

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2543**

BY DELEGATES BUTLER, GEARHEART, MAYNARD,

HARSHBARGER, PAYNTER AND SOBONYA

[Introduced February 20, 2017; Referred

to the Committee on Education.]

1 A BILL to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, all  
2 relating generally to process for improving education; removing reference to No Child Left  
3 Behind Act; adding digital literacy to list of areas that State Board of Education is required  
4 to adopt high-quality education standards in; making findings with respect to Legislature's  
5 Constitutional authority; defining "academic standards"; recognizing state board's  
6 adoption and renaming of certain standards; establishing Academic Standards Evaluation  
7 Panel; establishing membership of panel; establishing duties of panel; requiring  
8 withdrawal from Memorandum of Agreement relating to adoption of Common Core State  
9 Standards; requiring withdrawal as governing state in Smarter Balanced Assessment  
10 Consortium; establishing criteria for any academic standards adopted by state board;  
11 requiring Legislative Oversight Commission on Education and Accountability to review any  
12 proposed rules relating to academic standards; removing requirement for state board rule  
13 establishing comprehensive statewide student assessment program; removing  
14 requirement that assessment be aligned with certain standards and associated alterative;  
15 removing state board authority to require ACT EXPLORE and ACT PLAN or other  
16 comparable assessments; requiring state board to review and approve summative  
17 assessment for certain grade levels to assess in certain subject areas; requiring  
18 summative assessment include students as required by certain federal laws; requiring that  
19 summative assessment meet certain requirements; requiring state board to review and  
20 approve college readiness assessment for students in eleventh grade; requiring college  
21 readiness assessment to be administered at least once to each eleventh-grade student;  
22 requiring college readiness assessment meet certain requirements; requiring state board  
23 to review and approve career readiness assessments and assessment based credentials;  
24 providing that career readiness assessment is voluntary for students; requiring that  
25 assessment-based credential be available to any student that achieves at required level  
26 on the required assessments; requiring career readiness assessments meet certain

27 requirements; prohibiting implementation of any assessment or test items developed  
 28 specifically to align with Common Core State Standards; requiring online assessment  
 29 preparation for any online assessment; requiring state board to develop plan and make  
 30 recommendations regarding end-of-course assessments and student accountability  
 31 measures; establishing reporting requirements; establishing maximum percentage of  
 32 instructional time for summative assessment; and removing required report to Legislative  
 33 Oversight Commission on Education Accountability pertaining to on-site review finding  
 34 appeals.

*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 findings  
 2 with respect to the process for improving education and its purpose and intent in the enactment  
 3 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 ~~(10)~~ (11) Professional development and evaluation;
- 77 ~~(11)~~ (12) Student performance, progress and attendance;
- 78 ~~(12)~~ (13) Professional personnel, including principals and central office administrators, and  
 79 service personnel attendance;
- 80 ~~(13)~~ (14) School and school system performance and progress;
- 81 ~~(14)~~ (15) A code of conduct for students and employees;
- 82 ~~(15)~~ (16) Indicators of efficiency; and
- 83 ~~(16)~~ (17) Any other areas determined by the state board.

84 (d) West Virginia Academic Standards.

85 (1) Legislative authority – Sections one, two and twelve, article XII of the Constitution of  
 86 the State of West Virginia impose a duty upon the Legislature, as a separate but equal branch of  
 87 government:

88 (A) To “provide, by general law, for a thorough and efficient system of free schools”;

89 (B) To prescribe by law the duties of the state board in the general supervision of free  
90 public schools;

91 (C) To prescribe by law the powers and duties of the state superintendent; and

92 (D) To foster and encourage moral, intellectual, scientific and agricultural improvement in  
93 schools.

94 (2) For purposes of this subsection, “academic standards” are concise, written  
95 descriptions of what students are expected to know and be able to do at a specific stage of their  
96 education. Academic standards describe what students should have learned by the end of a  
97 course, grade level or grade span.

98 (3) The Legislature recognizes that on December 15, 2015, the state board adopted what  
99 it represented were academic standards no longer aligned with Common Core State Standards  
100 and renamed them “West Virginia College–and–Career–Readiness Standards for English  
101 Language Arts (Policy 2520.1A)” and “West Virginia College–and–Career–Readiness Standards  
102 for Mathematics (Policy 2520.1B)”.

103 (4) The Legislature hereby establishes an Academic Standards Evaluation Panel. The  
104 panel shall consist of six appointed members and one ex officio member. The deans responsible  
105 for the math programs, the deans responsible for the English programs and the deans responsible  
106 for the science programs at West Virginia University and Marshall University shall each appoint  
107 one member: *Provided*, That any dean that is responsible for more than one of the three programs  
108 shall appoint one member for each program he or she is responsible for. The Chancellor of the  
109 Higher Education Policy Commission, or his or her designee, shall serve as an ex officio member  
110 and be responsible for facilitating the work of the panel. The Academic Standards Evaluation  
111 Panel shall:

112 (A) Using the West Virginia College–and–Career–Readiness Standards for English  
113 Language Arts and Mathematics as a framework, evaluate and recommend revisions to the  
114 standards based on empirical research and data to ensure grade-level alignment to the standards

115 of states with a proven track record of consistent high-performing student achievement in English  
116 Language Arts on the National Assessment of Educational Progress; and in Mathematics, on both  
117 the National Assessment of Educational Progress and Trends in Math and Science Study  
118 International Assessment;

119 (B) Review the Next Generation Content Standards and Objectives for Science in West  
120 Virginia Schools and recommend revisions that it considers appropriate;

121 (C) Remove common core strategies that require instructional methods;

122 (D) Use facilities, staff and supplies provided by the Higher Education Policy Commission;

123 (E) Submit its evaluation and recommended revisions to the state board and the  
124 Legislative Oversight Commission on Education Accountability by October 1, 2017.

125 (5) The state board shall withdraw from the Memorandum of Agreement entered into with  
126 the Council of Chief State School Officers and the National Governors Association for Best  
127 Practices, which required the state board to agree that common core represents eighty-five  
128 percent of West Virginia's standards in English Language Arts and Mathematics and withdraw as  
129 a governing state in the Smarter Balanced Assessment Consortium.

130 (6) Any academic standard adopted by the state board shall meet the following criteria:

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

133 (B) Be free of instructional strategies;

134 (C) Meet national and international benchmarks empirically proven to increase and sustain  
135 student achievement; and

136 (D) Be based solely on academic content.

137 (7) The Legislative Oversight Commission on Education and Accountability shall review  
138 any proposed rules relating to academic standards to determine whether the board has exceeded  
139 the scope of its statutory authority in approving the proposed legislative rule and whether the  
140 proposed legislative rule is in conformity with the legislative intent of the provisions of this



141 subsection. The Legislative Oversight Commission on Education and Accountability may, at its  
142 discretion, hold public hearings, recommend to the board any changes needed to comply with the  
143 legislative intent of this subsection and make recommendations to the Legislature for any statutory  
144 changes needed to clarify the legislative intent of this statute.

145 ~~(d) (e) Comprehensive statewide student assessment program. -- The state board shall~~  
146 ~~establish a comprehensive statewide student assessment program to assess student~~  
147 ~~performance and progress in grades three through through twelve. The assessment program is~~  
148 ~~subject to the following:~~

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

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

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

160 (1) For federal and state accountability purposes, the state board shall review and approve  
161 a summative assessment system for administration to all public school students, beginning in  
162 school year 2016-2017, in grades three through eight that assesses students in English, reading,  
163 writing, science and mathematics: *Provided*, That the assessment in science may only be  
164 administered once during the grade span of three through five and once during the grade span of  
165 six through eight. The assessment shall include those students as required by the federal

166 Individuals with Disabilities Education Act and by Title I of the Elementary and Secondary  
167 Education Act. The summative assessment system must meet the following requirements:

168 (A) Be a vertically-scaled, benchmarked, standards-based system of summative  
169 assessments;

170 (B) Document student progress toward national college and career readiness benchmarks  
171 derived from empirical research and state standards;

172 (C) Be capable of measuring individual student performance in English, reading, writing,  
173 science and mathematics: *Provided*, That the assessment in science may only be administered  
174 once during the grade span of three through five and once during the grade span of six through  
175 eight;

176 (D) Be available in paper-and-pencil and computer-based formats;

177 (E) Be a predictive measure of student progress toward a national college readiness  
178 assessment used by higher education institutions for admissions purposes; and

179 (F) Be aligned or augmented to align with the standards in effect at the time the test is  
180 administered.

181 (2) The state board shall review and approve a college readiness assessment to be  
182 administered to all students in the eleventh grade for the first time in school year 2017-2018 and  
183 subsequent years. The eleventh grade college readiness assessment shall be administered at  
184 least once to each eleventh grade student and shall meet the following requirements:

185 (A) Be a standardized, curriculum-based, achievement college entrance examination;

186 (B) Assess student readiness for first-year, credit-bearing coursework in postsecondary  
187 education;

188 (C) Test in the areas of English, reading, writing, science and mathematics;

189 (D) Have content area benchmarks for measuring student achievement;

190 (E) Be administered throughout the United States;

191 (F) Be relied upon by institutions of higher education for admissions; and

192 (G) Be aligned or augmented to align with the standards in effect at the time the test is  
193 administered.

194 (3) The state board shall review and approve career readiness assessments and  
195 assessment-based credentials that measure and document foundational workplace skills. The  
196 assessments shall be administered to public secondary school students in grades eleven or  
197 twelve for the first time in school year 2017-2018 and subsequent years: *Provided*, That the career  
198 readiness assessment is voluntary and may only be administered to students who elect to take  
199 the assessment. The assessment-based credential shall be available to any student who  
200 achieves at the required level on the assessments. The assessments shall meet the following  
201 requirements:

202 (A) Be a standardized, criterion-referenced, measure of broadly relevant foundational  
203 workplace skills;

204 (B) Assess and document student readiness for a wide range of jobs;

205 (C) Measure skills in all or any of the following areas:

206 (i) Applied mathematics;

207 (ii) Locating information; or

208 (iii) Reading for information;

209 (D) Align with research-based skill requirement profiles for specific industries and  
210 occupations;

211 (E) Lead to a work readiness certificate for students who meet the minimum proficiency  
212 requirements on the component assessments; and

213 (F) Be available in paper-and-pencil and computer-based formats.

214 (4) The state board shall not acquire or implement any assessment instrument or  
215 instruments or test items developed to specifically align with the Common Core State Standards  
216 including Smarter Balanced Assessment or Partnership for Assessment of Readiness for College  
217 and Careers (PARCC).

218 (5) For any online assessment, the state board shall provide online assessment  
219 preparation to ensure that students have the requisite digital literacy skills necessary to be  
220 successful on the assessment.

221 (6) The state board shall develop a plan and make recommendations regarding end-of-  
222 course assessments and student accountability measures and submit its findings to the  
223 Legislative Oversight Commission on Education and Accountability by December 31, 2017.

224 (7) Any summative assessment approved by the state board shall take no more than two  
225 percent of a student's instructional time.

226 ~~(4)~~ (8) The state board may require that student proficiencies be measured through the  
227 West Virginia writing assessment at any grade levels determined by the state board to be  
228 appropriate.

229 ~~(6)~~ (9) The state board may provide through ~~the statewide assessment program~~ policy  
230 other optional testing or assessment instruments applicable to grade levels kindergarten through  
231 eight and grade eleven which may be used by each school to promote student achievement. The  
232 state board annually shall publish and make available, electronically or otherwise, to school  
233 curriculum teams and teacher collaborative processes the optional testing and assessment  
234 instruments.

235 ~~(e)~~ (f) *State annual performance measures for school and school system accreditation.* -  
236 The state board shall promulgate a rule in accordance with the provisions of article three-  
237 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual  
238 performance measures for state accreditation of schools and school systems. The state board  
239 also may establish performance incentives for schools and school systems as part of the state  
240 accreditation system. On or before December 1, 2013, the state board shall report to the Governor  
241 and to the Legislative Oversight Commission on Education Accountability the proposed rule for  
242 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.  
243 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative

244 Oversight Commission on Education Accountability on the impact and effectiveness of the  
245 accreditation system. The rule for school and school system accreditation proposed by the board  
246 may include, but is not limited to, the following measures:

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

249 (2) Graduation and attendance rate;

250 (3) Students taking and passing AP tests;

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

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

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

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

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

259 (2) Transportation;

260 (3) Facilities;

261 (4) Administrative practices;

262 (5) Personnel;

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

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

267 ~~(g)~~ (h) *Assessment and accountability of school and school system performance and*  
268 *processes.* -- In accordance with the provisions of article three-b, chapter twenty-nine-a of this  
269 code, the state board shall establish by rule a system of education performance audits which

270 measures the quality of education and the preparation of students based on the annual measures  
271 of student, school and school system performance and progress. The system of education  
272 performance audits shall provide information to the state board, the Legislature and the Governor,  
273 upon which they may determine whether a thorough and efficient system of schools is being  
274 provided. The system of education performance audits shall include:

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

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

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

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

283 ~~(h)~~(i) *Uses of school and school system assessment information.* -- The state board shall  
284 use information from the system of education performance audits to assist it in ensuring that a  
285 thorough and efficient system of schools is being provided and to improve student, school and  
286 school system performance and progress. Information from the system of education performance  
287 audits further shall be used by the state board for these purposes, including, but not limited to,  
288 the following:

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

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

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

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

296           ~~(j)~~(i) *Early detection and intervention programs.* -- Based on the assessment of student,  
297 school and school system performance and progress, the state board shall establish early  
298 detection and intervention programs using the available resources of the Department of  
299 Education, the regional educational service agencies, the Center for Professional Development  
300 and the Principals Academy, or other resources as appropriate, to assist underachieving schools  
301 and school systems to improve performance before conditions become so grave as to warrant  
302 more substantive state intervention. Assistance shall include, but is not limited to, providing  
303 additional technical assistance and programmatic, professional staff development, providing  
304 monetary, staffing and other resources where appropriate.

305           ~~(j)~~(k) *Office of Education Performance Audits.* --

306           (1) To assist the state board in the operation of a system of education performance audits,  
307 the state board shall establish an Office of Education Performance Audits consistent with the  
308 provisions of this section. The Office of Education Performance Audits shall be operated under  
309 the direction of the state board independently of the functions and supervision of the state  
310 Department of Education and state superintendent. The Office of Education Performance Audits  
311 shall report directly to and be responsible to the state board in carrying out its duties under the  
312 provisions of this section.

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

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

321           (4) Under the direction of the state board, the Office of Education Performance Audits shall

322 receive from the West Virginia education information system staff research and analysis data on  
323 the performance and progress of students, schools and school systems, and shall receive  
324 assistance, as determined by the state board, from staff at the state Department of Education,  
325 the regional education service agencies, the Center for Professional Development, the Principals  
326 Academy and the School Building Authority to carry out the duties assigned to the office.

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

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

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

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

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

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

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

344 (E) Determine, in conjunction with the assessment and accountability processes, staff  
345 development needs of schools and school systems to meet the standards established by the state  
346 board and make recommendations to the state board, the Center for Professional Development,  
347 the regional educational service agencies, the Higher Education Policy Commission and the



348 county boards;

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

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

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

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

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

363 (iv) The appropriate provision of multicultural activities.

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

367 ~~(k)(1)~~ *On-site reviews.* --

368 (1) The system of education performance audits shall include on-site reviews of schools  
369 and school systems which shall be conducted only at the specific direction of the state board upon  
370 its determination that circumstances exist that warrant an on-site review. Any discussion by the  
371 state board of schools to be subject to an on-site review or dates for which on-site reviews will be  
372 conducted may be held in executive session and is not subject to the provisions of article nine-a,  
373 chapter six of this code relating to open governmental proceedings. An on-site review shall be

374 conducted by the Office of Education Performance Audits of a school or school system for the  
375 purpose of making recommendations to the school and school system, as appropriate, and to the  
376 state board on such measures as it considers necessary. The investigation may include, but is  
377 not limited to, the following:

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

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

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

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

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

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

393 (2) The Director of the Office of Education Performance Audits shall notify the county  
394 superintendent of schools five school days prior to commencing an on-site review of the county  
395 school system and shall notify both the county superintendent and the principal five school days  
396 before commencing an on-site review of an individual school: *Provided*, That the state board may  
397 direct the Office of Education Performance Audits to conduct an unannounced on-site review of  
398 a school or school system if the state board believes circumstances warrant an unannounced on-  
399 site review.

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

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

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

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

423 (7) The Legislature finds that the accountability and oversight of some activities and  
424 programmatic areas in the public schools are controlled through other mechanisms and agencies  
425 and that additional accountability and oversight may be unnecessary, counterproductive and

426 impair necessary resources for teaching and learning. Therefore, the Office of Education  
427 Performance Audits may rely on other agencies and mechanisms in its review of schools and  
428 school systems.

429 ~~(l)~~(m) *School accreditation.* --

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

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

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

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

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

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

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

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

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

451 (D) To direct a county board to target resources to assist a school where extraordinary

452 circumstances are found to exist;

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

459 (i) The principal assigned by the state board shall be paid by the state board until the next  
460 school term, at which time the principal assigned by the state board shall be paid by the county  
461 board;

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

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

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

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

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

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

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

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

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

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

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

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

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

503 (B) Whenever a county board has more than a casual deficit, as defined in section one,

504 article one of this chapter, the county board shall submit a plan to the state board specifying the  
505 county board's strategy for eliminating the casual deficit. The state board either shall approve or  
506 reject the plan. If the plan is rejected, the state board shall communicate to the county board the  
507 reason or reasons for the rejection of the plan. The county board may resubmit the plan any  
508 number of times. However, any county board that fails to submit a plan and gain approval for the  
509 plan from the state board before the end of the fiscal year after a deficit greater than a casual  
510 deficit occurred or any county board which, in the opinion of the state board, fails to comply with  
511 an approved plan may be designated as having nonapproval status.

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

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

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

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

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

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

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

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

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

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

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

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

555 ~~(e)~~(p) *Capacity*. -- The process for improving education includes a process for targeting



556 resources strategically to improve the teaching and learning process. Development of electronic  
557 school and school system strategic improvement plans, pursuant to subsection (b) of this section,  
558 is intended, in part, to provide mechanisms to target resources strategically to the teaching and  
559 learning process to improve student, school and school system performance. When deficiencies  
560 are detected through the assessment and accountability processes, the revision and approval of  
561 school and school system electronic strategic improvement plans shall ensure that schools and  
562 school systems are efficiently using existing resources to correct the deficiencies. When the state  
563 board determines that schools and school systems do not have the capacity to correct  
564 deficiencies. The state board shall take one or more of the following actions:

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

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

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

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

580 (C) Determining the areas of strength that appear to have contributed to exceptional  
581 student, school and school system performance and progress and promoting their emulation

582 throughout the system;

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

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

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

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

592 (H) Directing county boards to target their funds strategically toward alleviating  
593 deficiencies;

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

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

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

600 (p) *Building leadership capacity* B To help build the governance and leadership capacity  
601 of a county board during an intervention in the operation of its school system by the state board,  
602 and to help assure sustained success following return of control to the county board, the state  
603 board shall require the county board to establish goals and action plans, subject to approval of  
604 the state board, to improve performance sufficiently to end the intervention within a period of not  
605 more than five years. The state superintendent shall maintain oversight and provide assistance  
606 and feedback to the county board on development and implementation of the goals and action  
607 plans. At a minimum, the goals and action plans shall include:

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

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

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

622 At least once each year during the period of intervention, the Office of Education  
623 Performance Audits shall assess the readiness of the county board to accept the return of control  
624 of the system or school from the state board and sustain the improvements, and shall make a  
625 report and recommendations to the state board supported by documented evidence of the  
626 progress made on the goals and action plans. The state board may end the intervention or return  
627 any portion of control of the operations of the school system or school that was previously  
628 removed at its sole determination. If the state board determines at the fifth annual assessment  
629 that the county board is still not ready to accept return of control by the state board and sustain  
630 the improvements, the state board shall hold a public hearing in the affected county at which the  
631 attendance by all members of the county board is requested so that the reasons for continued  
632 intervention and the concerns of the citizens of the county may be heard. The state board may  
633 continue the intervention only after it holds the public hearing and may require revision of the

634 goals and action plans.

635           Following the termination of an intervention in the operation of a school system and return  
636 of full control by the state board, the support for governance education and development shall  
637 continue as needed for up to three years. If at any time within this three years, the state board  
638 determines that intervention in the operation of the school system is again necessary, the state  
639 board shall again hold a public hearing in the affected county so that the reasons for the  
640 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.