

HB 2140

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2015



**ENROLLED**

**House Bill No. 2140**

(By Delegate(s) Perry, Pasdon,  
Hamrick, Rowan, Ambler, Cooper, Romine, Moye,  
Hartman and Williams)



Passed March 13, 2015

In effect ninety days from passage.

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(BY DELEGATE(S) PERRY, PASDON,  
HAMRICK, ROWAN, AMBLER, COOPER, ROMINE, MOYE,  
HARTMAN AND WILLIAMS)

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AN ACT to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to building governance and leadership capacity of county board during period of state intervention; providing flexibility on strategic plans; authorizing removal, subject to reemployment, of will and pleasure employees of the county superintendent during intervention in operation of school system; requiring during periods of intervention, county board goals and action plans for improvement and sustained success to end intervention in not more than five years; specifying minimum components of goals and action plans; requiring annual assessment and report of readiness of county to accept return and sustain improvement; requiring public hearing if determination made at fifth annual assessment the county board not ready; continued intervention allowed only after hearing; requiring continued supports as needed for three years following end of intervention; and requiring public hearing for another intervention within this three years.

*Be it enacted by the Legislature of West Virginia:*

That §18-2E-5 of the Code of West Virginia, 1931, as amended, be amended and 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 Legisla-  
2       ture makes the following findings with respect to the process for  
3       improving education and its purpose and intent in the enactment  
4       of this section:

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

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

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

14      (C) A system of accountability for continuous improvement  
15      defined by high-quality standards for schools and school systems  
16      articulated by a rule promulgated by the state board and outlined  
17      in subsection (c) of this section that will build capacity in  
18      schools and districts to meet rigorous outcomes that assure  
19      student performance and progress toward obtaining the knowl-  
20      edge and skills intrinsic to a high-quality education rather than

21 monitoring for compliance with specific laws and regulations;  
22 and

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

26 (2) As the constitutional body charged with the general  
27 supervision of schools as provided by general law, the state  
28 board has the authority and the responsibility to establish the  
29 standards, assess the performance and progress of students  
30 against the standards, hold schools and school systems account-  
31 able and assist schools and school systems to build capacity and  
32 improve efficiency so that the standards are met, including, when  
33 necessary, seeking additional resources in consultation with the  
34 Legislature and the Governor;

35 (3) As the constitutional body charged with providing for a  
36 thorough and efficient system of schools, the Legislature has the  
37 authority and the responsibility to establish and be engaged  
38 constructively in the determination of the knowledge and skills  
39 that students should know and be able to do as the result of a  
40 thorough and efficient education. This determination is made by  
41 using the process for improving education to determine when  
42 school improvement is needed, by evaluating the results and the  
43 efficiency of the system of schools, by ensuring accountability  
44 and by providing for the necessary capacity and its efficient use;

45 (4) In consideration of these findings, the purpose of this  
46 section is to establish a process for improving education that  
47 includes the four primary elements as set forth in subdivision (1)  
48 of this subsection to provide assurances that the high-quality  
49 standards are, at a minimum, being met and that a thorough and  
50 efficient system of schools is being provided for all West  
51 Virginia public school students on an equal education opportu-  
52 nity basis; and

53 (5) The intent of the Legislature in enacting this section and  
54 section five-c of this article is to establish a process through  
55 which the Legislature, the Governor and the state board can  
56 work in the spirit of cooperation and collaboration intended in  
57 the process for improving education to consult and examine the  
58 performance and progress of students, schools and school  
59 systems and, when necessary, to consider alternative measures  
60 to ensure that all students continue to receive the thorough and  
61 efficient education to which they are entitled. However, nothing  
62 in this section requires any specific level of funding by the  
63 Legislature.

64 (b) *Electronic county and school strategic improvement*  
65 *plans.* — The state board shall promulgate a rule consistent with  
66 the provisions of this section and in accordance with article  
67 three-b, chapter twenty-nine-a of this code establishing an  
68 electronic county strategic improvement plan for each county  
69 board and an electronic school strategic improvement plan for  
70 each public school in this state. Each respective plan shall be for  
71 a period of no more than five years and shall include the mission  
72 and goals of the school or school system to improve student,  
73 school or school system performance and progress, as applica-  
74 ble. The strategic plan shall be revised annually in each area in  
75 which the school or system is below the standard on the annual  
76 performance measures. The plan shall be revised when required  
77 pursuant to this section to include each annual performance  
78 measure upon which the school or school system fails to meet  
79 the standard for performance and progress, the action to be taken  
80 to meet each measure, a separate time line and a date certain for  
81 meeting each measure, a cost estimate and, when applicable, the  
82 assistance to be provided by the department and other education  
83 agencies to improve student, school or school system perfor-  
84 mance and progress to meet the annual performance measure.

85 The department shall make available to all public schools  
86 through its website or the West Virginia Education Information

87 System an electronic school strategic improvement plan  
88 boilerplate designed for use by all schools to develop an  
89 electronic school strategic improvement plan which incorporates  
90 all required aspects and satisfies all improvement plan require-  
91 ments of the No Child Left Behind Act.

92 (c) *High-quality education standards and efficiency stan-*  
93 *dards.* — In accordance with the provisions of article three-b,  
94 chapter twenty-nine-a of this code, the state board shall adopt  
95 and periodically review and update high-quality education  
96 standards for student, school and school system performance and  
97 processes in the following areas:

- 98 (1) Curriculum;
- 99 (2) Workplace readiness skills;
- 100 (3) Finance;
- 101 (4) Transportation;
- 102 (5) Special education;
- 103 (6) Facilities;
- 104 (7) Administrative practices;
- 105 (8) Training of county board members and administrators;
- 106 (9) Personnel qualifications;
- 107 (10) Professional development and evaluation;
- 108 (11) Student performance, progress and attendance;
- 109 (12) Professional personnel, including principals and central  
110 office administrators, and service personnel attendance;
- 111 (13) School and school system performance and progress;

112 (14) A code of conduct for students and employees;

113 (15) Indicators of efficiency; and

114 (16) Any other areas determined by the state board.

115 (d) *Comprehensive statewide student assessment pro-*  
116 *gram.* — The state board shall establish a comprehensive  
117 statewide student assessment program to assess student perfor-  
118 mance and progress in grades three through twelve. The assess-  
119 ment program is subject to the following:

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

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

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

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

138 (5) The state board may provide through the statewide  
139 assessment program other optional testing or assessment  
140 instruments applicable to grade levels kindergarten through

141 grade twelve which may be used by each school to promote  
142 student achievement. The state board annually shall publish and  
143 make available, electronically or otherwise, to school curriculum  
144 teams and teacher collaborative processes the optional testing  
145 and assessment instruments.

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

148 The state board shall promulgate a rule in accordance with  
149 the provisions of article three-b, chapter twenty-nine-a of this  
150 code that establishes a system to assess and weigh annual  
151 performance measures for state accreditation of schools and  
152 school systems. The state board also may establish performance  
153 incentives for schools and school systems as part of the state  
154 accreditation system. On or before December 1, 2013, the state  
155 board shall report to the Governor and to the Legislative  
156 Oversight Commission on Education Accountability the pro-  
157 posed rule for establishing the measures and incentives of  
158 accreditation and the estimated cost therefore, if any. Thereafter,  
159 the state board shall provide an annual report to the Governor  
160 and to the Legislative Oversight Commission on Education  
161 Accountability on the impact and effectiveness of the accredita-  
162 tion system. The rule for school and school system accreditation  
163 proposed by the board may include, but is not limited to, the  
164 following measures:

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

167 (2) Graduation and attendance rate;

168 (3) Students taking and passing AP tests;

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



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

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

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

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

183 (2) Transportation;

184 (3) Facilities;

185 (4) Administrative practices;

186 (5) Personnel;

187 (6) Use of regional educational service agency programs and  
188 services, including programs and services that may be estab-  
189 lished by their assigned regional educational service agency or  
190 other regional services that may be initiated between and among  
191 participating county boards; and

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

193 (g) *Assessment and accountability of school and school*  
194 *system performance and processes.* — In accordance with the  
195 provisions of article three-b, chapter twenty-nine-a of this code,  
196 the state board shall establish by rule a system of education  
197 performance audits which measures the quality of education and  
198 the preparation of students based on the annual measures of

199 student, school and school system performance and progress.  
200 The system of education performance audits shall provide  
201 information to the state board, the Legislature and the Governor,  
202 upon which they may determine whether a thorough and  
203 efficient system of schools is being provided. The system of  
204 education performance audits shall include:

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

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

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

214 (4) The on-site review of the processes in place in schools  
215 and school systems to enable school and school system perfor-  
216 mance and progress and compliance with the standards.

217 (h) *Uses of school and school system assessment informa-*  
218 *tion.* — The state board shall use information from the system of  
219 education performance audits to assist it in ensuring that a  
220 thorough and efficient system of schools is being provided and  
221 to improve student, school and school system performance and  
222 progress. Information from the system of education performance  
223 audits further shall be used by the state board for these purposes,  
224 including, but not limited to, the following:

225 (1) Determining school accreditation and school system  
226 approval status;

227 (2) Holding schools and school systems accountable for the  
228 efficient use of existing resources to meet or exceed the stan-  
229 dards; and

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

232 The state board shall make accreditation information  
233 available to the Legislature, the Governor, the general public and  
234 to any individual who requests the information, subject to the  
235 provisions of any act or rule restricting the release of informa-  
236 tion.

237 (i) *Early detection and intervention programs.* — Based on  
238 the assessment of student, school and school system performance  
239 and progress, the state board shall establish early detection and  
240 intervention programs using the available resources of the  
241 Department of Education, the regional educational service  
242 agencies, the Center for Professional Development and the  
243 Principals Academy, or other resources as appropriate, to assist  
244 underachieving schools and school systems to improve perfor-  
245 mance before conditions become so grave as to warrant more  
246 substantive state intervention. Assistance shall include, but is not  
247 limited to, providing additional technical assistance and pro-  
248 grammatic, professional staff development, providing monetary,  
249 staffing and other resources where appropriate.

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

251 (1) To assist the state board in the operation of a system of  
252 education performance audits, the state board shall establish an  
253 Office of Education Performance Audits consistent with the  
254 provisions of this section. The Office of Education Performance  
255 Audits shall be operated under the direction of the state board  
256 independently of the functions and supervision of the State  
257 Department of Education and state superintendent. The Office of  
258 Education Performance Audits shall report directly to and be  
259 responsible to the state board in carrying out its duties under the  
260 provisions of this section.

261 (2) The office shall be headed by a director who shall be  
262 appointed by the state board and who serves at the will and  
263 pleasure of the state board. The annual salary of the director  
264 shall be set by the state board and may not exceed eighty percent  
265 of the salary of the State Superintendent of Schools.

266 (3) The state board shall organize and sufficiently staff the  
267 office to fulfill the duties assigned to it by law and by the state  
268 board. Employees of the State Department of Education who are  
269 transferred to the Office of Education Performance Audits shall  
270 retain their benefits and seniority status with the Department of  
271 Education.

272 (4) Under the direction of the state board, the Office of  
273 Education Performance Audits shall receive from the West  
274 Virginia education information system staff research and  
275 analysis data on the performance and progress of students,  
276 schools and school systems, and shall receive assistance, as  
277 determined by the stateboard, from staff at the State Department  
278 of Education, the regional education service agencies, the Center  
279 for Professional Development, the Principals Academy and the  
280 School Building Authority to carry out the duties assigned to the  
281 office.

282 (5) In addition to other duties which may be assigned to it by  
283 the state board or by statute, the Office of Education Perfor-  
284 mance Audits also shall:

285 (A) Assure that all statewide assessments of student perfor-  
286 mance used as annual performance measures are secure as  
287 required in section one-a of this article;

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

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

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

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

300 (D) Determine, in conjunction with the assessment and  
301 accountability processes, whether statewide system deficiencies  
302 exist in the capacity of schools and school systems to meet the  
303 standards established by the state board, including the identifica-  
304 tion of trends and the need for continuing improvements in  
305 education, and report those deficiencies and trends to the state  
306 board;

307 (E) Determine, in conjunction with the assessment and  
308 accountability processes, staff development needs of schools and  
309 school systems to meet the standards established by the state  
310 board and make recommendations to the state board, the Center  
311 for Professional Development, the regional educational service  
312 agencies, the Higher Education Policy Commission and the  
313 county boards;

314 (F) Identify, in conjunction with the assessment and account-  
315 ability processes, school systems and best practices that improve  
316 student, school and school system performance and communi-  
317 cate those to the state board for promoting the use of best  
318 practices. The state board shall provide information on best  
319 practices to county school systems; and

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

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

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

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

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

334 (iv) The appropriate provision of multicultural activities.

335 Information contained in the reporting formats is subject to  
336 examination during an on-site review to determine compliance  
337 with laws, policies and standards. Intentional and grossly  
338 negligent reporting of false information are grounds for dis-  
339 missal of any employee.

340 (k) *On-site reviews.* —

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

353 ate, and to the state board on such measures as it considers  
354 necessary. The investigation may include, but is not limited to,  
355 the following:

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

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

360 (C) Evaluating the effectiveness and implementation status  
361 of school and school system electronic strategic improvement  
362 plans;

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

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

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

376 (2) The Director of the Office of Education Performance  
377 Audits shall notify the county superintendent of schools five  
378 school days prior to commencing an on-site review of the county  
379 school system and shall notify both the county superintendent  
380 and the principal five school days before commencing an on-site  
381 review of an individual school: *Provided*, That the state board  
382 may direct the Office of Education Performance Audits to

383 conduct an unannounced on-site review of a school or school  
384 system if the state board believes circumstances warrant an  
385 unannounced on-site review.

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

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

395 (5) At the conclusion of an on-site review of a school  
396 system, the director and team leaders shall hold an exit confer-  
397 ence with the superintendent and shall provide an opportunity for  
398 principals to be present for at least the portion of the conference  
399 pertaining to their respective schools. In the case of an on-site  
400 review of a school, the exit conference shall be held with the  
401 principal and curriculum team of the school and the superinten-  
402 dent shall be provided the opportunity to be present. The purpose  
403 of the exit conference is to review the initial findings of the  
404 on-site review, clarify and correct any inaccuracies and allow the  
405 opportunity for dialogue between the reviewers and the school  
406 or school system to promote a better understanding of the  
407 findings.

408 (6) The Office of Education Performance Audits shall report  
409 the findings of an on-site review to the county superintendent  
410 and the principals whose schools were reviewed within thirty  
411 days following the conclusion of the on-site review. The Office  
412 of Education Performance Audits shall report the findings of the  
413 on-site review to the state board within forty-five days after the  
414 conclusion of the on-site review. A school or county that



415 believes one or more findings of a review are clearly inaccurate,  
416 incomplete or misleading, misrepresent or fail to reflect the true  
417 quality of education in the school or county or address issues  
418 unrelated to the health, safety and welfare of students and the  
419 quality of education, may appeal to the state board for removal  
420 of the findings. The state board shall establish a process for it to  
421 receive, review and act upon the appeals. The state board shall  
422 report to the Legislative Oversight Commission on Education  
423 Accountability during its July interim meetings, or as soon  
424 thereafter as practical, on each appeal during the preceding  
425 school year.

426 (7) The Legislature finds that the accountability and over-  
427 sight of some activities and programmatic areas in the public  
428 schools are controlled through other mechanisms and agencies  
429 and that additional accountability and oversight may be unneces-  
430 sary, counterproductive and impair necessary resources for  
431 teaching and learning. Therefore, the Office of Education  
432 Performance Audits may rely on other agencies and mechanisms  
433 in its review of schools and school systems.

434 (l) *School accreditation.* —

435 (1) The state board shall establish levels of accreditation to  
436 be assigned to schools. The establishment of levels of accredita-  
437 tion and the levels shall be subject to the following:

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

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

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

450 (2) The state board annually shall review the information  
451 from the system of education performance audits submitted for  
452 each school and shall issue to every school a level of accredita-  
453 tion as designated and determined by the state board.

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

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

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

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

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

467 (E) To intervene directly in the operation of a school and  
468 declare the position of principal vacant and assign a principal for  
469 the school who will serve at the will and pleasure of the state  
470 board. If the principal who was removed elects not to remain an  
471 employee of the county board, then the principal assigned by the  
472 state board shall be paid by the county board. If the principal  
473 who was removed elects to remain an employee of the county  
474 board, then the following procedure applies:

475 (i) The principal assigned by the state board shall be paid by  
476 the state board until the next school term, at which time the  
477 principal assigned by the state board shall be paid by the county  
478 board;

479 (ii) The principal who was removed is eligible for all  
480 positions in the county, including teaching positions, for which  
481 the principal is certified, by either being placed on the transfer  
482 list in accordance with section seven, article two, chapter  
483 eighteen-a of this code, or by being placed on the preferred recall  
484 list in accordance with section seven-a, article four, chapter  
485 eighteen-a of this code; and

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

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

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

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

502 (1) Full approval shall be given to a county board whose  
503 schools have all been given full, temporary or conditional  
504 accreditation status and which does not have any deficiencies

505 which would endanger student health or safety or other extraor-  
506 dinary circumstances as defined by the state board. A fully  
507 approved school system in which other deficiencies are discov-  
508 ered shall remain on full accreditation status for the remainder  
509 of the approval period and shall have an opportunity to correct  
510 those deficiencies, notwithstanding other provisions of this  
511 subsection.

512 (2) Temporary approval shall be given to a county board  
513 whose education system is below the level required for full  
514 approval. Whenever a county board is given temporary approval  
515 status, the county board shall revise its electronic county  
516 strategic improvement plan in accordance with subsection (b) of  
517 this section to increase the performance and progress of the  
518 school system to a full approval status level. The revised plan  
519 shall be submitted to the state board for approval.

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

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

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

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

529 (4) Nonapproval status shall be given to a county board  
530 which fails to submit and gain approval for its electronic county  
531 strategic improvement plan or revised electronic county strategic  
532 improvement plan within a reasonable time period as defined by  
533 the state board or which fails to meet the objectives and time line  
534 of its revised electronic county strategic improvement plan or

535 fails to achieve full approval by the date specified in the revised  
536 plan.

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

542 (B) Whenever a county board has more than a casual deficit,  
543 as defined in section one, article one of this chapter, the county  
544 board shall submit a plan to the state board specifying the county  
545 board's strategy for eliminating the casual deficit. The state  
546 board either shall approve or reject the plan. If the plan is  
547 rejected, the state board shall communicate to the county board  
548 the reason or reasons for the rejection of the plan. The county  
549 board may resubmit the plan any number of times. However, any  
550 county board that fails to submit a plan and gain approval for the  
551 plan from the state board before the end of the fiscal year after  
552 a deficit greater than a casual deficit occurred or any county  
553 board which, in the opinion of the state board, fails to comply  
554 with an approved plan may be designated as having nonapproval  
555 status.

556 (C) Whenever nonapproval status is given to a school  
557 system, the state board shall declare a state of emergency in the  
558 school system and shall appoint a team of improvement consul-  
559 tants to make recommendations within sixty days of appointment  
560 for correcting the emergency. When the state board approves the  
561 recommendations, they shall be communicated to the county  
562 board. If progress in correcting the emergency, as determined by  
563 the state board, is not made within six months from the time the  
564 county board receives the recommendations, the state board shall  
565 intervene in the operation of the school system to cause improve-  
566 ments to be made that will provide assurances that a thorough

567 and efficient system of schools will be provided. This interven-  
568 tion may include, but is not limited to, the following:

569 (i) Limiting the authority of the county superintendent and  
570 county board as to the expenditure of funds, the employment and  
571 dismissal of personnel, the establishment and operation of the  
572 school calendar, the establishment of instructional programs and  
573 rules and any other areas designated by the state board by rule,  
574 which may include delegating decision-making authority  
575 regarding these matters to the state superintendent;

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

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

582 (iv) Delegating to the state superintendent both the authority  
583 to conduct hearings on personnel matters and school closure or  
584 consolidation matters and, subsequently, to render the resulting  
585 decisions and the authority to appoint a designee for the limited  
586 purpose of conducting hearings while reserving to the state  
587 superintendent the authority to render the resulting decisions;

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

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

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

597 (II) Delegating to the statesuperintendent the authority to fill  
598 positions of administrators and principals with individuals  
599 determined by the state superintendent to be the most qualified  
600 for the positions. Any authority related to intervention in the  
601 operation of a county board granted under this paragraph is not  
602 subject to the provisions of article four, chapter eighteen-a of  
603 this code.

604 (n) Notwithstanding any other provision of this section, the  
605 state board may intervene immediately in the operation of the  
606 county school system with all the powers, duties and responsibil-  
607 ities contained in subsection (m) of this section, if the state board  
608 finds the following:

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

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

617 (o) *Capacity*. — The process for improving education  
618 includes a process for targeting resources strategically to  
619 improve the teaching and learning process. Development of  
620 electronic school and school system strategic improvement  
621 plans, pursuant to subsection (b) of this section, is intended, in  
622 part, to provide mechanisms to target resources strategically to  
623 the teaching and learning process to improve student, school and  
624 school system performance. When deficiencies are detected  
625 through the assessment and accountability processes, the  
626 revision and approval of school and school system electronic  
627 strategic improvement plans shall ensure that schools and school  
628 systems are efficiently using existing resources to correct the  
629 deficiencies. When the state board determines that schools and

630 school systems do not have the capacity to correct deficiencies,  
631 the state board shall take one or more of the following actions:

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

637 (2) Recommend to the appropriate body including, but not  
638 limited to, the Legislature, county boards, schools and communi-  
639 ties methods for targeting resources strategically to eliminate  
640 deficiencies identified in the assessment and accountability  
641 processes. When making determinations on recommendations,  
642 the state board shall include, but is not limited to, the following  
643 methods:

644 (A) Examining reports and electronic strategic improvement  
645 plans regarding the performance and progress of students,  
646 schools and school systems relative to the standards and identify-  
647 ing the areas in which improvement is needed;

648 (B) Determining the areas of weakness and of ineffective-  
649 ness that appear to have contributed to the substandard perfor-  
650 mance and progress of students or the deficiencies of the school  
651 or school system and requiring the school or school system to  
652 work collaboratively with the West Virginia Department of  
653 Education State System of Support to correct the deficiencies;

654 (C) Determining the areas of strength that appear to have  
655 contributed to exceptional student, school and school system  
656 performance and progress and promoting their emulation  
657 throughout the system;

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



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

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

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

669 (H) Directing county boards to target their funds strategi-  
670 cally toward alleviating deficiencies;

671 (I) Ensuring that the need for facilities in counties with  
672 increased enrollment are appropriately reflected and recom-  
673 mended for funding;

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

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

679 (p) *Building leadership capacity* – To help build the gover-  
680 nance and leadership capacity of a county board during an  
681 intervention in the operation of its school system by the state  
682 board, and to help assure sustained success following return of  
683 control to the county board, the state board shall require the  
684 county board to establish goals and action plans, subject to  
685 approval of the state board, to improve performance sufficiently  
686 to end the intervention within a period of not more than five  
687 years. The state superintendent shall maintain oversight and  
688 provide assistance and feedback to the county board on develop-  
689 ment and implementation of the goals and action plans. At a  
690 minimum, the goals and action plans shall include:

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

694 (B) Support for the training and development activities  
695 identified which may include those made available through the  
696 state superintendent, regional education service agencies, Center  
697 for Professional Development, West Virginia School Board  
698 Association, Office of Education Performance Audits, West  
699 Virginia Education Information System and other sources  
700 identified in the goals and action plans. Attendance at these  
701 activities included in the goals and action plans is mandatory as  
702 specified in the goals and action plans; and

703 (C) Active involvement by the county board in the improve-  
704 ment process, working in tandem with the county superintendent  
705 to gather, analyze and interpret data, write time-specific goals to  
706 correct deficiencies, prepare and implement action plans and  
707 allocate or request from the state board of education the re-  
708 sources, including board development training and coaching,  
709 necessary to achieve approved goals and action plans and sustain  
710 system and school improvement.

711 At least once each year during the period of intervention, the  
712 Office of Education Performance Audits shall assess the  
713 readiness of the county board to accept the return of control of  
714 the system or school from the state board and sustain the  
715 improvements, and shall make a report and recommendations to  
716 the state board supported by documented evidence of the  
717 progress made on the goals and action plans. The state board  
718 may end the intervention or return any portion of control of the  
719 operations of the school system or school that was previously  
720 removed at its sole determination. If the state board determines  
721 at the fifth annual assessment that the county board is still not  
722 ready to accept return of control by the state board and sustain  
723 the improvements, the state board shall hold a public hearing in

724 the affected county at which the attendance by all members of  
725 the county board is requested so that the reasons for continued  
726 intervention and the concerns of the citizens of the county may  
727 be heard. The state board may continue the intervention only  
728 after it holds the public hearing and may require revision of the  
729 goals and action plans.

730       Following the termination of an intervention in the operation  
731 of a school system and return of full control by the state board,  
732 the support for governance education and development shall  
733 continue as needed for up to three years. If at any time within  
734 this three years, the state board determines that intervention in  
735 the operation of the school system is again necessary, the state  
736 board shall again hold a public hearing in the affected county so  
737 that the reasons for the intervention and the concerns of the  
738 citizens of the county may be heard.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


  
Chairman, House Committee

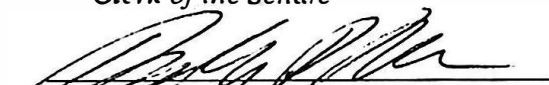
  
Chairman, Senate Committee

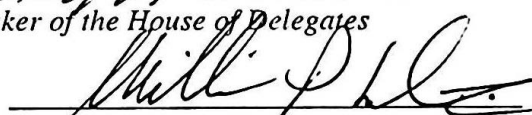
Originating in the House.

In effect ninety days from passage.

  
Clerk of the House of Delegates

  
Clerk of the Senate

  
Speaker of the House of Delegates

  
President of the Senate

The within is approved this the 24  
day of March, 2015.

  
Governor

PRESENTED TO THE GOVERNOR

MAR 18 2015

Time 4:55 PM