

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 568

(By Senators Plymale, Jenkins, Foster, Unger,
Prezioso, Barnes, Tucker and Stollings)

[Originating in the Committee on Education;
reported February 17, 2012.]

A BILL to repeal §18-2E-5c of the Code of West Virginia, 1931, as amended; to amend and reenact §18-1-4 of said code; to amend and reenact §18-2-23a of said code; to amend said code by adding thereto a new section, designated §18-2-39; and to amend and reenact §18-2E-5 of said code, all relating to college and career readiness; requiring the State Board of Education, the Higher Education Policy Commission and the Council for Community and Technical College Education to collaborate in formally adopting uniform and specific college and career readiness standards for English/language arts and

math; setting forth methods for determining whether students have met the college and career readiness standards; requiring that an explicit focus be embedded in each course on the development of English/language arts and math skills; requiring a twelfth-grade transitional course for both English/language arts and math for students not on track to be college ready; requiring professional development on teaching the college and career readiness standards be included in the state board's goals for professional staff development and ultimately in its Master Plan for Professional Staff Development; requiring the state board to require all teacher preparation programs in the state to include appropriate training for teachers teaching in at least grades eight through twelve on how to teach the adopted standards; requiring the use of certain assessments, exams or tests, as applicable, to determine whether a student is to enroll in a remedial course or be placed immediately in a college-level introductory course; requiring accountability for increasing the percentage of students who meet the standards and for increasing the percentage of students who are making adequate progress toward meeting the standards; deleting requirement that a school or school system that achieves adequate yearly progress is eligible for no

less than full accreditation or approval status as applicable;
and eliminating obsolete Process for Improving Education
Council.

Be it enacted by the Legislature of West Virginia:

That §18-2E-5c of the Code of West Virginia, 1931, as amended, be repealed; that §18-1-4 of said code be amended and reenacted; that §18-2-23a of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-2-39; and that §18-2E-5 of said code be amended and reenacted, all to read as follows:

**ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR
EDUCATION.**

**§18-1-4. Vision 2020: An Education Blueprint for Two Thousand
Twenty.**

1 (a) This section, together with section one-a, article one,
2 chapter eighteen-b of this code and article one-d of said
3 chapter, shall be known as and may be cited as Vision 2020:
4 An Education Blueprint for Two Thousand Twenty.

5 (b) For the purposes of this section:

6 (1) “Goals” means those long-term public purposes
7 which are the desired end result and only may include those
8 items listed in subsection (e) of this section;

9 (2) "Objectives" means the ends to be accomplished or
10 attained within a specified period of time for the purpose of
11 meeting the established goals; and

12 (3) "Strategies" means specific activities carried out by
13 the public education system which are directed toward
14 accomplishing specific objectives.

15 (c) The Legislature finds that:

16 (1) The measure of a thorough and efficient system of
17 education is whether students graduate prepared to meet the
18 challenges of the future as contributing members of society
19 and that these challenges change, becoming ever more
20 complex and involving a global context more than at any
21 other time in the history of our nation;

22 (2) The state recently has embraced and is implementing
23 the Partnership for 21st Century Skills model for teaching
24 and learning including six key elements (core subjects, 21st
25 Century content, learning and thinking skills, information
26 and communications technology literacy, life skills and 21st
27 Century assessments) to help better prepare students for the
28 challenges of the 21st Century;

29 (3) Published national studies by several organizations
30 routinely examine various elements of state education

31 systems and selected underlying socioeconomic variables and
32 rate and rank West Virginia and the other states, the District
33 of Columbia and the territories based on the measurement
34 systems and priorities established by the organizations, and
35 these measurement systems and priorities change;

36 (4) While the state should take pride in studies that show
37 West Virginia is among the leaders in several of its efforts
38 and is making progress, its students often outperforming
39 expectations based on typical indicators of the likelihood for
40 student success, such as the income and education levels of
41 their parents, it should also recognize that the state must do
42 even more to ensure that high school graduates are fully
43 prepared for postsecondary education or gainful employ-
44 ment;

45 (5) Therefore, the purpose of this section is to provide for
46 the establishment of a clear plan that includes goals, objec-
47 tives, strategies, indicators and benchmarks to help guide the
48 state's policymakers on the continuous development of the
49 state's education system for the 21st Century.

50 (d) As part of Vision 2020: An Education Blueprint for
51 Two Thousand Twenty, the state board shall establish a plan
52 in accordance with the provisions of this section for submis-

53 sion to and consideration by the ~~Process for Improving~~
54 ~~Education Council pursuant to section five-c, article two-e~~
55 ~~of this chapter~~ Legislative Oversight Commission on Educa-
56 tion Accountability. The plan shall include only the goals,
57 objectives, strategies, indicators and benchmarks for public
58 education set forth in this section and that meet the require-
59 ments of this section. To add clarity and avoid confusion, the
60 goals for public education set forth in the plan pursuant to
61 this section are the exclusive goals for public education. The
62 plan shall include:

- 63 (1) The goals set forth in this section and no other goals;
 - 64 (2) At least the objectives set forth in this section and
65 specified periods of time for achieving those objectives and
66 any other objectives that may be included in the plan;
 - 67 (3) Strategies for achieving the specific objectives;
 - 68 (4) Indicators for measuring progress toward the goals
69 and objectives established in this section; and
 - 70 (5) Benchmarks for determining when the goals and
71 objectives have been achieved.
- 72 (e) The plan shall include the following list of exclusive
73 goals for the public education system in West Virginia:

74 (1) Academic achievement according to national and
75 international measures will exceed national and interna-
76 tional averages. These national and international measures
77 should include scores on assessments such as the National
78 Assessment of Educational Progress (NAEP), the ACT, the
79 SAT and the Programme for International Assessment
80 (PISA);

81 (2) The public education system will prepare fully all
82 students for postsecondary education or gainful employment;

83 (3) All working-age adults will be functionally literate;

84 (4) The public education system will maintain and
85 promote the health and safety of all students and will
86 develop and promote responsibility, citizenship and strong
87 character in all students; and

88 (5) The public education system will provide equitable
89 education opportunity to all students.

90 (f) The plan also shall include at least the following
91 policy-oriented objectives:

92 (1) *Rigorous 21st Century curriculum and engaging*
93 *instruction for all students.* — All students in West Virginia
94 public schools should have access to and benefit from a
95 rigorous 21st Century curriculum that develops proficiency

96 in core subjects, 21st Century content, learning skills and
97 technology tools. These students also should have that
98 curriculum delivered through engaging, research-based
99 instructional strategies that develop deep understanding and
100 the ability to apply content to real-world situations;

101 (2) *A 21st Century accountability and accreditation*
102 *system.* — The prekindergarten through twelve education
103 system should have a public accrediting system that: (i)
104 Holds local school districts accountable for the student
105 outcomes the state values; and (ii) provides the public with
106 understandable accountability data for judging the quality
107 of local schools. The outcomes on which the system is based
108 should be rigorous and should align with national and
109 international standards such as the National Assessment of
110 Educational Progress (NAEP), the ACT, the SAT and the
111 Programme for International Assessment (PISA). The broad
112 standards established for these outcomes should include a
113 focus on: (A) Mastery of basic skills by all students; (B)
114 closing the achievement gap among student subgroups; and
115 (C) high levels of proficiency in a wide range of desired 21st
116 Century measures and processes. The system for determining
117 school and district accreditation should include school and

118 district self analysis and generate appropriate research-
119 based strategies for improvement. It also should allow
120 opportunities to create innovative approaches to instruc-
121 tional delivery and design. Thus, the system will incorporate
122 processes for encouraging innovation, including streamlined
123 applications for waivers to state board policy, financial
124 support for successful initiatives and recognition of those
125 practices that can be brought to a district or statewide scale.
126 The primary goal of the accreditation system is to drive
127 school improvement. This 21st Century accountability and
128 accreditation system also should include the methods of
129 addressing capacity set forth in section five, article two-e of
130 this chapter;

131 (3) *A statewide balanced assessment process.* — State,
132 district, school and classroom decisionmaking should be
133 grounded in 21st Century balanced assessment processes that
134 reflect national and international rigorous performance
135 standards and examine student proficiency in 21st Century
136 content, skills and technology tools. A balanced assessment
137 system includes statewide summative assessments, local
138 benchmark assessments and classroom assessments for
139 learning;

140 (4) *A personnel allocation, licensure and funding process*
141 *that aligns with the needs of 21st Century school systems and*
142 *is supported by a quality coordinated professional develop-*
143 *ment delivery system.* — Increased accountability demands,
144 as well as the focus on 21st Century learning, require a
145 reexamination of traditional approaches to personnel
146 allocation, licensure and funding. Creating schools of the
147 21st Century requires new staffing roles and staffing pat-
148 terns. It also requires ongoing professional development
149 activities focused on enhancing student achievement and
150 achieving specific goals of the school and district strategic
151 plans. Thus, schools should have the ability to access,
152 organize and deliver high-quality embedded professional
153 development that provides staff with in-depth sustained and
154 supported learning. Effective school improvement should
155 allow opportunity for staff to collectively learn, plan and
156 implement curricular and instructional improvements on
157 behalf of the students they serve;

158 (5) *School environments that promote safe, healthy and*
159 *responsible behavior and provide an integrated system of*
160 *student support services.* — Each school should create an
161 environment focused on student learning and one where

162 students know they are valued, respected and safe. Further-
163 more, the school should incorporate programs and processes
164 that instill healthy, safe and responsible behaviors and
165 prepare students for interactions with individuals of diverse
166 racial, ethnic and social backgrounds. School and district
167 processes should include a focus on developing ethical and
168 responsible character, personal dispositions that promote
169 personal wellness through planned daily physical activity
170 and healthy eating habits consistent with high nutritional
171 guidelines and multicultural experiences that develop an
172 appreciation of and respect for diversity;

173 (6) *A leadership recruitment, development and support*
174 *continuum.* — Quality schools and school systems of the 21st
175 Century cannot be created without high-quality leaders.
176 Thus, West Virginia should have an aligned leadership
177 professional development continuum that attracts, develops
178 and supports educational leadership at the classroom, school
179 and district level. This leadership development continuum
180 should focus on creating: (i) Learning-centered schools and
181 school systems; (ii) collaborative processes for staff learning
182 and continuous improvement; and (iii) accountability
183 measures for student achievement;

184 (7) *Equitable access to 21st Century technology and*
185 *education resources and school facilities conducive to 21st*
186 *Century teaching and learning.* — A quality educational
187 system of the 21st Century should have access to technology
188 tools and processes that enhance effective and efficient
189 operation. Administrators should have the digital resources
190 to monitor student performance, manage a variety of data
191 and communicate effectively. In the classroom, every teacher
192 in every school should be provided with the instructional
193 resources and educational technology necessary to deliver
194 the West Virginia content standards and objectives. Schools
195 of the 21st Century require facilities that accommodate
196 changing technologies, 21st Century instructional processes
197 and 21st Century staffing needs and patterns. These school
198 facilities should mirror the best in green construction and be
199 environmentally and educationally responsive to the commu-
200 nities in which they are located;

201 (8) *Aligned public school with postsecondary and*
202 *workplace readiness programs and standards.* — An educa-
203 tional system in the 21st Century should be seen as a contin-
204 uum from the public school (prekindergarten through twelve)
205 program through postsecondary education. In order to be

206 successful in a global competitive marketplace, learning
207 should be an ongoing, life-long experience. Thus, the public
208 schools and the institutions of postsecondary education in
209 West Virginia should create a system of common standards,
210 expectations and accountability. Creating such an aligned
211 system will enhance opportunities for success and assure a
212 seamless educational process for West Virginia students; and

213 (9) *A universal prekindergarten system.* -- A high-
214 quality, universal prekindergarten system should be readily
215 available to every eligible student. The system should
216 promote oral language and preliteracy skills and reduce the
217 deficit of these foundational skills through proactive, early
218 intervention. Research indicates that universal
219 prekindergarten systems improve graduation rates, reduce
220 grade level retentions and reduce the number of special
221 education placements. Therefore, local school systems should
222 create the supports and provide the resources to assure a
223 quality prekindergarten foundation is available to all eligible
224 students.

225 (g) In addition to the policy-oriented objectives set forth
226 in subsection (f) of this section, the plan established pursuant

227 to this section also shall include at least the following
228 performance-oriented objectives:

229 (1) All children entering the first grade will be ready for
230 the first grade;

231 (2) The performance of students falling in the lowest
232 quartile on national and international measures of student
233 performance will improve by fifty percent;

234 (3) Ninety percent of ninth graders will graduate from
235 high school;

236 (4) By 2012, the gap between the county with the lowest
237 college-going rate and the state average as of the effective
238 date of this act will decrease by fifty percent and the college-
239 going rate of the state will equal the college-going rate of the
240 member states of the Southern Regional Education Board;
241 and

242 (5) By 2020, the gap between the county with the lowest
243 college-going rate and the state average for school year two
244 thousand twelve will decrease by fifty percent and the
245 college-going rate of the state will exceed the college-going
246 rate of the member states of the Southern Regional Educa-
247 tion Board by five percentage points.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-23a. Annual professional staff development goals established by state board; coordination of professional development programs; program development, approval and evaluation.

1 (a) *Legislative intent.* — The intent of this section is:

2 (1) To provide for the coordination of professional
3 development programs by the state board;

4 (2) To promote high-quality instructional delivery and
5 management practices for a thorough and efficient system of
6 schools; and

7 (3) To ensure that the expertise and experience of state
8 institutions of higher education with teacher preparation
9 programs are included in developing and implementing
10 professional development programs.

11 (b) *Goals.* — The state board annually shall establish
12 goals for professional staff development in the public schools
13 of the state. As a first priority, the state board shall require
14 adequate and appropriate professional staff development to
15 ensure high- quality teaching that will enable students to
16 achieve the content standards established for the required
17 curriculum in the public schools.

18 The state board shall submit the goals to the State
19 Department of Education, the Center for Professional
20 Development, the regional educational service agencies, the
21 Higher Education Policy Commission and the Legislative
22 Oversight Commission on Education Accountability on or
23 before January 15, each year.

24 The goals shall include measures by which the effective-
25 ness of the professional staff development programs will be
26 evaluated. The professional staff development goals shall
27 include separate goals for teachers, principals and
28 paraprofessional service personnel and may include separate
29 goals for classroom aides and others in the public schools.

30 In establishing the goals, the state board shall review
31 reports that may indicate a need for professional staff
32 development including, but not limited to, the report of the
33 Center for Professional Development created in article three-
34 a, chapter eighteen-a of this code, student test scores on the
35 statewide student assessment program, the measures of
36 student and school performance for accreditation purposes,
37 school and school district report cards and its plans for the
38 use of funds in the strategic staff development fund pursuant

39 to section thirty-two, article two, chapter eighteen of this
40 code.

41 (c) The Center for Professional Development shall design
42 a proposed professional staff development program plan to
43 achieve the goals of the state board and shall submit the
44 proposed plan to the state board for approval as soon as
45 possible following receipt of the state board goals each year.
46 In developing and implementing this plan, the center first
47 shall rely upon the available expertise and experience of
48 state institutions of higher education before procuring
49 advice, technical assistance or consulting services from
50 sources outside the state.

51 The proposed plan shall include a strategy for evaluating
52 the effectiveness of the professional staff development
53 programs delivered under the plan and a cost estimate. The
54 state board shall review the proposed plan and return it to
55 the Center for Professional Development noting whether the
56 proposed plan is approved or is not approved, in whole or in
57 part. If a proposed plan is not approved in whole, the state
58 board shall note its objections to the proposed plan or to the
59 parts of the proposed plan not approved and may suggest
60 improvements or specific modifications, additions or dele-

61 tions to address more fully the goals or eliminate duplication.
62 If the proposed plan is not wholly approved, the Center for
63 Professional Development shall revise the plan to satisfy the
64 objections of the state board. State board approval is
65 required prior to implementation of the professional staff
66 development plan.

67 (d) The state board approval of the proposed professional
68 staff development plan shall establish a Master Plan for
69 Professional Staff Development which shall be submitted by
70 the state board to the affected agencies and to the Legislative
71 Oversight Commission on Education Accountability. The
72 master plan shall include the state board-approved plans for
73 professional staff development by the State Department of
74 Education, the Center for Professional Development, the
75 state institutions of higher education and the regional
76 educational service agencies to meet the professional staff
77 development goals of the state board. The master plan also
78 shall include a plan for evaluating the effectiveness of the
79 professional staff development delivered through the
80 programs and a cost estimate.

81 The master plan shall serve as a guide for the delivery of
82 coordinated professional staff development programs by the

83 State Department of Education, the Center for Professional
84 Development, the state institutions of higher education and
85 the regional educational service agencies beginning on June
86 1 in the year in which the master plan was approved through
87 May 30 in the following year. This section does not prohibit
88 changes in the master plan, subject to state board approval,
89 to address staff development needs identified after the
90 master plan was approved.

91 (e) Pursuant to section thirty-nine of this article, the
92 state board shall include in its goals for professional staff
93 development and in its Master Plan for Professional Staff
94 Development:

95 (1) Professional development for teachers teaching the
96 transitional courses on how to teach the adopted college and
97 career readiness standards for English/language arts and
98 math; and

99 (2) Appropriate professional development for other
100 teachers in at least grades eight through twelve on how to
101 teach the adopted college and career readiness standards in
102 English/language arts and math directly, as embedded in
103 other subject areas or both, as appropriate.

§18-2-39. College and career readiness initiative.

1 (a) The Legislature finds that:

2 (1) According to ACT, only twenty-five percent of ACT-
3 tested high school graduates in the nation met college
4 readiness benchmarks in English, reading, mathematics and
5 science and only seventeen percent in West Virginia met the
6 benchmarks in all four subjects;

7 (2) The postsecondary remediation rates of students
8 entering postsecondary institutions directly out of high
9 school indicate that a large percentage of students are not
10 being adequately prepared at the elementary and secondary
11 levels;

12 (3) This high level of postsecondary remediation is
13 causing both students and the state to expend extra re-
14 sources that would not have to be expended if the students
15 were adequately prepared at the elementary and secondary
16 levels;

17 (4) A strong foundation in English/language arts and
18 math provides a basis for learning in all other subject areas
19 and for on-the-job training;

20 (5) A comparison of the percentages of students consid-
21 ered proficient in eighth grade reading and math by the state

22 assessment and the National Assessment of Educational
23 Progress indicate that the state assessment currently does
24 not accurately reflect college and career readiness; and

25 (6) In 2010, the Southern Regional Education Board and
26 the National Center for Public Policy and Higher Education
27 issued a policy brief entitled “Beyond the Rhetoric Improv-
28 ing College Readiness Through Coherent State Policy” which
29 set forth a model statewide readiness agenda. This college
30 and career readiness initiative is based on that policy brief.

31 (b) Before the 2013-2014 school year, the state board, the
32 Higher Education Policy Commission and the Council for
33 Community and Technical College Education shall collabo-
34 rate in formally adopting uniform and specific college and
35 career readiness standards for English/language arts and
36 math. The standards shall be clearly linked to state content
37 standards and based on skills and competencies rather than
38 high school course titles. The standards shall allow for a
39 determination of whether a student needs to enroll in a
40 postsecondary remedial course. Initially, the standards for
41 English/language arts and math may remain lower for a high
42 school diploma, but the standards for a high school diploma
43 shall increase gradually so that the standards for a high

44 school diploma and the college and career readiness stan-
45 dards are eventually uniform. The state board shall develop
46 a plan for gradually bringing the standards for a high school
47 diploma and college and career readiness into uniformity,
48 and report this plan to the Legislative Oversight Commission
49 on Education Accountability before December 31, 2012. The
50 state board, the Higher Education Policy Commission and
51 the Council for Community and Technical College Education
52 shall collaborate at least annually to validate that the
53 standards ensure college and career readiness by comparing
54 student performance on the standards to actual performance
55 in introductory English/language arts and math courses.
56 Nothing in this section requires students to score at any
57 certain level on a college and career readiness assessment,
58 exam or test as a condition to receiving a diploma.

59 (c) The results on the comprehensive statewide student
60 assessment program in grade eleven in English/language arts
61 and mathematics shall be used to determine whether a
62 student has met the college and career readiness standards
63 adopted pursuant to subsection (b) of this section. Beginning
64 with the 2014-2015 school year, instead of using the compre-
65 hensive statewide student assessment program, the state

66 board may develop and implement end-of-course exams in
67 English/language arts and math courses it determines
68 appropriate which are designed for determining and which
69 are used to determine whether a student has met the college
70 and career readiness standards. In order to allow for the
71 enrollment in transitional courses in the twelfth grade if
72 necessary pursuant to subsection (e) of this section, the
73 courses, assessments and exams, as applicable, shall be
74 administered before the twelfth grade. A minimum score for
75 each assessment or exam, as applicable, shall be set that is
76 highly predictive of success in college-level introductory
77 courses. When the data becomes available, this score shall be
78 empirically based on actual college performance correlated
79 with test scores. Students achieving the minimum score on
80 these assessments or exams shall avoid enrolling in the
81 transitional courses required pursuant to subsection (e) of
82 this section and shall be placed immediately in a college-
83 level introductory course at a West Virginia two-year or
84 four-year college or university upon admission to the
85 institution. Meeting institutional admissions criteria for
86 colleges and universities is a separate process from the
87 determination of placement in college-level or developmental

88 courses. In no way does the achievement of a minimum score
89 on the assessments described in this section assure full
90 admission status at West Virginia institutions of higher
91 education. Each higher education institution shall publish all
92 criteria for college admission.

93 (d) Starting at least as early as the eighth grade, the
94 curriculum shall be modified as necessary to ensure that
95 there is an explicit focus embedded in each course on the
96 development of English/language arts and math skills that
97 enable learning at the college level.

98 (e) The state board shall develop a twelfth-grade transi-
99 tional course for both English/language arts and math for
100 those students who are not on track to be college ready based
101 on the assessment or exam, as applicable, required pursuant
102 to subsection (c) of this section. The transitional courses
103 shall be aligned with the standards adopted pursuant to
104 subsection (b) of this section. The state board in collabora-
105 tion with the West Virginia Higher Education Policy Com-
106 mission and the Council for Community and Technical
107 College Education shall use the American College Testing
108 Program's Computerized Adaptive Placement Assessment
109 and Support System (COMPASS) or other mutually agreed-

110 upon assessment to determine whether a student has met the
111 college and career readiness standards adopted pursuant to
112 subsection (b) of this section and shall set a minimum score
113 on the test that is highly predictive of success in college-level
114 introductory courses. When the data becomes available, this
115 score shall be empirically based on actual college perfor-
116 mance correlated with test scores. All high schools in the
117 state shall offer these transitional courses. All students who
118 fail to attain college and career readiness as indicated by the
119 applicable assessment or exam, required by subsection (c) of
120 this section, shall enroll in the applicable transitional course.

121 (f) The state board shall include in its goals for profes-
122 sional staff development required by section twenty-three-a
123 of this article professional development for teachers teaching
124 the transitional courses required by subsection (e) of this
125 section on how to teach the adopted college and career
126 readiness standards. The state board also shall include in its
127 goals appropriate professional development for other
128 teachers in at least grades eight through twelve on how to
129 teach the adopted college and career readiness standards
130 directly, as embedded in other subject areas or both, as

131 appropriate. This professional development ultimately shall
132 be included in the state board approved Master Plan for
133 Professional Staff Development.

134 (g) Under its authority granted in section one, article
135 three, chapter eighteen-a of this code, the state board shall
136 require all teacher preparation programs in the state to
137 include appropriate training for teachers seeking to teach in
138 at least any of grades eight through twelve on how to teach
139 the adopted college and career readiness standards. This
140 training shall be on how to teach the standards directly,
141 through embedding the standards in other courses or both,
142 as appropriate.

143 (h) For all West Virginia public high school graduates
144 who graduate during or after the 2015-2016 school year, all
145 state institutions of higher education shall use no factor
146 other than the assessment, exam or test, as applicable,
147 required pursuant to subsections (c) and (e) of this section to
148 determine whether a student is to enroll in a remedial course
149 or is to be placed immediately in a college-level introductory
150 course. Nothing in this subsection prohibits an institution
151 from administering a diagnostic test to determine specific

152 areas of weakness so that the specific weaknesses can be
153 remediated rather than requiring a student to take an entire
154 remedial course.

155 (i) The state board shall:

156 (1) Hold high schools and districts accountable for
157 increasing the percentages of students who meet the college
158 and career readiness standards as indicated by the assess-
159 ments, exams or tests, as applicable, required pursuant to
160 subsections (c) and (e) of this section. This accountability
161 shall be achieved through the school and school system
162 accreditation provisions set forth in section five, article two-
163 e of this chapter;

164 (2) Align the comprehensive statewide student assess-
165 ment for all grade levels in which the test is given with the
166 college and career readiness standards adopted pursuant to
167 subsection (b) of this section or develop other aligned tests at
168 each grade level so that progress toward college and career
169 readiness in English/language arts and math can be mea-
170 sured; and

171 (3) Hold all schools and districts accountable for helping
172 students in earlier grade levels achieve scores on math and
173 English/language arts tests that predict success in subse-

174 quent levels of related coursework. This accountability shall
175 be achieved through the school and school system accredita-
176 tion provisions set forth in section five, article two-e of this
177 chapter;

178 (j) Except as otherwise specified, all provisions of this
179 section become effective with the 2013-2014 school year.

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
2 Legislature makes the following findings with respect to the
3 process for improving education and its purpose and intent
4 in the enactment of this section:

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

7 (A) Standards which set forth the knowledge and skills
8 that students should know and be able to do as the result of
9 a thorough and efficient education that prepares them for the

10 twenty-first century, including measurable criteria to
11 evaluate student performance and progress;

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

14 (C) A system of accountability for continuous improve-
15 ment defined by high quality standards for schools and
16 school systems articulated by a rule promulgated by the state
17 board and outlined in subsection (c) of this section that will
18 build capacity in schools and districts to meet rigorous
19 outcomes that assure student performance and progress
20 toward obtaining the knowledge and skills intrinsic to a
21 high-quality education rather than monitoring for compli-
22 ance with specific laws and regulations; and

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

26 (2) As the Constitutional body charged with the general
27 supervision of schools as provided by general law, the state
28 board has the authority and the responsibility to establish
29 the standards, assess the performance and progress of
30 students against the standards, hold schools and school
31 systems accountable and assist schools and school systems to

32 build capacity and improve efficiency so that the standards
33 are met, including, when necessary, seeking additional
34 resources in consultation with the Legislature and the
35 Governor.

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

47 (4) In consideration of these findings, the purpose of this
48 section is to establish a process for improving education that
49 includes the four primary elements as set forth in subdivision
50 (1) of this subsection to provide assurances that the high
51 quality standards are, at a minimum, being met and that a
52 thorough and efficient system of schools is being provided

53 for all West Virginia public school students on an equal
54 education opportunity basis.

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

66 (b) *Electronic county and school strategic improvement*
67 *plans.* — The state board shall promulgate a rule consistent
68 with the provisions of this section and in accordance with
69 article three-b, chapter twenty-nine-a of this code establish-
70 ing an electronic county strategic improvement plan for each
71 county board and an electronic school strategic improvement
72 plan for each public school in this state. Each respective plan
73 shall be a five-year plan that includes the mission and goals
74 of the school or school system to improve student, school or

75 school system performance and progress, as applicable. The
76 strategic plan shall be revised annually in each area in which
77 the school or system is below the standard on the annual
78 performance measures. The revised annual plan also shall
79 identify any deficiency which is reported on the check lists
80 identified in paragraph (G), subdivision (5), subsection ~~(f)~~ (m)
81 of this section including any deficit more than a casual
82 deficit by the county board. The plan shall be revised when
83 required pursuant to this section to include each annual
84 performance measure upon which the school or school
85 system fails to meet the standard for performance and
86 progress, the action to be taken to meet each measure, a
87 separate time line and a date certain for meeting each
88 measure, a cost estimate and, when applicable, the assistance
89 to be provided by the department and other education
90 agencies to improve student, school or school system perfor-
91 mance and progress to meet the annual performance mea-
92 sure.

93 The department shall make available to all public
94 schools through its website or the West Virginia Education
95 Information System an electronic school strategic improve-
96 ment plan boilerplate designed for use by all schools to

97 develop an electronic school strategic improvement plan
98 which incorporates all required aspects and satisfies all
99 improvement plan requirements of the No Child Left Behind
100 Act.

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

- 107 (1) Curriculum;
- 108 (2) Workplace readiness skills;
- 109 (3) Finance;
- 110 (4) Transportation;
- 111 (5) Special education;
- 112 (6) Facilities;
- 113 (7) Administrative practices;
- 114 (8) Training of county board members and administra-
115 tors;
- 116 (9) Personnel qualifications;
- 117 (10) Professional development and evaluation;
- 118 (11) Student performance and progress;

119 (12) School and school system performance and progress;

120 (13) A code of conduct for students and employees;

121 (14) Indicators of efficiency; and

122 (15) Any other areas determined by the state board.

123 The standards, as applicable, shall incorporate the state's
124 21st Century Skills Initiative and shall assure that graduates
125 are prepared for continuing post-secondary education,
126 training and work and that schools and school systems are
127 making progress toward achieving the education goals of the
128 state.

129 (d) *Comprehensive statewide student assessment pro-*
130 *gram.* — The state board shall promulgate a rule in accor-
131 dance with the provisions of article three-b, chapter twenty-
132 nine-a of this code establishing a comprehensive statewide
133 student assessment program to assess student performance
134 and progress in grades three through twelve. Prior to the
135 2013-2014 school year, the state board shall align the
136 comprehensive statewide student assessment for all grade
137 levels in which the test is given with the college readiness
138 standards adopted pursuant to section thirty-nine, article
139 two of this chapter or develop other aligned tests to be
140 required at each grade level so that progress toward college

141 readiness in English/language arts and math can be mea-
142 asured. The state board may require that student proficiencies
143 be measured through the ACT EXPLORE and the ACT
144 PLAN assessments or other comparable assessments, which
145 are approved by the state board and provided by future
146 vendors. ~~The state board may require that student~~
147 ~~proficiencies be measured through the West Virginia writing~~
148 ~~assessment at any of the grade levels four, seven and ten~~
149 ~~determined by the state board to be appropriate. *Provided,*~~
150 ~~That, effective July 1, 2008,~~ The state board may require that
151 student proficiencies be measured through the West Virginia
152 writing assessment at any of the grade levels four, seven and
153 eleven determined by the state board to be appropriate. The
154 state board may provide through the statewide assessment
155 program other optional testing or assessment instruments
156 applicable to grade levels kindergarten through grade twelve
157 which may be used by each school to promote student
158 achievement upon approval by the school curriculum team
159 or the process for teacher collaboration to improve instruc-
160 tion and learning established by the faculty senate as
161 provided in section six, article five-a of this chapter. The
162 state board annually shall ~~annually~~ publish and make

163 available, electronically or otherwise, to school curriculum
164 teams and teacher collaborative processes the optional
165 testing and assessment instruments. The failure of a school
166 to use any optional testing and assessment may not be cited
167 as a deficiency in any accreditation review of the school; nor
168 may the exercise of its discretion, as provided in section six,
169 article five-a of this chapter, in using the assessments and
170 implementing the instructional strategies and programs that
171 it determines best to promote student achievement at the
172 school be cited as a deficiency in any accreditation review of
173 the school or in the personnel evaluation of the principal.
174 The use of assessment results are subject to the following:

175 (1) The assessment results for grade levels three through
176 eight and eleven are the only assessment results which may
177 be used for determining whether any school or school system
178 has made adequate yearly progress (AYP);

179 (2) Only the assessment results in the subject areas of
180 ~~reading/language arts~~ English/language arts and mathemat-
181 ics may be used for determining whether a school or school
182 system has made adequate yearly progress (AYP);

183 (3) The results of the West Virginia writing assessment,
184 the ACT EXPLORE assessments and the ACT PLAN assess-

185 ments may not be used for determining whether a school or
186 school system has made adequate yearly progress (AYP);

187 (4) The results of testing or assessment instruments
188 provided by the state board for optional use by schools and
189 school systems to promote student achievement may not be
190 used for determining whether a school or school system has
191 made adequate yearly progress (AYP); and

192 (5) All assessment provisions of the comprehensive
193 statewide student assessment program in effect for the school
194 year 2006-2007 shall remain in effect until replaced by the
195 state board rule.

196 (e) *Annual performance measures for Public Law 107-*
197 *110, the Elementary and Secondary Education Act of 1965,*
198 *as amended (No Child Left Behind Act of 2001).* — The
199 standards shall include annual measures of student, school
200 and school system performance and progress for the grade
201 levels and the content areas defined by the act. The following
202 annual measures of student, school and school system
203 performance and progress shall be the only measures for
204 determining whether adequately yearly progress under the
205 No Child Left Behind Act has been achieved:

206 (1) The acquisition of student proficiencies as indicated
207 by student performance and progress on the required
208 accountability assessments at the grade levels and content
209 areas as required by the act subject to the limitations set
210 forth in subsection (d) of this section.

211 (2) The student participation rate in the uniform state-
212 wide assessment ~~must~~ shall be at least ninety-five percent or
213 the average of the participation rate for the current and the
214 preceding two years is ninety-five percent for the school,
215 county and state;

216 (3) Only for schools that do not include grade twelve, the
217 school attendance rate which shall be no less than ninety
218 percent in attendance for the school, county and state. The
219 following absences are excluded:

220 (A) Student absences excused in accordance with the
221 state board rule promulgated pursuant to section four, article
222 eight of this chapter;

223 (B) Students not in attendance due to disciplinary
224 measures; and

225 (C) Absent students for whom the attendance director
226 has pursued judicial remedies compelling attendance to the
227 extent of his or her authority; and

228 (4) The high school graduation rate which shall be no less
229 than eighty percent for the school, county and state; or if the
230 high school graduation rate is less than eighty percent, the
231 high school graduation rate shall be higher than the high
232 school graduation rate of the preceding year as determined
233 from information on the West Virginia Education Informa-
234 tion System on August 15.

235 (f) *State annual performance measures for school and*
236 *school system accreditation.* — The state board shall estab-
237 lish a system to assess and weigh annual performance
238 measures for state accreditation of schools and school
239 systems in a manner that gives credit or points such as an
240 index to prevent any one measure alone from causing a
241 school to achieve less than full accreditation status or a
242 school system from achieving less than full approval status.
243 ~~Provided, That a school or school system that achieves~~
244 ~~adequate yearly progress is eligible for no less than full~~
245 ~~accreditation or approval status, as applicable, and the~~
246 ~~system established pursuant to this subsection applies only~~
247 ~~to schools and school systems that do not achieve adequate~~
248 ~~yearly progress.~~

249 The following types of measures, as may be appropriate
250 at the various programmatic levels, may be approved by the
251 state board for ~~the school and school system accreditation~~
252 state school accreditation and school system approval:

253 (1) The acquisition of student proficiencies as indicated
254 by student performance and progress on the uniform state-
255 wide assessment program at the grade levels as provided in
256 subsection (d) of this section. The state board may approve
257 providing bonus points or credits for students scoring at or
258 above mastery and distinguished levels;

259 (2) Writing assessment results in grades tested;

260 (3) School attendance rates;

261 (4) Percentage of courses taught by highly qualified
262 teachers;

263 (5) Percentage of students scoring at benchmarks on the
264 currently tested ACT EXPLORE and ACT PLAN assess-
265 ments or other comparable assessments, which are approved
266 by the state board and provided by future vendors;

267 (6) Graduation rates;

268 (7) Job placement rates for vocational programs;

269 (8) Percent of students passing end-of-course ca-
270 reer/technical tests; and

271 ~~(9) Percent of students not requiring college remediation~~
272 ~~classes; and~~

273 ~~(10)~~ (9) Bonus points or credits for subgroup improve-
274 ment, advanced placement percentages, dual credit complet-
275 ers and international baccalaureate completers.

276 (g) In addition to the types of measures which may be
277 approved by the state board for state school and school
278 system accreditation pursuant to subsection (f) of this
279 section, the state board shall use the following measures for
280 state school accreditation and school system approval:

281 (1) Increases in the percent of students who meet the
282 college and career readiness standards as indicated by the
283 assessments, exams or tests, as applicable, required by
284 section thirty-nine, article two of this chapter; and

285 (2) Increases in the percent of students in earlier grade
286 levels making adequate progress toward college readiness in
287 English/language arts and math as indicated by the compre-
288 hensive statewide student assessment or other aligned tests
289 required pursuant to subsection (d) of this section.

290 ~~(g)~~ (h) *Indicators of exemplary performance and progress.*

291 -- The standards shall include indicators of exemplary
292 student, school and school system performance and progress.

293 The indicators of exemplary student, school and school
294 system performance and progress shall be used only as
295 indicators for determining whether accredited and approved
296 schools and school systems should be granted exemplary
297 status. These indicators shall include, but are not limited to,
298 the following:

299 (1) The percentage of graduates who declare their intent
300 to enroll in college and other post-secondary education and
301 training following high school graduation;

302 (2) The percentage of graduates who receive additional
303 certification of their skills, competence and readiness for
304 college, other post-secondary education or employment
305 above the level required for graduation; and

306 (3) The percentage of students who successfully complete
307 advanced placement, dual credit and honors classes.

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

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

317 (2) Transportation;

318 (3) Facilities;

319 (4) Administrative practices;

320 (5) Personnel;

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

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

328 ~~(i)~~ (j) *Assessment and accountability of school and school*
329 *system performance and processes.* — In accordance with the
330 provisions of article three-b, chapter twenty-nine-a of this
331 code, the state board shall establish by rule a system of
332 education performance audits which measures the quality of
333 education and the preparation of students based on the
334 annual measures of student, school and school system
335 performance and progress. The system of education perfor-
336 mance audits shall provide information to the state board,

337 the Legislature and the Governor, ~~individually and collec-~~
338 ~~tively as the Process for Improving Education Council~~, upon
339 which they may determine whether a thorough and efficient
340 system of schools is being provided. The system of education
341 performance audits shall include:

342 (1) The assessment of student, school and school system
343 performance and progress based on the annual measures set
344 forth in subsection (d) of this section;

345 (2) The evaluation of records, reports and other informa-
346 tion collected by the department upon which the quality of
347 education and compliance with statutes, policies and
348 standards may be determined;

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

351 (4) The on-site review of the processes in place in schools
352 and school systems to enable school and school system
353 performance and progress and compliance with the stan-
354 dards.

355 (†) (k) *Uses of school and school system assessment*
356 *information.* — The state board ~~and the Process for Improv-~~
357 ~~ing Education Council established pursuant to section five-c~~
358 ~~of this article~~ shall use information from the system of

359 education performance audits to assist them in ensuring that
360 a thorough and efficient system of schools is being provided
361 and to improve student, school and school system perfor-
362 mance and progress. Information from the system of educa-
363 tion performance audits further shall be used by the state
364 board for these purposes, including, but not limited to, the
365 following:

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

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

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

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

378 ~~(*)~~ (1) *Early detection and intervention programs.* —
379 Based on the assessment of student, school and school system
380 performance and progress, the state board shall establish

381 early detection and intervention programs using the avail-
382 able resources of the Department of Education, the regional
383 educational service agencies, the Center for Professional
384 Development and the Principals Academy, as appropriate, to
385 assist underachieving schools and school systems to improve
386 performance before conditions become so grave as to
387 warrant more substantive state intervention. Assistance shall
388 include, but is not limited to, providing additional technical
389 assistance and programmatic, professional staff develop-
390 ment, and providing monetary, staffing and other resources
391 where appropriate. ~~and, if necessary, making appropriate~~
392 ~~recommendations to the Process for Improving Education~~
393 ~~Council.~~

394 (†) (m) *Office of Education Performance Audits.* —

395 (1) To assist the state board ~~and the Process for Improv-~~
396 ~~ing Education Council~~ in the operation of a system of
397 education performance audits, the state board shall establish
398 an Office of Education Performance Audits consistent with
399 the provisions of this section. The Office of Education
400 Performance Audits shall be operated under the direction of
401 the state board independently of the functions and supervi-
402 sion of the State Department of Education and state superin-

403 tentent. The Office of Education Performance Audits shall
404 report directly to and be responsible to the state board ~~and~~
405 ~~the Process for Improving Education Council~~ created in
406 section five-c of this article in carrying out its duties under
407 the provisions of this section.

408 (2) The office shall be headed by a director who shall be
409 appointed by the state board and who shall serve at the will
410 and pleasure of the state board. The annual salary of the
411 director shall be set by the state board and may not exceed
412 eighty percent of the salary cap of the State Superintendent
413 of Schools.

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

420 (4) Under the direction of the state board, the Office of
421 Education Performance Audits shall receive from the West
422 Virginia education information system staff research and
423 analysis data on the performance and progress of students,
424 schools and school systems, and shall receive assistance, as

425 determined by the state board, from staff at the State
426 Department of Education, the regional education service
427 agencies, the Center for Professional Development, the
428 Principals Academy and the School Building Authority to
429 carry out the duties assigned to the office.

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

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

436 (B) Administer all accountability measures as assigned
437 by the state board, including, but not limited to, the follow-
438 ing:

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

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

444 (C) Determine, in conjunction with the assessment and
445 accountability processes, what capacity may be needed by
446 schools and school systems to meet the standards established

447 by the state board and recommend to the state board ~~and the~~
448 ~~Process for Improving Education Council~~ plans to establish
449 those needed capacities;

450 (D) Determine, in conjunction with the assessment and
451 accountability processes, whether statewide system deficien-
452 cies exist in the capacity of schools and school systems to
453 meet the standards established by the state board, including
454 the identification of trends and the need for continuing
455 improvements in education, and report those deficiencies
456 and trends to the state board; ~~and the Process for Improving~~
457 ~~Education Council~~

458 (E) Determine, in conjunction with the assessment and
459 accountability processes, staff development needs of schools
460 and school systems to meet the standards established by the
461 state board and make recommendations to the state board,
462 ~~the Process for Improving Education Council~~, the Center for
463 Professional Development, the regional educational service
464 agencies, the Higher Education Policy Commission and the
465 county boards;

466 (F) Identify, in conjunction with the assessment and
467 accountability processes, exemplary schools and school
468 systems and best practices that improve student, school and

469 school system performance and make recommendations to
470 the state board ~~and the Process for Improving Education~~
471 ~~Council~~ for recognizing and rewarding exemplary schools
472 and school systems and promoting the use of best practices.
473 The state board shall provide information on best practices
474 to county school systems and shall use information identified
475 through the assessment and accountability processes to
476 select schools of excellence; and

477 (G) Develop reporting formats, such as check lists, which
478 shall be used by the appropriate administrative personnel in
479 schools and school systems to document compliance with
480 various of the applicable laws, policies and process standards
481 as considered appropriate and approved by the state board,
482 including, but not limited to, the following:

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

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

- 490 (iii) The appropriate licensure of school personnel; and
491 (iv) The school provides multicultural activities.

492 Information contained in the reporting formats is subject
493 to examination during an on-site review to determine
494 compliance with laws, policies and standards. Intentional
495 and grossly negligent reporting of false information are
496 grounds for dismissal.

497 ~~(m)~~ (n) *On-site reviews.* —

498 (1) The system of education performance audits shall
499 include on-site reviews of schools and school systems which
500 shall be conducted only at the specific direction of the state
501 board upon its determination that the performance and
502 progress of the school or school system are persistently below
503 standard or that other circumstances exist that warrant an
504 on-site review. Any discussion by the state board of schools
505 to be subject to an on-site review or dates for which on-site
506 reviews will be conducted may be held in executive session
507 and is not subject to the provisions of article nine-a, chapter
508 six of this code relating to open governmental proceedings.
509 An on-site review shall be conducted by the Office of
510 Education Performance Audits of a school or school system
511 for the purpose of investigating the reasons for performance

512 and progress that are persistently below standard and
513 making recommendations to the school and school system, as
514 appropriate, and to the state board on such measures as it
515 considers necessary to improve performance and progress to
516 meet the standard. The investigation may include, but is not
517 limited to, the following:

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

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

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

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

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

533 (F) Determining and reporting whether required reviews
534 and inspections have been conducted by the appropriate
535 agencies, including, but not limited to, the State Fire
536 Marshal, the Health Department, the School Building
537 Authority and the responsible divisions within the Depart-
538 ment of Education, and whether noted deficiencies have been
539 or are in the process of being corrected. The Office of
540 Education Performance Audits may not conduct a duplicate
541 review or inspection of any compliance reviews or inspec-
542 tions conducted by the department or its agents or other duly
543 authorized agencies of the state, nor may it mandate more
544 stringent compliance measures.

545 (2) The Director of the Office of Education Performance
546 Audits shall notify the county superintendent of schools five
547 school days prior to commencing an on-site review of the
548 county school system and shall notify both the county
549 superintendent and the principal five school days
550 before commencing an on-site review of an individual school:
551 *Provided*, That the state board may direct the Office of
552 Education Performance Audits to conduct an unannounced
553 on-site review of a school or school system if the state board

554 believes circumstances warrant an unannounced on-site
555 review.

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

562 (4) An on-site review of a school or school system shall
563 include a person or persons from the Department of Educa-
564 tion or a public education agency in the state who has expert
565 knowledge and experience in the area or areas to be re-
566 viewed and who has been trained and designated by the state
567 board to perform such functions. If the size of the school or
568 school system and issues being reviewed necessitate the use
569 of an on-site review team or teams, the person or persons
570 designated by the state board shall advise and assist the
571 director to appoint the team or teams. The person or persons
572 designated by the state board shall be the team leaders.

573 The persons designated by the state board shall be
574 responsible for completing the report on the findings and
575 recommendations of the on-site review in their area of

576 expertise. It is the intent of the Legislature that the persons
577 designated by the state board participate in all on-site
578 reviews that involve their area of expertise, to the extent
579 practicable, so that the on-site review process will evaluate
580 compliance with the standards in a uniform, consistent and
581 expert manner.

582 (5) The Office of Education Performance Audits shall
583 reimburse a county board for the costs of substitutes re-
584 quired to replace county board employees while they are
585 serving on a review team.

586 (6) At the conclusion of an on-site review of a school
587 system, the director and team leaders shall hold an exit
588 conference with the superintendent and shall provide an
589 opportunity for principals to be present for at least the
590 portion of the conference pertaining to their respective
591 schools. In the case of an on-site review of a school, the exit
592 conference shall be held with the principal and curriculum
593 team of the school and the superintendent shall be provided
594 the opportunity to be present. The purpose of the exit
595 conference is to review the initial findings of the on-site
596 review, clarify and correct any inaccuracies and allow the
597 opportunity for dialogue between the reviewers and the

598 school or school system to promote a better understanding of
599 the findings.

600 (7) The Office of Education Performance Audits shall
601 report the findings of an on-site review to the county
602 superintendent and the principals whose schools were
603 reviewed within thirty days following the conclusion of the
604 on-site review. The Office of Education Performance Audits
605 shall report the findings of the on-site review to the state
606 board within forty-five days after the conclusion of the on-
607 site review. ~~A copy of the report shall be provided to the~~
608 ~~Process for Improving Education Council at its request.~~ A
609 school or county that believes one or more findings of a
610 review are clearly inaccurate, incomplete or misleading,
611 misrepresent or fail to reflect the true quality of education in
612 the school or county or address issues unrelated to the
613 health, safety and welfare of students and the quality of
614 education, may appeal to the state board for removal of the
615 findings. The state board shall establish a process for it to
616 receive, review and act upon the appeals. The state board
617 shall report to the Legislative Oversight Commission on
618 Education Accountability during its July interim meetings,

619 or as soon thereafter as practical, on each appeal during the
620 preceding school year.

621 (8) The Legislature finds that the accountability and
622 oversight of the following activities and programmatic areas
623 in the public schools is controlled through other mechanisms
624 and that additional accountability and oversight are not only
625 unnecessary but counterproductive in distracting necessary
626 resources from teaching and learning. Therefore, notwith-
627 standing any other provision of this section to the contrary,
628 the following activities and programmatic areas are not
629 subject to review by the Office of Education Performance

630 Audits:

- 631 (A) Work-based learning;
- 632 (B) Use of advisory councils;
- 633 (C) Program accreditation and student credentials;
- 634 (D) Student transition plans;
- 635 (E) Graduate assessment form;
- 636 (F) Casual deficit;
- 637 (G) Accounting practices;
- 638 (H) Transportation services;
- 639 (I) Special education services;
- 640 (J) Safe, healthy and accessible facilities;

- 641 (K) Health services;
- 642 (L) Attendance director;
- 643 (M) Business/community partnerships;
- 644 (N) Pupil-teacher ratio/split grade classes;
- 645 (O) Local school improvement council, faculty senate,
- 646 student assistance team and curriculum team;
- 647 (P) Planning and lunch periods;
- 648 (Q) Skill improvement program;
- 649 (R) Certificate of proficiency;
- 650 (S) Training of county board members;
- 651 (T) Excellence in job performance;
- 652 (U) Staff development; and
- 653 (V) Preventive discipline, character education and
- 654 student and parental involvement.

655 ~~(K)~~ (O) *School accreditation.* -- The state board annually
656 shall review the information from the system of education
657 performance audits submitted for each school and shall issue
658 to every school one of the following approval levels: Exem-
659 plary accreditation status, distinction accreditation status,
660 full accreditation status, temporary accreditation status,
661 conditional accreditation status or low performing accredita-
662 tion status.

663 (1) Full accreditation status shall be given to a school
664 when the school's performance and progress meet or exceed
665 the standards adopted by the state board pursuant to
666 ~~subsection (e) or (f), as applicable,~~ subsections (f) and (g) of
667 this section and it does not have any deficiencies which
668 would endanger student health or safety or other extraordi-
669 nary circumstances as defined by the state board. A school
670 that meets or exceeds the performance and progress stan-
671 dards but has the other deficiencies shall remain on full
672 accreditation status for the remainder of the accreditation
673 period and shall have an opportunity to correct those
674 deficiencies, notwithstanding other provisions of this
675 subsection.

676 (2) Temporary accreditation status shall be given to a
677 school when the school's performance and progress are
678 below the level required for full accreditation status.
679 Whenever a school is given temporary accreditation status,
680 the county board shall ensure that the school's electronic
681 strategic improvement plan is revised in accordance with
682 subsection (b) of this section to increase the performance and
683 progress of the school to a full accreditation status level. The

684 revised plan shall be submitted to the state board for
685 approval.

686 (3) Conditional accreditation status shall be given to a
687 school when the school's performance and progress are
688 below the level required for full accreditation, but the
689 school's electronic strategic improvement plan meets the
690 following criteria:

691 (A) The plan has been revised to improve performance
692 and progress on the standard or standards by a date or dates
693 certain;

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

695 (C) The school is meeting the objectives and time line
696 specified in the revised plan.

697 (4) Exemplary accreditation status shall be given to a
698 school when the school's performance and progress substan-
699 tially exceed the standards adopted by the state board
700 pursuant to subsections (f), ~~and~~ (g) and (h) of this section.
701 The state board shall promulgate legislative rules in accor-
702 dance with the provisions of article three-b, chapter twenty-
703 nine-a of this code designated to establish standards of
704 performance and progress to identify exemplary schools.

705 (5) Distinction accreditation status shall be given to a
706 school when the school's performance and progress exceed
707 the standards adopted by the state board. The state board
708 shall promulgate legislative rules in accordance with the
709 provisions of article three-b, chapter twenty-nine-a of this
710 code establishing standards of performance and progress to
711 identify schools of distinction.

712 (6) Low-performing accreditation status shall be given to
713 a school whenever extraordinary circumstances exist as
714 defined by the state board.

715 (A) These circumstances shall include, but are not limited
716 to, any one or more of the following:

717 (i) The failure of a school on temporary accreditation
718 status to obtain approval of its revised electronic school
719 strategic improvement plan within a reasonable time period
720 as defined by the state board;

721 (ii) The failure of a school on conditional accreditation
722 status to meet the objectives and time line of its revised
723 electronic school strategic improvement plan;

724 (iii) The failure of a school to meet a standard by the date
725 specified in the revised plan; and

726 (iv) The results of the most recent statewide assessment
727 in reading and math or other multiple measures as deter-
728 mined by the state board that identify the school as low
729 performing at its programmatic level in three of the last five
730 years.

731 (B) Whenever the state board determines that the quality
732 of education in a school is low performing, the state board
733 shall appoint a team of improvement consultants from the
734 West Virginia Department of Education State System of
735 Support to make recommendations for correction of the low
736 performance. These recommendations shall be communi-
737 cated to the county board and a process shall be established
738 in conjunction with the State System of Support to correct
739 the identified deficiencies. If progress in correcting the low
740 performance as determined by the state board is not made
741 within one year following the implementation of the mea-
742 sures adopted to correct the identified deficiencies or by a
743 date certain established by the state board after at least one
744 year of implementation, the state board shall place the
745 county board on temporary approval status and provide
746 consultation and assistance to the county board to assist it in
747 the following areas:

748 (i) Improving personnel management;
749 (ii) Establishing more efficient financial management
750 practices;

751 (iii) Improving instructional programs and rules; or

752 (iv) Making any other improvements that are necessary
753 to correct the low performance.

754 (C) If the low performance is not corrected by a date
755 certain as set by the state board:

756 (i) The state board shall appoint a monitor who shall be
757 paid at county expense to cause improvements to be made at
758 the school to bring it to full accreditation status within a
759 reasonable time period as determined by the state board. The
760 monitor's work location shall be at the school and the
761 monitor shall work collaboratively with the principal. The
762 monitor shall, at a minimum, report monthly to the state
763 board on the measures being taken to improve the school's
764 performance and the progress being made. The reports may
765 include requests for additional assistance and recommenda-
766 tions required in the judgment of the monitor to improve the
767 school's performance, including, but not limited to, the need
768 for targeting resources strategically to eliminate deficiencies;

769 (ii) The state board may make a determination, in its sole
770 judgment, that the improvements necessary to provide a
771 thorough and efficient education to the students at the school
772 cannot be made without additional targeted resources, in
773 which case it shall establish a plan in consultation with the
774 county board that includes targeted resources from sources
775 under the control of the state board and the county board to
776 accomplish the needed improvements. Nothing in this
777 subsection shall be construed to allow a change in personnel
778 at the school to improve school performance and progress,
779 except as provided by law;

780 (iii) If the low performance is not corrected within one
781 year after the appointment of a monitor, the state board may
782 make a determination, in its sole judgment, that continuing
783 a monitor arrangement is not sufficient to correct the low
784 performance and may intervene in the operation of the
785 school to cause improvements to be made that will provide
786 assurances that a thorough and efficient system of schools
787 will be provided. This intervention may include, but is not
788 limited to, establishing instructional programs, taking such
789 direct action as may be necessary to correct the low perfor-
790 mance, declaring the position of principal is vacant and

791 assigning a principal for the school who shall serve at the
792 will and pleasure of and, under the sole supervision of, the
793 state board: *Provided*, That prior to declaring that the
794 position of the principal is vacant, the state board must make
795 a determination that all other resources needed to correct the
796 low performance are present at the school. If the principal
797 who was removed elects not to remain an employee of the
798 county board, then the principal assigned by the state board
799 shall be paid by the county board. If the principal who was
800 removed elects to remain an employee of the county board,
801 then the following procedure applies:

802 (I) The principal assigned by the state board shall be paid
803 by the state board until the next school term, at which time
804 the principal assigned by the state board shall be paid by the
805 county board;

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

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

817 (7) The county board shall take no action nor refuse any
818 action if the effect would be to impair further the school in
819 which the state board has intervened.

820 (8) The state board may appoint a monitor pursuant to
821 the provisions of this subsection to assist the school principal
822 after intervention in the operation of a school is completed.

823 ~~(p)~~ (p) *Transfers from low-performing schools.* — When-
824 ever a school is determined to be low performing and fails to
825 improve its status within one year, following state interven-
826 tion in the operation of the school to correct the low perfor-
827 mance, any student attending the school may transfer once
828 to the nearest fully accredited school in the county, subject
829 to approval of the fully accredited school and at the expense
830 of the school from which the student transferred.

831 ~~(p)~~ (q) *School system approval.* — The state board
832 annually shall review the information submitted for each
833 school system from the system of education performance
834 audits and issue one of the following approval levels to each

835 county board: Full approval, temporary approval, condi-
836 tional approval or nonapproval.

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

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

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

860 (i) The plan has been revised in accordance with subsec-
861 tion (b) of this section;

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

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

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

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

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

893 (C) Whenever nonapproval status is given to a school
894 system, the state board shall declare a state of emergency in
895 the school system and shall appoint a team of improvement
896 consultants to make recommendations within sixty days of
897 appointment for correcting the emergency. When the state
898 board approves the recommendations, they shall be commu-
899 nicated to the county board. If progress in correcting the

900 emergency, as determined by the state board, is not made
901 within six months from the time the county board receives
902 the recommendations, the state board shall intervene in the
903 operation of the school system to cause improvements to be
904 made that will provide assurances that a thorough and
905 efficient system of schools will be provided. This interven-
906 tion may include, but is not limited to, the following:

907 (i) Limiting the authority of the county superintendent
908 and county board as to the expenditure of funds, the employ-
909 ment and dismissal of personnel, the establishment and
910 operation of the school calendar, the establishment of
911 instructional programs and rules and any other areas
912 designated by the state board by rule, which may include
913 delegating decision-making authority regarding these
914 matters to the state superintendent;

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

917 (iii) Delegating to the state superintendent both the
918 authority to conduct hearings on personnel matters and
919 school closure or consolidation matters and, subsequently, to
920 render the resulting decisions and the authority to appoint a
921 designee for the limited purpose of conducting hearings

922 while reserving to the state superintendent the authority to
923 render the resulting decisions;

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

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

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

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

940 ~~(e)~~ (r) Notwithstanding any other provision of this
941 section, the state board may intervene immediately in the
942 operation of the county school system with all the powers,

943 duties and responsibilities contained in subsection ~~(p)~~ (q) of
944 this section, if the state board finds the following:

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

949 (2) That the conditions precedent to intervention exist as
950 provided in this section and that the state board had previ-
951 ously intervened in the operation of the same school system
952 and had concluded that intervention within the preceding
953 five years.

954 ~~(t)~~ (s) *Capacity*. -- The process for improving education
955 includes a process for targeting resources strategically to
956 improve the teaching and learning process. Development of
957 electronic school and school system strategic improvement
958 plans, pursuant to subsection (b) of this section, is intended,
959 in part, to provide mechanisms to target resources strategi-
960 cally to the teaching and learning process to improve
961 student, school and school system performance. When
962 deficiencies are detected through the assessment and
963 accountability processes, the revision and approval of school
964 and school system electronic strategic improvement plans

965 shall ensure that schools and school systems are efficiently
966 using existing resources to correct the deficiencies. When the
967 state board determines that schools and school systems do
968 not have the capacity to correct deficiencies, the state board
969 shall work with the county board to develop or secure the
970 resources necessary to increase the capacity of schools and
971 school systems to meet the standards and, when necessary,
972 seek additional resources in consultation with the Legisla-
973 ture and the Governor.

974 The state board shall recommend to the appropriate body
975 including, but not limited to, ~~the Process for Improving~~
976 ~~Education Council~~, the Legislature, county boards, schools
977 and communities methods for targeting resources strategi-
978 cally to eliminate deficiencies identified in the assessment
979 and accountability processes. When making determinations
980 on recommendations, the state board shall include, but is not
981 limited to, the following methods:

982 (1) Examining reports and electronic strategic improve-
983 ment plans regarding the performance and progress of
984 students, schools and school systems relative to the stan-
985 dards and identifying the areas in which improvement is
986 needed;

987 (2) Determining the areas of weakness and of ineffective-
988 ness that appear to have contributed to the substandard
989 performance and progress of students or the deficiencies of
990 the school or school system and requiring the school or
991 school system to work collaboratively with the West Virginia
992 Department of Education State System of Support to correct
993 the deficiencies;

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

998 (4) Requesting technical assistance from the School
999 Building Authority in assessing or designing comprehensive
1000 educational facilities plans;

1001 (5) Recommending priority funding from the School
1002 Building Authority based on identified needs;

1003 (6) Requesting special staff development programs from
1004 the Center for Professional Development, the Principals
1005 Academy, higher education, regional educational service
1006 agencies and county boards based on identified needs;

1007 (7) Submitting requests to the Legislature for appropria-
1008 tions to meet the identified needs for improving education;

1009 (8) Directing county boards to target their funds strategi-
1010 cally toward alleviating deficiencies;

1011 (9) Ensuring that the need for facilities in counties with
1012 increased enrollment are appropriately reflected and
1013 recommended for funding;

1014 (10) Ensuring that the appropriate person or entity is
1015 held accountable for eliminating deficiencies; and

1016 (11) Ensuring that the needed capacity is available from
1017 the state and local level to assist the school or school system
1018 in achieving the standards and alleviating the deficiencies.