission on Education and Accountability shall review
115 the proposed rules relating to academic standards to determine whether the board has exceeded
116 the scope of its statutory authority in approving the proposed legislative rule and whether the
117 proposed legislative rule is in conformity with the legislative intent of the provisions of this
118 subsection. The Legislative Oversight Commission on Education and Accountability may, at its
119 discretion, hold public hearings, recommend to the board any changes needed to comply with the
120 legislative intent of this subsection, and make recommendations to the Legislature for any
121 statutory changes needed to clarify the legislative intent of this statute.

122 ~~(d)(e) Comprehensive statewide student assessment program. — The state board shall~~
123 ~~establish a comprehensive statewide student assessment program to assess student~~
124 ~~performance and progress in grades three through through twelve. The assessment program is~~
125 ~~subject to the following:~~

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

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

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

137 (1) Beginning in school year 2016-2017, for federal and state accountability purposes,
138 the state board shall review and approve a summative assessment system for administration to
139 students in grades 3 through 8 and early high school that assesses students in English, reading,
140 writing, and mathematics. The assessment shall be administered to all public school students in
141 grades three through eight and early high school grades nine and ten, to include those students
142 as required by the federal Individuals with Disabilities Education Act and by Title I of the
143 Elementary and Secondary Education Act. The summative assessment system must meet the
144 following requirements:

145 (A) be a vertically-scaled, benchmarked, standards-based system of summative
146 assessments;

147 (B) document student progress toward national college and career readiness
148 benchmarks derived from empirical research and state standards;

149 (C) be capable of measuring individual student performance in English, reading, writing,
150 and math;

151 (D) be available in paper-and-pencil and computer-based (by 2016-2017) formats.

152 (5) be a predictive measure of student progress toward a national college readiness
153 assessment used by higher education institutions for admissions purposes;

154 (2) Beginning with the school year 2016-2017, the State Board of Education shall review
155 and approve a college readiness assessment to be administered to all students in the eleventh
156 grade for the first time in school year 2016-2017 and subsequent years. The eleventh grade
157 college readiness assessment shall be administered at least once to each eleventh grade
158 student and shall meet the following requirements:

159 (A) is a standardized, curriculum-based, achievement college entrance examination;

160 (B) assesses student readiness for first-year, credit-bearing coursework in
161 postsecondary education;

162 (C) tests in the areas of English, reading, writing, and mathematics;

163 (D) has content area benchmarks for measuring student achievement;

164 (E) is administered throughout the United States; and

165 (F) is relied upon by institutions of higher education for admissions.

166 (3) Beginning with the school year 2016-2017, the state board shall review and approve
167 career readiness assessments and assessment based credentials that measure and document
168 foundational workplace skills. The assessments shall be administered to all public secondary
169 school students in grades eleven or twelve for the first time in school year 2016-2017 and
170 subsequent years. The assessment-based credential shall be available to any student that
171 achieves required level on the required assessments. The assessments shall meet the following
172 requirements:

173 (A) be a standardized, criterion-referenced, measure of broadly relevant foundational
174 workplace skills;

175 (B) assess and document student readiness for a wide range of jobs;

176 (C) measures skills in all or any of the following areas:

177 (i) applied mathematics;

178 (ii) locating information; or,

179 (iii) reading for information;

180 (D) aligns with research-based skill requirement profiles for specific industries and

181 occupations;

182 (E) leads to a nationally recognized work readiness certificate for students that meet the

183 minimum proficiency requirements on the component assessments.

184 (F) be available in paper-and-pencil and computer-based formats

185 (4) The state board shall not acquire or implement any assessment instrument or

186 instruments developed to specifically align with the Common Core State Standards including

187 Smarter Balanced Assessment or Partnership for Assessment of Readiness for College and

188 Careers (PARCC).

189 (5) For any online assessment, the state board shall provide online assessment

190 preparation to ensure that students have the requisite digital literacy skills necessary to be

191 successful on the assessment.

192 (6) The state board shall develop a plan and make recommendations regarding end of

193 course assessments and student accountability measures and submit its findings to the

194 Legislative Oversight Commission on Education and Accountability by December 31, 2016.

195 (7) The state board shall develop a policy which outlines accountability measures for

196 students taking the comprehensive statewide assessment. Notwithstanding any other provision

197 of law, a parent's or guardian's written request to school officials to excuse his or her child from

198 any or all parts of the assessments administered pursuant to this subsection shall be granted;

199 : *Provided*, That no student whose parent has opted his or her child out of the assessment shall

200 be disciplined or punished or receive a grade reduction.

201 (8) Any summative assessment approved by the state board shall take no more than two

202 percent of a student's instructional time.

203 ~~((4) (8))~~ The state board may require that student proficiencies be measured through the
204 West Virginia writing assessment at any grade levels determined by the state board to be
205 appropriate.

206 ~~(6) (9)~~ The state board may provide through ~~the statewide assessment program~~ policy
207 other optional testing or assessment instruments applicable to grade levels kindergarten through
208 eight and grade eleven which may be used by each school to promote student achievement. The
209 state board annually shall publish and make available, electronically or otherwise, to school
210 curriculum teams and teacher collaborative processes the optional testing and assessment
211 instruments.

212 ~~(e) (f)~~ *State annual performance measures for school and school system accreditation.* —

213 The state board shall promulgate a rule in accordance with the provisions of article three-b,
214 chapter twenty-nine-a of this code that establishes a system to assess and weigh annual
215 performance measures for state accreditation of schools and school systems. The state board
216 also may establish performance incentives for schools and school systems as part of the state
217 accreditation system. On or before December 1, 2013, the state board shall report to the Governor
218 and to the Legislative Oversight Commission on Education Accountability the proposed rule for
219 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.
220 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative
221 Oversight Commission on Education Accountability on the impact and effectiveness of the
222 accreditation system. The rule for school and school system accreditation proposed by the board
223 may include, but is not limited to, the following measures:

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

226 (2) Graduation and attendance rate;

227 (3) Students taking and passing AP tests;

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

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

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

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

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

236 (2) Transportation;

237 (3) Facilities;

238 (4) Administrative practices;

239 (5) Personnel;

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

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

244 ~~(g)~~(h) *Assessment and accountability of school and school system performance and*
245 *processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this
246 code, the state board shall establish by rule a system of education performance audits which
247 measures the quality of education and the preparation of students based on the annual measures
248 of student, school and school system performance and progress. The system of education
249 performance audits shall provide information to the state board, the Legislature and the Governor,
250 upon which they may determine whether a thorough and efficient system of schools is being
251 provided. The system of education performance audits shall include:

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

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

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

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

260 ~~(h)~~(i) *Uses of school and school system assessment information.* — The state board shall
261 use information from the system of education performance audits to assist it in ensuring that a
262 thorough and efficient system of schools is being provided and to improve student, school and
263 school system performance and progress. Information from the system of education performance
264 audits further shall be used by the state board for these purposes, including, but not limited to,
265 the following:

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

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

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

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

273 ~~(h)~~(i) *Early detection and intervention programs.* — Based on the assessment of student,
274 school and school system performance and progress, the state board shall establish early
275 detection and intervention programs using the available resources of the Department of
276 Education, the regional educational service agencies, the Center for Professional Development
277 and the Principals Academy, or other resources as appropriate, to assist underachieving schools
278 and school systems to improve performance before conditions become so grave as to warrant
279 more substantive state intervention. Assistance shall include, but is not limited to, providing

280 additional technical assistance and programmatic, professional staff development, providing
281 monetary, staffing and other resources where appropriate.

282 ~~(j)~~(k) *Office of Education Performance Audits.* —

283 (1) To assist the state board in the operation of a system of education performance audits,
284 the state board shall establish an Office of Education Performance Audits consistent with the
285 provisions of this section. The Office of Education Performance Audits shall be operated under
286 the direction of the state board independently of the functions and supervision of the state
287 Department of Education and state superintendent. The Office of Education Performance Audits
288 shall report directly to and be responsible to the state board in carrying out its duties under the
289 provisions of this section.

290 (2) The office shall be headed by a director who shall be appointed by the state board and
291 who serves at the will and pleasure of the state board. The annual salary of the director shall be
292 set by the state board and may not exceed eighty percent of the salary of the state superintendent
293 of Schools.

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

298 (4) Under the direction of the state board, the Office of Education Performance Audits shall
299 receive from the West Virginia education information system staff research and analysis data on
300 the performance and progress of students, schools and school systems, and shall receive
301 assistance, as determined by the state board, from staff at the state Department of Education,
302 the regional education service agencies, the Center for Professional Development, the Principals
303 Academy and the School Building Authority to carry out the duties assigned to the office.

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

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

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

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

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

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

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

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

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

330 (G) Develop reporting formats, such as check lists, which shall be used by the appropriate
331 administrative personnel in schools and school systems to document compliance with applicable

332 laws, policies and process standards as considered appropriate and approved by the state board,
333 which may include, but is not limited to, the following:

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

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

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

340 (iv) The appropriate provision of multicultural activities.

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

344 ~~(k)(l)~~ *On-site reviews.* —

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

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

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

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

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

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

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

370 (2) The Director of the Office of Education Performance Audits shall notify the county
371 superintendent of schools five school days prior to commencing an on-site review of the county
372 school system and shall notify both the county superintendent and the principal five school days
373 before commencing an on-site review of an individual school: *Provided*, That the state board may
374 direct the Office of Education Performance Audits to conduct an unannounced on-site review of
375 a school or school system if the state board believes circumstances warrant an unannounced
376 on-site review.

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

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

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

391 (6) The Office of Education Performance Audits shall report the findings of an on-site
392 review to the county superintendent and the principals whose schools were reviewed within thirty
393 days following the conclusion of the on-site review. The Office of Education Performance Audits
394 shall report the findings of the on-site review to the state board within forty-five days after the
395 conclusion of the on-site review. A school or county that believes one or more findings of a review
396 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of
397 education in the school or county or address issues unrelated to the health, safety and welfare of
398 students and the quality of education, may appeal to the state board for removal of the findings.
399 The state board shall establish a process for it to receive, review and act upon the appeals. The
400 state board shall report to the Legislative Oversight Commission on Education Accountability
401 during its July interim meetings, or as soon thereafter as practical, on each appeal during the
402 preceding school year.

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

409 ~~(l)~~(m) *School accreditation.* —

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

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

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

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

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

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

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

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

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

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

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

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

439 (i) The principal assigned by the state board shall be paid by the state board until the next
440 school term, at which time the principal assigned by the state board shall be paid by the county
441 board;

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

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

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

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

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

458 (1) Full approval shall be given to a county board whose schools have all been given full,
459 temporary or conditional accreditation status and which does not have any deficiencies which
460 would endanger student health or safety or other extraordinary circumstances as defined by the

461 state board. A fully approved school system in which other deficiencies are discovered shall
462 remain on full accreditation status for the remainder of the approval period and shall have an
463 opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

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

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

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

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

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

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

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

483 (B) Whenever a county board has more than a casual deficit, as defined in section one,
484 article one of this chapter, the county board shall submit a plan to the state board specifying the
485 county board's strategy for eliminating the casual deficit. The state board either shall approve or
486 reject the plan. If the plan is rejected, the state board shall communicate to the county board the

487 reason or reasons for the rejection of the plan. The county board may resubmit the plan any
488 number of times. However, any county board that fails to submit a plan and gain approval for the
489 plan from the state board before the end of the fiscal year after a deficit greater than a casual
490 deficit occurred or any county board which, in the opinion of the state board, fails to comply with
491 an approved plan may be designated as having nonapproval status.

492 (C) Whenever nonapproval status is given to a school system, the state board shall
493 declare a state of emergency in the school system and shall appoint a team of improvement
494 consultants to make recommendations within sixty days of appointment for correcting the
495 emergency. When the state board approves the recommendations, they shall be communicated
496 to the county board. If progress in correcting the emergency, as determined by the state board,
497 is not made within six months from the time the county board receives the recommendations, the
498 state board shall intervene in the operation of the school system to cause improvements to be
499 made that will provide assurances that a thorough and efficient system of schools will be provided.

500 This intervention may include, but is not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

535 ~~(e)~~(p) *Capacity*. — The process for improving education includes a process for targeting
536 resources strategically to improve the teaching and learning process. Development of electronic
537 school and school system strategic improvement plans, pursuant to subsection (b) of this section,
538 is intended, in part, to provide mechanisms to target resources strategically to the teaching and
539 learning process to improve student, school and school system performance. When deficiencies

540 are detected through the assessment and accountability processes, the revision and approval of
541 school and school system electronic strategic improvement plans shall ensure that schools and
542 school systems are efficiently using existing resources to correct the deficiencies. When the state
543 board determines that schools and school systems do not have the capacity to correct
544 deficiencies, the state board shall take one or more of the following actions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

602 At least once each year during the period of intervention, the Office of Education
603 Performance Audits shall assess the readiness of the county board to accept the return of control
604 of the system or school from the state board and sustain the improvements, and shall make a
605 report and recommendations to the state board supported by documented evidence of the
606 progress made on the goals and action plans. The state board may end the intervention or return
607 any portion of control of the operations of the school system or school that was previously
608 removed at its sole determination. If the state board determines at the fifth annual assessment
609 that the county board is still not ready to accept return of control by the state board and sustain
610 the improvements, the state board shall hold a public hearing in the affected county at which the
611 attendance by all members of the county board is requested so that the reasons for continued
612 intervention and the concerns of the citizens of the county may be heard. The state board may
613 continue the intervention only after it holds the public hearing and may require revision of the
614 goals and action plans.

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

NOTE: The purpose of this bill is to prevent the State Board of Education from implementing common core academic standards and assessments; to establish a process and criteria for the state to develop alternate academic standards and assessments; to prohibit the state board from entering into any agreement which requires implementation of common core standards or limits Constitutional authority and obligation to provide a thorough and efficient system of education; and requiring the state board to report to the Legislative Oversight Commission on Education and Accountability.

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