WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4014

(By Butler, Moffatt, McGeehan, Espinosa, Kelly,
Faircloth, Summers, Atkinson, Hamrick and
Cowles)

[Passed March 12, 2016; in effect ninety days from passage.]
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AN ACT to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, all
relating generally to process for improving education; removing reference to No Child Left
Behind Act; adding digital literacy to list of areas that State Board of Education is required
to adopt high-quality education standards in; making findings with respect to Legislature's
constitutional authority; defining "academic standards"; recognizing state board's adoption
and renaming of certain standards; establishing Academic Standards Evaluation Panel;
establishing membership of panel; establishing duties of panel; requiring withdrawal from
Memorandum of Agreement relating to adoption of Common Core State Standards;
requiring withdrawal as governing state in Smarter Balanced Assessment Consortium;
establishing criteria for any academic standards adopted by state board; requiring
Legislative Oversight Commission on Education and Accountability to review any
proposed rules relating to academic standards; removing requirement for state board rule
establishing comprehensive statewide student assessment program; removing
requirement that assessment be aligned with certain standards and associated alternative;
removing state board authority to require ACT EXPLORE and ACT PLAN or other
comparable assessments; requiring state board to review and approve summative
assessment for certain grade levels to assess in certain subject areas; requiring
summative assessment include students as required by certain federal laws; requiring that
summative assessment meet certain requirements; requiring state board to review and
approve college readiness assessment for students in eleventh grade; requiring college
readiness assessment to be administered at least once to each eleventh-grade student;
requiring college readiness assessment meet certain requirements; requiring state board
to review and approve career readiness assessments and assessment based credentials;
providing that career readiness assessment is voluntary for students; requiring that
assessment-based credential be available to any student that achieves at required level
on the required assessments; requiring career readiness assessments meet certain
requirements; prohibiting implementation of any assessment or test items developed
specifically to align with Common Core State Standards; requiring online assessment
preparation for any online assessment; requiring state board to develop plan and make
recommendations regarding end-of-course assessments and student accountability
measures; establishing reporting requirements; establishing maximum percentage of
instructional time for summative assessment; and removing required report to Legislative
Oversight Commission on Education Accountability pertaining to on-site review finding
appeals.

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.

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

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

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

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

(C) A system of accountability for continuous improvement defined by high-quality
standards for schools and school systems articulated by a rule promulgated by the state board
and outlined in subsection (c) of this section that will build capacity in schools and districts to meet
rigorous outcomes that assure student performance and progress toward obtaining the
knowledge and skills intrinsic to a high-quality successful education rather than monitoring for
compliance with specific laws and regulations; and

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

(2) As the Constitutional body charged with the general supervision of schools as provided
by general law, the state board has the authority and the responsibility to establish the standards,
assess the performance and progress of students against the standards, hold schools and school
systems accountable and assist schools and school systems to build capacity and improve
efficiency so that the educational standards are met, including, when necessary, seeking
additional resources in consultation with the Legislature and the Governor;

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

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

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

(b) **Electronic county and school strategic improvement plans.** — The state board shall promulgate a rule consistent with the provisions of this section and in accordance with article three-b, chapter twenty-nine-a of this code establishing an electronic county strategic improvement plan for each county board and an electronic school strategic improvement plan for each public school in this state. Each respective plan shall be for a period of no more than five years and shall include the mission and goals of the school or school system to improve student, school or school system performance and progress, as applicable. The strategic plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures. The plan shall be revised when required pursuant to this section to include each annual performance measure upon which the school or school system fails to meet the standard for performance and progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the department and other education agencies to improve student, school or school system performance and progress to meet the annual performance measure.

The department shall make available to all public schools through its website or the West Virginia Education Information System an electronic school strategic improvement plan boilerplate designed for use by all schools to develop an electronic school strategic improvement plan which incorporates all required aspects and satisfies all improvement plan requirements.

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

(1) Curriculum;

(2) Digital literacy;

(3) Workplace readiness skills;

(4) Finance;

(5) Transportation;

(6) Special education;

(7) Facilities;

(8) Administrative practices;

(9) Training of county board members and administrators;

(10) Personnel qualifications;

(11) Professional development and evaluation;

(12) Student performance, progress and attendance;

(13) Professional personnel, including principals and central office administrators, and service personnel attendance;

(14) School and school system performance and progress;

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

(16) Indicators of efficiency; and

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

(d) West Virginia Academic Standards. —

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

(A) To "provide, by general law, for a thorough and efficient system of free schools";
(B) To prescribe by law the duties of the state board in the general supervision of free public schools;

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

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

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

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

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

(A) Using the West Virginia College–and–Career–Readiness Standards for English Language Arts and Mathematics as a framework, evaluate and recommend revisions to the standards based on empirical research and data to ensure grade-level alignment to the standards
of states with a proven track record of consistent high-performing student achievement in English Language Arts on the National Assessment of Educational Progress; and in Mathematics, on both the National Assessment of Educational Progress and Trends in Math and Science Study International Assessment;

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

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

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

(E) Submit its evaluation and recommended revisions to the state board and the Legislative Oversight Commission on Education Accountability by October 1, 2016.

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

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

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

(B) Be free of instructional strategies;

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

(D) Be based solely on academic content.

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

(e) **Comprehensive statewide student assessment program. —**

(1) For federal and state accountability purposes, the state board shall review and approve
a summative assessment system for administration to all public school students, beginning in
school year 2016-2017, in grades three through eight that assesses students in English, reading,
writing, science and mathematics: **Provided,** That the assessment in science may only be
administered once during the grade span of three through five and once during the grade span of
six through eight. The assessment shall include those students as required by the federal
Individuals with Disabilities Education Act and by Title I of the Elementary and Secondary
Education Act. The summative assessment system must meet the following requirements:

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

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

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

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

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

(F) Be aligned or augmented to align with the standards in effect at the time the test is
administered.
(2) The state board shall review and approve a college readiness assessment to be administered to all students in the eleventh grade for the first time in school year 2016-2017 and subsequent years. The eleventh grade college readiness assessment shall be administered at least once to each eleventh grade student and shall meet the following requirements:

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

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

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

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

(E) Be administered throughout the United States;

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

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

(3) The state board shall review and approve career readiness assessments and assessment-based credentials that measure and document foundational workplace skills. The assessments shall be administered to public secondary school students in grades eleven or twelve for the first time in school year 2016-2017 and subsequent years: Provided, That the career readiness assessment is voluntary and may only be administered to students who elect to take the assessment. The assessment-based credential shall be available to any student who achieves at the required level on the assessments. The assessments shall meet the following requirements:

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

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

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

(i) Applied mathematics;
(ii) Locating information; or

(iii) Reading for information;

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

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

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

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

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

(6) The state board shall develop a plan and make recommendations regarding end-of-course assessments and student accountability measures and submit its findings to the Legislative Oversight Commission on Education and Accountability by December 31, 2016.

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

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

(9) The state board may provide through policy other optional testing or assessment instruments applicable to grade levels kindergarten through eight and grade eleven which may be used by each school to promote student achievement. The state board annually shall publish and make available, electronically or otherwise, to school curriculum teams and teacher collaborative processes the optional testing and assessment instruments.
(f) State annual performance measures for school and school system accreditation. —

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

1. Student proficiency in English and language arts, math, science and other subjects determined by the board;

2. Graduation and attendance rate;

3. Students taking and passing AP tests;

4. Students completing a career and technical education class;

5. Closing achievement gaps within subgroups of a school's student population; and

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

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

1. Curriculum delivery including, but not limited to, the use of distance learning;

2. Transportation;

3. Facilities;
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(4) Administrative practices;

(5) Personnel;

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Office of Education Performance Audits. —

(1) To assist the state board in the operation of a system of education performance audits, the state board shall establish an Office of Education Performance Audits consistent with the provisions of this section. The Office of Education Performance Audits shall be operated under the direction of the state board independently of the functions and supervision of the state Department of Education and state superintendent. The Office of Education Performance Audits shall report directly to and be responsible to the state board in carrying out its duties under the provisions of this section.
(2) The office shall be headed by a director who shall be appointed by the state board and who serves at the will and pleasure of the state board. The annual salary of the director shall be set by the state board and may not exceed eighty percent of the salary of the state superintendent of Schools.

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

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

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

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

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

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

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

(C) Determine, in conjunction with the assessment and accountability processes, what capacity may be needed by schools and school systems to meet the standards established by the state board and recommend to the state board plans to establish those needed capacities;
(D) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity of schools and school systems to meet the standards established by the state board, including the identification of trends and the need for continuing improvements in education, and report those deficiencies and trends to the state board;

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

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

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

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

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

(iii) The appropriate licensure of school personnel; and

(iv) The appropriate provision of multicultural activities.
Information contained in the reporting formats is subject to examination during an on-site review to determine compliance with laws, policies and standards. Intentional and grossly negligent reporting of false information are grounds for dismissal of any employee.

(I) On-site reviews. —

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

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

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

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

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

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

and

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

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

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

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

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

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

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

(m) School accreditation. —

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

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

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

(C) The state board will establish the levels of accreditation in such a manner as to minimize the number of systems of school recognition, both state and federal, that are employed to recognize and accredit schools.
(2) The state board annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school a level of accreditation as designated and determined by the state board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Conditional approval shall be given to a county board whose education system is below the level required for full approval, but whose electronic county strategic improvement plan meets the following criteria:
(A) The plan has been revised in accordance with subsection (b) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the Governor;
(2) Recommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making determinations on recommendations, the state board shall include, but is not limited to, the following methods:

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

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

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

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

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

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

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

(H) Directing county boards to target their funds strategically toward alleviating deficiencies;
(I) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

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

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

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

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

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

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

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

Following the termination of an intervention in the operation of a school system and return of full control by the state board, the support for governance education and development shall continue as needed for up to three years. If at any time within this three years, the state board determines that intervention in the operation of the school system is again necessary, the state board shall again hold a public hearing in the affected county so that the reasons for the intervention and the concerns of the citizens of the county may be heard.
The 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 disapproved this the 1st day of April, 2016.

Governor