

HB 4014 (veto)

**WEST VIRGINIA LEGISLATURE**

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**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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[Passed March 12, 2016; in effect ninety days from passage.]

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

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

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

1 That §18-2E-5 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

**§18-2E-5. Process for improving education; education standards; statewide assessment  
program; accountability measures; Office of Education Performance Audits;  
school accreditation and school system approval; intervention to correct low  
performance.**

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

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

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

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

9 (C) A system of accountability for continuous improvement defined by high-quality  
10 standards for schools and school systems articulated by a rule promulgated by the state board

11 and outlined in subsection (c) of this section that will build capacity in schools and districts to meet  
12 rigorous outcomes that assure student performance and progress toward obtaining the  
13 knowledge and skills intrinsic to a high-quality successful education rather than monitoring for  
14 compliance with specific laws and regulations; and

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

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

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

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

35 (5) The intent of the Legislature in enacting this section and section five-c of this article is  
36 to establish a process through which the Legislature, the Governor and the state board can work

37 in the spirit of cooperation and collaboration intended in the process for improving education to  
38 consult and examine the performance and progress of students, schools and school systems and,  
39 when necessary, to consider alternative measures to ensure that all students continue to receive  
40 the thorough and efficient education to which they are entitled. However, nothing in this section  
41 requires any specific level of funding by the Legislature.

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

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

61 (c) *High-quality education standards and efficiency standards.* — In accordance with the  
62 provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and

63 periodically review and update high-quality education standards for student, school and school  
64 system performance and processes in the following areas:

- 65 (1) Curriculum;
- 66 (2) Digital literacy;
- 67 (3) Workplace readiness skills;
- 68 (4) Finance;
- 69 (5) Transportation;
- 70 (6) Special education;
- 71 (7) Facilities;
- 72 (8) Administrative practices;
- 73 (9) Training of county board members and administrators;
- 74 (10) Personnel qualifications;
- 75 (11) Professional development and evaluation;
- 76 (12) Student performance, progress and attendance;
- 77 (13) Professional personnel, including principals and central office administrators, and  
78 service personnel attendance;
- 79 (14) School and school system performance and progress;
- 80 (15) A code of conduct for students and employees;
- 81 (16) Indicators of efficiency; and
- 82 (17) Any other areas determined by the state board.

83 (d) *West Virginia Academic Standards.* —

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

132 (B) Be free of instructional strategies;

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

135 (D) Be based solely on academic content.

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

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

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

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

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

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

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

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

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

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

166 (2) The state board shall review and approve a college readiness assessment to be  
167 administered to all students in the eleventh grade for the first time in school year 2016-2017 and  
168 subsequent years. The eleventh grade college readiness assessment shall be administered at  
169 least once to each eleventh grade student and shall meet the following requirements:

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

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

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

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

175 (E) Be administered throughout the United States;

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

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

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

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

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

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

191 (i) Applied mathematics;

192 (ii) Locating information; or

193 (iii) Reading for information;

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

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

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

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

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

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

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

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

213 (9) The state board may provide through policy other optional testing or assessment  
214 instruments applicable to grade levels kindergarten through eight and grade eleven which may  
215 be used by each school to promote student achievement. The state board annually shall publish  
216 and make available, electronically or otherwise, to school curriculum teams and teacher  
217 collaborative processes the optional testing and assessment instruments.

218 (f) *State annual performance measures for school and school system accreditation.* —

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

- 230 (1) Student proficiency in English and language arts, math, science and other subjects  
231 determined by the board;
- 232 (2) Graduation and attendance rate;
- 233 (3) Students taking and passing AP tests;
- 234 (4) Students completing a career and technical education class;
- 235 (5) Closing achievement gaps within subgroups of a school's student population; and
- 236 (6) Students scoring at or above average attainment on SAT or ACT tests.

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

- 241 (1) Curriculum delivery including, but not limited to, the use of distance learning;
- 242 (2) Transportation;
- 243 (3) Facilities;

244 (4) Administrative practices;

245 (5) Personnel;

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

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

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

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

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

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

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

266 (i) *Uses of school and school system assessment information.* — The state board shall  
267 use information from the system of education performance audits to assist it in ensuring that a  
268 thorough and efficient system of schools is being provided and to improve student, school and  
269 school system performance and progress. Information from the system of education performance

270 audits further shall be used by the state board for these purposes, including, but not limited to,  
271 the following:

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

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

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

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

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

288 (k) *Office of Education Performance Audits.* —

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

346 (iv) The appropriate provision of multicultural activities.

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

350 (l) *On-site reviews.* —

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

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

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

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

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

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

371 (F) Determining and reporting whether required reviews and inspections have been  
372 conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the

373 Health Department, the School Building Authority and the responsible divisions within the  
374 Department of Education, and whether noted deficiencies have been or are in the process of  
375 being corrected.

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

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

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

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

397 (6) The Office of Education Performance Audits shall report the findings of an on-site  
398 review to the county superintendent and the principals whose schools were reviewed within thirty

399 days following the conclusion of the on-site review. The Office of Education Performance Audits  
400 shall report the findings of the on-site review to the state board within forty-five days after the  
401 conclusion of the on-site review. A school or county that believes one or more findings of a review  
402 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of  
403 education in the school or county or address issues unrelated to the health, safety and welfare of  
404 students and the quality of education, may appeal to the state board for removal of the findings.  
405 The state board shall establish a process for it to receive, review and act upon the appeals.

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

412 (m) *School accreditation.* —

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

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

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

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

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

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

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

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

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

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

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

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

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

448 on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of  
449 this code; and

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

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

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

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

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

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

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

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

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

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

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

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

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

495 (C) Whenever nonapproval status is given to a school system, the state board shall  
496 declare a state of emergency in the school system and shall appoint a team of improvement  
497 consultants to make recommendations within sixty days of appointment for correcting the  
498 emergency. When the state board approves the recommendations, they shall be communicated  
499 to the county board. If progress in correcting the emergency, as determined by the state board,  
500 is not made within six months from the time the county board receives the recommendations, the

501 state board shall intervene in the operation of the school system to cause improvements to be  
502 made that will provide assurances that a thorough and efficient system of schools will be provided.

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

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

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

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

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

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

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

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

524 (II) Delegating to the state superintendent the authority to fill positions of administrators  
525 and principals with individuals determined by the state superintendent to be the most qualified for  
526 the positions. Any authority related to intervention in the operation of a county board granted



527 under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this  
528 code.

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

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

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

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

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

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

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

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

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

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

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

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

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

576           (H) Directing county boards to target their funds strategically toward alleviating  
577 deficiencies;

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

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

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

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

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

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

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

604 necessary to achieve approved goals and action plans and sustain system and school  
605 improvement.

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

619           Following the termination of an intervention in the operation of a school system and return  
620 of full control by the state board, the support for governance education and development shall  
621 continue as needed for up to three years. If at any time within this three years, the state board  
622 determines that intervention in the operation of the school system is again necessary, the state  
623 board shall again hold a public hearing in the affected county so that the reasons for the  
624 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.


  
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Chairman, House Committee

  
.....  
Chairman, Senate Committee

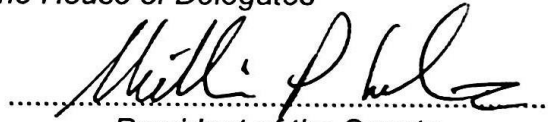
Originating in the House.

In effect ninety days from passage.

  
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Clerk of the House of Delegates

  
.....  
Clerk of the Senate

  
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Speaker of the House of Delegates

  
.....  
President of the Senate

The within is disapproved this the 1<sup>st</sup>.....  
day of April....., 2016.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 23 2013

Time 2:58 pm