

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 568**

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

6 _____
7 [Originating in the Committee on Education;
8 reported February 17, 2012.]

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14 A BILL to repeal §18-2E-5c of the Code of West Virginia, 1931, as
15 amended; to amend and reenact §18-1-4 of said code; to amend
16 and reenact §18-2-23a of said code; to amend said code by
17 adding thereto a new section, designated §18-2-39; and to
18 amend and reenact §18-2E-5 of said code, all relating to
19 college and career readiness; requiring the State Board of
20 Education, the Higher Education Policy Commission and the
21 Council for Community and Technical College Education to
22 collaborate in formally adopting uniform and specific college
23 and career readiness standards for English/language arts and
24 math; setting forth methods for determining whether students
25 have met the college and career readiness standards; requiring
26 that an explicit focus be embedded in each course on the

1 development of English/language arts and math skills;
2 requiring a twelfth-grade transitional course for both
3 English/language arts and math for students not on track to be
4 college ready; requiring professional development on teaching
5 the college and career readiness standards be included in the
6 state board's goals for professional staff development and
7 ultimately in its Master Plan for Professional Staff
8 Development; requiring the state board to require all teacher
9 preparation programs in the state to include appropriate
10 training for teachers teaching in at least grades eight
11 through twelve on how to teach the adopted standards;
12 requiring the use of certain assessments, exams or tests, as
13 applicable, to determine whether a student is to enroll in a
14 remedial course or be placed immediately in a college-level
15 introductory course; requiring accountability for increasing
16 the percentage of students who meet the standards and for
17 increasing the percentage of students who are making adequate
18 progress toward meeting the standards; deleting requirement
19 that a school or school system that achieves adequate yearly
20 progress is eligible for no less than full accreditation or
21 approval status as applicable; and eliminating obsolete
22 Process for Improving Education Council.

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

24 That §18-2E-5c of the Code of West Virginia, 1931, as amended,
25 be repealed; that §18-1-4 of said code be amended and reenacted;
26 that §18-2-23a of said code be amended and reenacted; that said

1 code be amended by adding thereto a new section, designated §18-2-
2 39; and that §18-2E-5 of said code be amended and reenacted, all to
3 read as follows:

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

6 **§18-1-4. Vision 2020: An Education Blueprint for Two Thousand**
7 **Twenty.**

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

12 (b) For the purposes of this section:

13 (1) "Goals" means those long-term public purposes which are
14 the desired end result and only may include those items listed in
15 subsection (e) of this section;

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

19 (3) "Strategies" means specific activities carried out by the
20 public education system which are directed toward accomplishing
21 specific objectives.

22 (c) The Legislature finds that:

23 (1) The measure of a thorough and efficient system of
24 education is whether students graduate prepared to meet the
25 challenges of the future as contributing members of society and
26 that these challenges change, becoming ever more complex and

1 involving a global context more than at any other time in the
2 history of our nation;

3 (2) The state recently has embraced and is implementing the
4 Partnership for 21st Century Skills model for teaching and learning
5 including six key elements (core subjects, 21st Century content,
6 learning and thinking skills, information and communications
7 technology literacy, life skills and 21st Century assessments) to
8 help better prepare students for the challenges of the 21st
9 Century;

10 (3) Published national studies by several organizations
11 routinely examine various elements of state education systems and
12 selected underlying socioeconomic variables and rate and rank West
13 Virginia and the other states, the District of Columbia and the
14 territories based on the measurement systems and priorities
15 established by the organizations, and these measurement systems and
16 priorities change;

17 (4) While the state should take pride in studies that show
18 West Virginia is among the leaders in several of its efforts and is
19 making progress, its students often outperforming expectations
20 based on typical indicators of the likelihood for student success,
21 such as the income and education levels of their parents, it should
22 also recognize that the state must do even more to ensure that high
23 school graduates are fully prepared for postsecondary education or
24 gainful employment;

25 (5) Therefore, the purpose of this section is to provide for
26 the establishment of a clear plan that includes goals, objectives,

1 strategies, indicators and benchmarks to help guide the state's
2 policymakers on the continuous development of the state's education
3 system for the 21st Century.

4 (d) As part of Vision 2020: An Education Blueprint for Two
5 Thousand Twenty, the state board shall establish a plan in
6 accordance with the provisions of this section for submission to
7 and consideration by the ~~Process for Improving Education Council~~
8 ~~pursuant to section five-c, article two-e of this chapter~~
9 Legislative Oversight Commission on Education Accountability. The
10 plan shall include only the goals, objectives, strategies,
11 indicators and benchmarks for public education set forth in this
12 section and that meet the requirements of this section. To add
13 clarity and avoid confusion, the goals for public education set
14 forth in the plan pursuant to this section are the exclusive goals
15 for public education. The plan shall include:

16 (1) The goals set forth in this section and no other goals;

17 (2) At least the objectives set forth in this section and
18 specified periods of time for achieving those objectives and any
19 other objectives that may be included in the plan;

20 (3) Strategies for achieving the specific objectives;

21 (4) Indicators for measuring progress toward the goals and
22 objectives established in this section; and

23 (5) Benchmarks for determining when the goals and objectives
24 have been achieved.

25 (e) The plan shall include the following list of exclusive
26 goals for the public education system in West Virginia:

1 (1) Academic achievement according to national and
2 international measures will exceed national and international
3 averages. These national and international measures should include
4 scores on assessments such as the National Assessment of
5 Educational Progress (NAEP), the ACT, the SAT and the Programme for
6 International Assessment (PISA);

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

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

10 (4) The public education system will maintain and promote the
11 health and safety of all students and will develop and promote
12 responsibility, citizenship and strong character in all students;
13 and

14 (5) The public education system will provide equitable
15 education opportunity to all students.

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

18 (1) *Rigorous 21st Century curriculum and engaging instruction*
19 *for all students.* -- All students in West Virginia public schools
20 should have access to and benefit from a rigorous 21st Century
21 curriculum that develops proficiency in core subjects, 21st Century
22 content, learning skills and technology tools. These students also
23 should have that curriculum delivered through engaging, research-
24 based instructional strategies that develop deep understanding and
25 the ability to apply content to real-world situations;

26 (2) *A 21st Century accountability and accreditation system.* --

1 The prekindergarten through twelve education system should have a
2 public accrediting system that: (i) Holds local school districts
3 accountable for the student outcomes the state values; and (ii)
4 provides the public with understandable accountability data for
5 judging the quality of local schools. The outcomes on which the
6 system is based should be rigorous and should align with national
7 and international standards such as the National Assessment of
8 Educational Progress (NAEP), the ACT, the SAT and the Programme for
9 International Assessment (PISA). The broad standards established
10 for these outcomes should include a focus on: (A) Mastery of basic
11 skills by all students; (B) closing the achievement gap among
12 student subgroups; and (C) high levels of proficiency in a wide
13 range of desired 21st Century measures and processes. The system
14 for determining school and district accreditation should include
15 school and district self analysis and generate appropriate
16 research-based strategies for improvement. It also should allow
17 opportunities to create innovative approaches to instructional
18 delivery and design. Thus, the system will incorporate processes
19 for encouraging innovation, including streamlined applications for
20 waivers to state board policy, financial support for successful
21 initiatives and recognition of those practices that can be brought
22 to a district or statewide scale. The primary goal of the
23 accreditation system is to drive school improvement. This 21st
24 Century accountability and accreditation system also should include
25 the methods of addressing capacity set forth in section five,
26 article two-e of this chapter;

1 (3) *A statewide balanced assessment process.* -- State,
2 district, school and classroom decisionmaking should be grounded in
3 21st Century balanced assessment processes that reflect national
4 and international rigorous performance standards and examine
5 student proficiency in 21st Century content, skills and technology
6 tools. A balanced assessment system includes statewide summative
7 assessments, local benchmark assessments and classroom assessments
8 for learning;

9 (4) *A personnel allocation, licensure and funding process that*
10 *aligns with the needs of 21st Century school systems and is*
11 *supported by a quality coordinated professional development*
12 *delivery system.* -- Increased accountability demands, as well as
13 the focus on 21st Century learning, require a reexamination of
14 traditional approaches to personnel allocation, licensure and
15 funding. Creating schools of the 21st Century requires new
16 staffing roles and staffing patterns. It also requires ongoing
17 professional development activities focused on enhancing student
18 achievement and achieving specific goals of the school and district
19 strategic plans. Thus, schools should have the ability to access,
20 organize and deliver high-quality embedded professional development
21 that provides staff with in-depth sustained and supported learning.
22 Effective school improvement should allow opportunity for staff to
23 collectively learn, plan and implement curricular and instructional
24 improvements on behalf of the students they serve;

25 (5) *School environments that promote safe, healthy and*
26 *responsible behavior and provide an integrated system of student*

1 *support services.* -- Each school should create an environment
2 focused on student learning and one where students know they are
3 valued, respected and safe. Furthermore, the school should
4 incorporate programs and processes that instill healthy, safe and
5 responsible behaviors and prepare students for interactions with
6 individuals of diverse racial, ethnic and social backgrounds.
7 School and district processes should include a focus on developing
8 ethical and responsible character, personal dispositions that
9 promote personal wellness through planned daily physical activity
10 and healthy eating habits consistent with high nutritional
11 guidelines and multicultural experiences that develop an
12 appreciation of and respect for diversity;

13 (6) *A leadership recruitment, development and support*
14 *continuum.* -- Quality schools and school systems of the 21st
15 Century cannot be created without high-quality leaders. Thus, West
16 Virginia should have an aligned leadership professional development
17 continuum that attracts, develops and supports educational
18 leadership at the classroom, school and district level. This
19 leadership development continuum should focus on creating: (i)
20 Learning-centered schools and school systems; (ii) collaborative
21 processes for staff learning and continuous improvement; and (iii)
22 accountability measures for student achievement;

23 (7) *Equitable access to 21st Century technology and education*
24 *resources and school facilities conducive to 21st Century teaching*
25 *and learning.* -- A quality educational system of the 21st Century
26 should have access to technology tools and processes that enhance

1 effective and efficient operation. Administrators should have the
2 digital resources to monitor student performance, manage a variety
3 of data and communicate effectively. In the classroom, every
4 teacher in every school should be provided with the instructional
5 resources and educational technology necessary to deliver the West
6 Virginia content standards and objectives. Schools of the 21st
7 Century require facilities that accommodate changing technologies,
8 21st Century instructional processes and 21st Century staffing
9 needs and patterns. These school facilities should mirror the best
10 in green construction and be environmentally and educationally
11 responsive to the communities in which they are located;

12 (8) *Aligned public school with postsecondary and workplace*
13 *readiness programs and standards.* -- An educational system in the
14 21st Century should be seen as a continuum from the public school
15 (prekindergarten through twelve) program through postsecondary
16 education. In order to be successful in a global competitive
17 marketplace, learning should be an ongoing, life-long experience.
18 Thus, the public schools and the institutions of postsecondary
19 education in West Virginia should create a system of common
20 standards, expectations and accountability. Creating such an
21 aligned system will enhance opportunities for success and assure a
22 seamless educational process for West Virginia students; and

23 (9) *A universal prekindergarten system.* -- A high-quality,
24 universal prekindergarten system should be readily available to
25 every eligible student. The system should promote oral language
26 and preliteracy skills and reduce the deficit of these foundational

1 skills through proactive, early intervention. Research indicates
2 that universal prekindergarten systems improve graduation rates,
3 reduce grade level retentions and reduce the number of special
4 education placements. Therefore, local school systems should
5 create the supports and provide the resources to assure a quality
6 prekindergarten foundation is available to all eligible students.

7 (g) In addition to the policy-oriented objectives set forth in
8 subsection (f) of this section, the plan established pursuant to
9 this section also shall include at least the following performance-
10 oriented objectives:

11 (1) All children entering the first grade will be ready for
12 the first grade;

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

16 (3) Ninety percent of ninth graders will graduate from high
17 school;

18 (4) By 2012, the gap between the county with the lowest
19 college-going rate and the state average as of the effective date
20 of this act will decrease by fifty percent and the college-going
21 rate of the state will equal the college-going rate of the member
22 states of the Southern Regional Education Board; and

23 (5) By 2020, the gap between the county with the lowest
24 college-going rate and the state average for school year two
25 thousand twelve will decrease by fifty percent and the college-
26 going rate of the state will exceed the college-going rate of the

1 member states of the Southern Regional Education Board by five
2 percentage points.

3 **ARTICLE 2. STATE BOARD OF EDUCATION.**

4 **§18-2-23a. Annual professional staff development goals established**
5 **by state board; coordination of professional**
6 **development programs; program development, approval**
7 **and evaluation.**

8 (a) *Legislative intent.* -- The intent of this section is:

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

11 (2) To promote high-quality instructional delivery and
12 management practices for a thorough and efficient system of
13 schools; and

14 (3) To ensure that the expertise and experience of state
15 institutions of higher education with teacher preparation programs
16 are included in developing and implementing professional
17 development programs.

18 (b) *Goals.* -- The state board annually shall establish goals
19 for professional staff development in the public schools of the
20 state. As a first priority, the state board shall require adequate
21 and appropriate professional staff development to ensure high-
22 quality teaching that will enable students to achieve the content
23 standards established for the required curriculum in the public
24 schools.

25 The state board shall submit the goals to the State Department
26 of Education, the Center for Professional Development, the regional

1 educational service agencies, the Higher Education Policy
2 Commission and the Legislative Oversight Commission on Education
3 Accountability on or before January 15, each year.

4 The goals shall include measures by which the effectiveness of
5 the professional staff development programs will be evaluated. The
6 professional staff development goals shall include separate goals
7 for teachers, principals and paraprofessional service personnel and
8 may include separate goals for classroom aides and others in the
9 public schools.

10 In establishing the goals, the state board shall review
11 reports that may indicate a need for professional staff development
12 including, but not limited to, the report of the Center for
13 Professional Development created in article three-a, chapter
14 eighteen-a of this code, student test scores on the statewide
15 student assessment program, the measures of student and school
16 performance for accreditation purposes, school and school district
17 report cards and its plans for the use of funds in the strategic
18 staff development fund pursuant to section thirty-two, article two,
19 chapter eighteen of this code.

20 (c) The Center for Professional Development shall design a
21 proposed professional staff development program plan to achieve the
22 goals of the state board and shall submit the proposed plan to the
23 state board for approval as soon as possible following receipt of
24 the state board goals each year. In developing and implementing
25 this plan, the center first shall rely upon the available expertise
26 and experience of state institutions of higher education before

1 procuring advice, technical assistance or consulting services from
2 sources outside the state.

3 The proposed plan shall include a strategy for evaluating the
4 effectiveness of the professional staff development programs
5 delivered under the plan and a cost estimate. The state board
6 shall review the proposed plan and return it to the Center for
7 Professional Development noting whether the proposed plan is
8 approved or is not approved, in whole or in part. If a proposed
9 plan is not approved in whole, the state board shall note its
10 objections to the proposed plan or to the parts of the proposed
11 plan not approved and may suggest improvements or specific
12 modifications, additions or deletions to address more fully the
13 goals or eliminate duplication. If the proposed plan is not wholly
14 approved, the Center for Professional Development shall revise the
15 plan to satisfy the objections of the state board. State board
16 approval is required prior to implementation of the professional
17 staff development plan.

18 (d) The state board approval of the proposed professional
19 staff development plan shall establish a Master Plan for
20 Professional Staff Development which shall be submitted by the
21 state board to the affected agencies and to the Legislative
22 Oversight Commission on Education Accountability. The master plan
23 shall include the state board-approved plans for professional staff
24 development by the State Department of Education, the Center for
25 Professional Development, the state institutions of higher
26 education and the regional educational service agencies to meet the

1 professional staff development goals of the state board. The
2 master plan also shall include a plan for evaluating the
3 effectiveness of the professional staff development delivered
4 through the programs and a cost estimate.

5 The master plan shall serve as a guide for the delivery of
6 coordinated professional staff development programs by the State
7 Department of Education, the Center for Professional Development,
8 the state institutions of higher education and the regional
9 educational service agencies beginning on June 1 in the year in
10 which the master plan was approved through May 30 in the following
11 year. This section does not prohibit changes in the Master Plan,
12 subject to state board approval, to address staff development needs
13 identified after the master plan was approved.

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

17 (1) Professional development for teachers teaching the
18 transitional courses on how to teach the adopted college and career
19 readiness standards for English/language arts and math; and

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

25 **§18-2-39. College and career readiness initiative.**

26 (a) The Legislature finds that:

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

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

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

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

17 (5) A comparison of the percentages of students considered
18 proficient in eighth grade reading and math by the state assessment
19 and the National Assessment of Educational Progress indicate that
20 the state assessment currently does not accurately reflect college
21 and career readiness; and

22 (6) In 2010, the Southern Regional Education Board and the
23 National Center for Public Policy and Higher Education issued a
24 policy brief entitled "Beyond the Rhetoric Improving College
25 Readiness Through Coherent State Policy" which set forth a model
26 statewide readiness agenda. This college and career readiness

1 initiative is based on that policy brief.

2 (b) Before the 2013-2014 school year, the state board, the
3 Higher Education Policy Commission and the Council for Community
4 and Technical College Education shall collaborate in formally
5 adopting uniform and specific college and career readiness
6 standards for English/language arts and math. The standards shall
7 be clearly linked to state content standards and based on skills
8 and competencies rather than high school course titles. The
9 standards shall allow for a determination of whether a student
10 needs to enroll in a postsecondary remedial course. Initially, the
11 standards for English/language arts and math may remain lower for
12 a high school diploma, but the standards for a high school diploma
13 shall increase gradually so that the standards for a high school
14 diploma and the college and career readiness standards are
15 eventually uniform. The state board shall develop a plan for
16 gradually bringing the standards for a high school diploma and
17 college and career readiness into uniformity, and report this plan
18 to the Legislative Oversight Commission on Education Accountability
19 before December 31, 2012. The state board, the Higher Education
20 Policy Commission and the Council for Community and Technical
21 College Education shall collaborate at least annually to validate
22 that the standards ensure college and career readiness by comparing
23 student performance on the standards to actual performance in
24 introductory English/language arts and math courses. Nothing in
25 this section requires students to score at any certain level on a
26 college and career readiness assessment, exam or test as a

1 condition to receiving a diploma.

2 (c) The results on the comprehensive statewide student
3 assessment program in grade eleven in English/language arts and
4 mathematics shall be used to determine whether a student has met
5 the college and career readiness standards adopted pursuant to
6 subsection (b) of this section. Beginning with the 2014-2015
7 school year, instead of using the comprehensive statewide student
8 assessment program, the state board may develop and implement end-
9 of-course exams in English/language arts and math courses it
10 determines appropriate which are designed for determining and which
11 are used to determine whether a student has met the college and
12 career readiness standards. In order to allow for the enrollment
13 in transitional courses in the twelfth grade if necessary pursuant
14 to subsection (e) of this section, the courses, assessments and
15 exams, as applicable, shall be administered before the twelfth
16 grade. A minimum score for each assessment or exam, as applicable,
17 shall be set that is highly predictive of success in college-level
18 introductory courses. When the data becomes available, this score
19 shall be empirically based on actual college performance correlated
20 with test scores. Students achieving the minimum score on these
21 assessments or exams shall avoid enrolling in the transitional
22 courses required pursuant to subsection (e) of this section and
23 shall be placed immediately in a college-level introductory course
24 at a West Virginia two-year or four-year college or university upon
25 admission to the institution. Meeting institutional admissions
26 criteria for colleges and universities is a separate process from

1 the determination of placement in college-level or developmental
2 courses. In no way does the achievement of a minimum score on the
3 assessments described in this section assure full admission status
4 at West Virginia institutions of higher education. Each higher
5 education institution shall publish all criteria for college
6 admission.

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

12 (e) The state board shall develop a twelfth-grade transitional
13 course for both English/language arts and math for those students
14 who are not on track to be college ready based on the assessment or
15 exam, as applicable, required pursuant to subsection (c) of this
16 section. The transitional courses shall be aligned with the
17 standards adopted pursuant to subsection (b) of this section. The
18 state board in collaboration with the West Virginia Higher
19 Education Policy Commission and the Council for Community and
20 Technical College Education shall use the American College Testing
21 Program's Computerized Adaptive Placement Assessment and Support
22 System (COMPASS) or other mutually agreed-upon assessment to
23 determine whether a student has met the college and career
24 readiness standards adopted pursuant to subsection (b) of this
25 section and shall set a minimum score on the test that is highly
26 predictive of success in college-level introductory courses. When

1 the data becomes available, this score shall be empirically based
2 on actual college performance correlated with test scores. All
3 high schools in the state shall offer these transitional courses.
4 All students who fail to attain college and career readiness as
5 indicated by the applicable assessment or exam, required by
6 subsection (c) of this section, shall enroll in the applicable
7 transitional course.

8 (f) The state board shall include in its goals for
9 professional staff development required by section twenty-three-a
10 of this article professional development for teachers teaching the
11 transitional courses required by subsection (e) of this section on
12 how to teach the adopted college and career readiness standards.
13 The state board also shall include in its goals appropriate
14 professional development for other teachers in at least grades
15 eight through twelve on how to teach the adopted college and career
16 readiness standards directly, as embedded in other subject areas or
17 both, as appropriate. This professional development ultimately
18 shall be included in the state board approved Master Plan for
19 Professional Staff Development.

20 (g) Under its authority granted in section one, article three,
21 chapter eighteen-a of this code, the state board shall require all
22 teacher preparation programs in the state to include appropriate
23 training for teachers seeking to teach in at least any of grades
24 eight through twelve on how to teach the adopted college and career
25 readiness standards. This training shall be on how to teach the
26 standards directly, through embedding the standards in other

1 courses or both, as appropriate.

2 (h) For all West Virginia public high school graduates who
3 graduate during or after the 2015-2016 school year, all state
4 institutions of higher education shall use no factor other than the
5 assessment, exam or test, as applicable, required pursuant to
6 subsections (c) and (e) of this section to determine whether a
7 student is to enroll in a remedial course or is to be placed
8 immediately in a college-level introductory course. Nothing in
9 this subsection prohibits an institution from administering a
10 diagnostic test to determine specific areas of weakness so that the
11 specific weaknesses can be remediated rather than requiring a
12 student to take an entire remedial course.

13 (i) The state board shall:

14 (1) Hold high schools and districts accountable for increasing
15 the percentages of students who meet the college and career
16 readiness standards as indicated by the assessments, exams or
17 tests, as applicable, required pursuant to subsections (c) and (e)
18 of this section. This accountability shall be achieved through the
19 school and school system accreditation provisions set forth in
20 section five, article two-e of this chapter;

21 (2) Align the comprehensive statewide student assessment for
22 all grade levels in which the test is given with the college and
23 career readiness standards adopted pursuant to subsection (b) of
24 this section or develop other aligned tests at each grade level so
25 that progress toward college and career readiness in
26 English/language arts and math can be measured; and

1 (3) Hold all schools and districts accountable for helping
2 students in earlier grade levels achieve scores on math and
3 English/language arts tests that predict success in subsequent
4 levels of related coursework. This accountability shall be
5 achieved through the school and school system accreditation
6 provisions set forth in section five, article two-e of this
7 chapter;

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

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

11 **§18-2E-5. Process for improving education; education standards;**
12 **statewide assessment program; accountability**
13 **measures; Office of Education Performance Audits;**
14 **school accreditation and school system approval;**
15 **intervention to correct low performance.**

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

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

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

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

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

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

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

23 (3) As the Constitutional body charged with providing for a
24 thorough and efficient system of schools, the Legislature has the
25 authority and the responsibility to establish and be engaged
26 constructively in the determination of the knowledge and skills

1 that students should know and be able to do as the result of a
2 thorough and efficient education. This determination is made by
3 using the process for improving education to determine when school
4 improvement is needed, by evaluating the results and the efficiency
5 of the system of schools, by ensuring accountability and by
6 providing for the necessary capacity and its efficient use.

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

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

24 (b) *Electronic county and school strategic improvement plans.*
25 -- The state board shall promulgate a rule consistent with the
26 provisions of this section and in accordance with article three-b,

1 chapter twenty-nine-a of this code establishing an electronic
2 county strategic improvement plan for each county board and an
3 electronic school strategic improvement plan for each public school
4 in this state. Each respective plan shall be a five-year plan that
5 includes the mission and goals of the school or school system to
6 improve student, school or school system performance and progress,
7 as applicable. The strategic plan shall be revised annually in
8 each area in which the school or system is below the standard on
9 the annual performance measures. The revised annual plan also
10 shall identify any deficiency which is reported on the check lists
11 identified in paragraph (G), subdivision (5), subsection ~~(l)~~ (m) of
12 this section including any deficit more than a casual deficit by
13 the county board. The plan shall be revised when required pursuant
14 to this section to include each annual performance measure upon
15 which the school or school system fails to meet the standard for
16 performance and progress, the action to be taken to meet each
17 measure, a separate time line and a date certain for meeting each
18 measure, a cost estimate and, when applicable, the assistance to be
19 provided by the department and other education agencies to improve
20 student, school or school system performance and progress to meet
21 the annual performance measure.

22 The department shall make available to all public schools
23 through its website or the West Virginia Education Information
24 System an electronic school strategic improvement plan boilerplate
25 designed for use by all schools to develop an electronic school
26 strategic improvement plan which incorporates all required aspects

1 and satisfies all improvement plan requirements of the No Child
2 Left Behind Act.

3 (c) *High-quality education standards and efficiency standards.*

4 -- In accordance with the provisions of article three-b, chapter
5 twenty-nine-a of this code, the state board shall adopt and
6 periodically review and update high-quality education standards for
7 student, school and school system performance and processes in the
8 following areas:

9 (1) Curriculum;

10 (2) Workplace readiness skills;

11 (3) Finance;

12 (4) Transportation;

13 (5) Special education;

14 (6) Facilities;

15 (7) Administrative practices;

16 (8) Training of county board members and administrators;

17 (9) Personnel qualifications;

18 (10) Professional development and evaluation;

19 (11) Student performance and progress;

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

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

22 (14) Indicators of efficiency; and

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

24 The standards, as applicable, shall incorporate the state's
25 21st Century Skills Initiative and shall assure that graduates are
26 prepared for continuing post-secondary education, training and work

1 and that schools and school systems are making progress toward
2 achieving the education goals of the state.

3 (d) *Comprehensive statewide student assessment program.* -- The
4 state board shall promulgate a rule in accordance with the
5 provisions of article three-b, chapter twenty-nine-a of this code
6 establishing a comprehensive statewide student assessment program
7 to assess student performance and progress in grades three through
8 twelve. Prior to the 2013-2014 school year, the state board shall
9 align the comprehensive statewide student assessment for all grade
10 levels in which the test is given with the college readiness
11 standards adopted pursuant to section thirty-nine, article two of
12 this chapter or develop other aligned tests to be required at each
13 grade level so that progress toward college readiness in
14 English/language arts and math can be measured. The state board
15 may require that student proficiencies be measured through the ACT
16 EXPLORE and the ACT PLAN assessments or other comparable
17 assessments, which are approved by the state board and provided by
18 future vendors. ~~The state board may require that student~~
19 ~~proficiencies be measured through the West Virginia writing~~
20 ~~assessment at any of the grade levels four, seven and ten~~
21 ~~determined by the state board to be appropriate: *Provided, That,*~~
22 ~~effective July 1, 2008,~~ The state board may require that student
23 proficiencies be measured through the West Virginia writing
24 assessment at any of the grade levels four, seven and eleven
25 determined by the state board to be appropriate. The state board
26 may provide through the statewide assessment program other optional

1 testing or assessment instruments applicable to grade levels
2 kindergarten through grade twelve which may be used by each school
3 to promote student achievement upon approval by the school
4 curriculum team or the process for teacher collaboration to improve
5 instruction and learning established by the faculty senate as
6 provided in section six, article five-a of this chapter. The state
7 board annually shall ~~annually~~ publish and make available,
8 electronically or otherwise, to school curriculum teams and teacher
9 collaborative processes the optional testing and assessment
10 instruments. The failure of a school to use any optional testing
11 and assessment may not be cited as a deficiency in any
12 accreditation review of the school; nor may the exercise of its
13 discretion, as provided in section six, article five-a of this
14 chapter, in using the assessments and implementing the
15 instructional strategies and programs that it determines best to
16 promote student achievement at the school be cited as a deficiency
17 in any accreditation review of the school or in the personnel
18 evaluation of the principal. The use of assessment results are
19 subject to the following:

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

24 (2) Only the assessment results in the subject areas of
25 ~~reading/language arts~~ English/language arts and mathematics may be
26 used for determining whether a school or school system has made

1 adequate yearly progress (AYP);

2 (3) The results of the West Virginia writing assessment, the
3 ACT EXPLORE assessments and the ACT PLAN assessments may not be
4 used for determining whether a school or school system has made
5 adequate yearly progress (AYP);

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

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

14 (e) *Annual performance measures for Public Law 107-110, the*
15 *Elementary and Secondary Education Act of 1965, as amended (No*
16 *Child Left Behind Act of 2001)*. -- The standards shall include
17 annual measures of student, school and school system performance
18 and progress for the grade levels and the content areas defined by
19 the act. The following annual measures of student, school and
20 school system performance and progress shall be the only measures
21 for determining whether adequately yearly progress under the No
22 Child Left Behind Act has been achieved:

23 (1) The acquisition of student proficiencies as indicated by
24 student performance and progress on the required accountability
25 assessments at the grade levels and content areas as required by
26 the act subject to the limitations set forth in subsection (d) of

1 this section.

2 (2) The student participation rate in the uniform statewide
3 assessment ~~must~~ shall be at least ninety-five percent or the
4 average of the participation rate for the current and the preceding
5 two years is ninety-five percent for the school, county and state;

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

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

13 (B) Students not in attendance due to disciplinary measures;
14 and

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

18 (4) The high school graduation rate which shall be no less
19 than eighty percent for the school, county and state; or if the
20 high school graduation rate is less than eighty percent, the high
21 school graduation rate shall be higher than the high school
22 graduation rate of the preceding year as determined from
23 information on the West Virginia Education Information System on
24 August 15.

25 (f) *State annual performance measures for school and school*
26 *system accreditation.* -- The state board shall establish a system

1 to assess and weigh annual performance measures for state
2 accreditation of schools and school systems in a manner that gives
3 credit or points such as an index to prevent any one measure alone
4 from causing a school to achieve less than full accreditation
5 status or a school system from achieving less than full approval
6 status. ~~Provided, That a school or school system that achieves~~
7 ~~adequate yearly progress is eligible for no less than full~~
8 ~~accreditation or approval status, as applicable, and the system~~
9 ~~established pursuant to this subsection applies only to schools and~~
10 ~~school systems that do not achieve adequate yearly progress.~~

11 The following types of measures, as may be appropriate at the
12 various programmatic levels, may be approved by the state board for
13 ~~the school and school system accreditation~~ state school
14 accreditation and school system approval:

15 (1) The acquisition of student proficiencies as indicated by
16 student performance and progress on the uniform statewide
17 assessment program at the grade levels as provided in subsection
18 (d) of this section. The state board may approve providing bonus
19 points or credits for students scoring at or above mastery and
20 distinguished levels;

21 (2) Writing assessment results in grades tested;

22 (3) School attendance rates;

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

24 (5) Percentage of students scoring at benchmarks on the
25 currently tested ACT EXPLORE and ACT PLAN assessments or other
26 comparable assessments, which are approved by the state board and

1 provided by future vendors;

2 (6) Graduation rates;

3 (7) Job placement rates for vocational programs;

4 (8) Percent of students passing end-of-course career/technical
5 tests; and

6 ~~(9) Percent of students not requiring college remediation~~
7 ~~classes; and~~

8 ~~(10)~~ (9) Bonus points or credits for subgroup improvement,
9 advanced placement percentages, dual credit completers and
10 international baccalaureate completers.

11 (g) In addition to the types of measures which may be approved
12 by the state board for state school and school system accreditation
13 pursuant to subsection (f) of this section, the state board shall
14 use the following measures for state school accreditation and
15 school system approval:

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

20 (2) Increases in the percent of students in earlier grade
21 levels making adequate progress toward college readiness in
22 English/language arts and math as indicated by the comprehensive
23 statewide student assessment or other aligned tests required
24 pursuant to subsection (d) of this section.

25 ~~(g)~~ (h) *Indicators of exemplary performance and progress.* --
26 The standards shall include indicators of exemplary student, school

1 and school system performance and progress. The indicators of
2 exemplary student, school and school system performance and
3 progress shall be used only as indicators for determining whether
4 accredited and approved schools and school systems should be
5 granted exemplary status. These indicators shall include, but are
6 not limited to, the following:

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

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

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

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

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

24 (2) Transportation;

25 (3) Facilities;

26 (4) Administrative practices;

1 (5) Personnel;

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

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

8 ~~(i)~~ (j) *Assessment and accountability of school and school*
9 *system performance and processes.* -- In accordance with the
10 provisions of article three-b, chapter twenty-nine-a of this code,
11 the state board shall establish by rule a system of education
12 performance audits which measures the quality of education and the
13 preparation of students based on the annual measures of student,
14 school and school system performance and progress. The system of
15 education performance audits shall provide information to the state
16 board, the Legislature and the Governor, ~~individually and~~
17 ~~collectively as the Process for Improving Education Council,~~ upon
18 which they may determine whether a thorough and efficient system of
19 schools is being provided. The system of education performance
20 audits shall include:

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

24 (2) The evaluation of records, reports and other information
25 collected by the department upon which the quality of education and
26 compliance with statutes, policies and standards may be determined;

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

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

6 ~~(j)~~ (k) *Uses of school and school system assessment*
7 *information.* -- The state board ~~and the Process for Improving~~
8 ~~Education Council established pursuant to section five c of this~~
9 ~~article~~ shall use information from the system of education
10 performance audits to assist them in ensuring that a thorough and
11 efficient system of schools is being provided and to improve
12 student, school and school system performance and progress.
13 Information from the system of education performance audits further
14 shall be used by the state board for these purposes, including, but
15 not limited to, the following:

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

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

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

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

1 ~~(k)~~ (l) *Early detection and intervention programs.* -- Based on
2 the assessment of student, school and school system performance and
3 progress, the state board shall establish early detection and
4 intervention programs using the available resources of the
5 Department of Education, the regional educational service agencies,
6 the Center for Professional Development and the Principals Academy,
7 as appropriate, to assist underachieving schools and school systems
8 to improve performance before conditions become so grave as to
9 warrant more substantive state intervention. Assistance shall
10 include, but is not limited to, providing additional technical
11 assistance and programmatic, professional staff development, and
12 providing monetary, staffing and other resources where appropriate.
13 ~~and, if necessary, making appropriate recommendations to the~~
14 ~~Process for Improving Education Council.~~

15 ~~(l)~~ (m) *Office of Education Performance Audits.* --

16 (1) To assist the state board ~~and the Process for Improving~~
17 ~~Education Council~~ in the operation of a system of education
18 performance audits, the state board shall establish an Office of
19 Education Performance Audits consistent with the provisions of this
20 section. The Office of Education Performance Audits shall be
21 operated under the direction of the state board independently of
22 the functions and supervision of the State Department of Education
23 and state superintendent. The Office of Education Performance
24 Audits shall report directly to and be responsible to the state
25 board ~~and the Process for Improving Education Council~~ created in
26 section five-c of this article in carrying out its duties under the

1 provisions of this section.

2 (2) The office shall be headed by a director who shall be
3 appointed by the state board and who shall serve at the will and
4 pleasure of the state board. The annual salary of the director
5 shall be set by the state board and may not exceed eighty percent
6 of the salary cap of the State Superintendent of Schools.

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

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

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

25 (A) Assure that all statewide assessments of student
26 performance used as annual performance measures are secure as

1 required in section one-a of this article;

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

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

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

8 (C) Determine, in conjunction with the assessment and
9 accountability processes, what capacity may be needed by schools
10 and school systems to meet the standards established by the state
11 board and recommend to the state board ~~and the Process for~~
12 ~~Improving Education Council~~ plans to establish those needed
13 capacities;

14 (D) Determine, in conjunction with the assessment and
15 accountability processes, whether statewide system deficiencies
16 exist in the capacity of schools and school systems to meet the
17 standards established by the state board, including the
18 identification of trends and the need for continuing improvements
19 in education, and report those deficiencies and trends to the state
20 board; ~~and the Process for Improving Education Council~~

21 (E) Determine, in conjunction with the assessment and
22 accountability processes, staff development needs of schools and
23 school systems to meet the standards established by the state board
24 and make recommendations to the state board, ~~the Process for~~
25 ~~Improving Education Council~~, the Center for Professional
26 Development, the regional educational service agencies, the Higher

1 Education Policy Commission and the county boards;

2 (F) Identify, in conjunction with the assessment and
3 accountability processes, exemplary schools and school systems and
4 best practices that improve student, school and school system
5 performance and make recommendations to the state board ~~and the~~
6 ~~Process for Improving Education Council~~ for recognizing and
7 rewarding exemplary schools and school systems and promoting the
8 use of best practices. The state board shall provide information
9 on best practices to county school systems and shall use
10 information identified through the assessment and accountability
11 processes to select schools of excellence; and

12 (G) Develop reporting formats, such as check lists, which
13 shall be used by the appropriate administrative personnel in
14 schools and school systems to document compliance with various of
15 the applicable laws, policies and process standards as considered
16 appropriate and approved by the state board, including, but not
17 limited to, the following:

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

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

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

25 (iv) The school provides multicultural activities.

26 Information contained in the reporting formats is subject to

1 examination during an on-site review to determine compliance with
2 laws, policies and standards. Intentional and grossly negligent
3 reporting of false information are grounds for dismissal.

4 ~~(m)~~ (n) *On-site reviews.* --

5 (1) The system of education performance audits shall include
6 on-site reviews of schools and school systems which shall be
7 conducted only at the specific direction of the state board upon
8 its determination that the performance and progress of the school
9 or school system are persistently below standard or that other
10 circumstances exist that warrant an on-site review. Any discussion
11 by the state board of schools to be subject to an on-site review or
12 dates for which on-site reviews will be conducted may be held in
13 executive session and is not subject to the provisions of article
14 nine-a, chapter six of this code relating to open governmental
15 proceedings. An on-site review shall be conducted by the Office of
16 Education Performance Audits of a school or school system for the
17 purpose of investigating the reasons for performance and progress
18 that are persistently below standard and making recommendations to
19 the school and school system, as appropriate, and to the state
20 board on such measures as it considers necessary to improve
21 performance and progress to meet the standard. The investigation
22 may include, but is not limited to, the following:

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

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

26 (C) Evaluating the effectiveness and implementation status of

1 school and school system electronic strategic improvement plans;

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

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

8 (F) Determining and reporting whether required reviews and
9 inspections have been conducted by the appropriate agencies,
10 including, but not limited to, the State Fire Marshal, the Health
11 Department, the School Building Authority and the responsible
12 divisions within the Department of Education, and whether noted
13 deficiencies have been or are in the process of being corrected.
14 The Office of Education Performance Audits may not conduct a
15 duplicate review or inspection of any compliance reviews or
16 inspections conducted by the department or its agents or other duly
17 authorized agencies of the state, nor may it mandate more stringent
18 compliance measures.

19 (2) The Director of the Office of Education Performance Audits
20 shall notify the county superintendent of schools five school days
21 prior to commencing an on-site review of the county school system
22 and shall notify both the county superintendent and the principal
23 five school days before commencing an on-site review of an
24 individual school: *Provided*, That the state board may direct the
25 Office of Education Performance Audits to conduct an unannounced
26 on-site review of a school or school system if the state board

1 believes circumstances warrant an unannounced on-site review.

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

7 (4) An on-site review of a school or school system shall
8 include a person or persons from the Department of Education or a
9 public education agency in the state who has expert knowledge and
10 experience in the area or areas to be reviewed and who has been
11 trained and designated by the state board to perform such
12 functions. If the size of the school or school system and issues
13 being reviewed necessitate the use of an on-site review team or
14 teams, the person or persons designated by the state board shall
15 advise and assist the director to appoint the team or teams. The
16 person or persons designated by the state board shall be the team
17 leaders.

18 The persons designated by the state board shall be responsible
19 for completing the report on the findings and recommendations of
20 the on-site review in their area of expertise. It is the intent of
21 the Legislature that the persons designated by the state board
22 participate in all on-site reviews that involve their area of
23 expertise, to the extent practicable, so that the on-site review
24 process will evaluate compliance with the standards in a uniform,
25 consistent and expert manner.

26 (5) The Office of Education Performance Audits shall reimburse

1 a county board for the costs of substitutes required to replace
2 county board employees while they are serving on a review team.

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

15 (7) The Office of Education Performance Audits shall report
16 the findings of an on-site review to the county superintendent and
17 the principals whose schools were reviewed within thirty days
18 following the conclusion of the on-site review. The Office of
19 Education Performance Audits shall report the findings of the on-
20 site review to the state board within forty-five days after the
21 conclusion of the on-site review. ~~A copy of the report shall be
22 provided to the Process for Improving Education Council at its
23 request.~~ A school or county that believes one or more findings of
24 a review are clearly inaccurate, incomplete or misleading,
25 misrepresent or fail to reflect the true quality of education in
26 the school or county or address issues unrelated to the health,

1 safety and welfare of students and the quality of education, may
2 appeal to the state board for removal of the findings. The state
3 board shall establish a process for it to receive, review and act
4 upon the appeals. The state board shall report to the Legislative
5 Oversight Commission on Education Accountability during its July
6 interim meetings, or as soon thereafter as practical, on each
7 appeal during the preceding school year.

8 (8) The Legislature finds that the accountability and
9 oversight of the following activities and programmatic areas in the
10 public schools is controlled through other mechanisms and that
11 additional accountability and oversight are not only unnecessary
12 but counterproductive in distracting necessary resources from
13 teaching and learning. Therefore, notwithstanding any other
14 provision of this section to the contrary, the following activities
15 and programmatic areas are not subject to review by the Office of
16 Education Performance Audits:

- 17 (A) Work-based learning;
- 18 (B) Use of advisory councils;
- 19 (C) Program accreditation and student credentials;
- 20 (D) Student transition plans;
- 21 (E) Graduate assessment form;
- 22 (F) Casual deficit;
- 23 (G) Accounting practices;
- 24 (H) Transportation services;
- 25 (I) Special education services;
- 26 (J) Safe, healthy and accessible facilities;

- 1 (K) Health services;
- 2 (L) Attendance director;
- 3 (M) Business/community partnerships;
- 4 (N) Pupil-teacher ratio/split grade classes;
- 5 (O) Local school improvement council, faculty senate, student
6 assistance team and curriculum team;
- 7 (P) Planning and lunch periods;
- 8 (Q) Skill improvement program;
- 9 (R) Certificate of proficiency;
- 10 (S) Training of county board members;
- 11 (T) Excellence in job performance;
- 12 (U) Staff development; and
- 13 (V) Preventive discipline, character education and student and
14 parental involvement.

15 ~~(n)~~ (o) *School accreditation.* -- The state board annually
16 shall review the information from the system of education
17 performance audits submitted for each school and shall issue to
18 every school one of the following approval levels: Exemplary
19 accreditation status, distinction accreditation status, full
20 accreditation status, temporary accreditation status, conditional
21 accreditation status or low performing accreditation status.

22 (1) Full accreditation status shall be given to a school when
23 the school's performance and progress meet or exceed the standards
24 adopted by the state board pursuant to ~~subsection (e) or (f), as~~
25 ~~applicable,~~ subsections (f) and (g) of this section and it does not
26 have any deficiencies which would endanger student health or safety

1 or other extraordinary circumstances as defined by the state board.
2 A school that meets or exceeds the performance and progress
3 standards but has the other deficiencies shall remain on full
4 accreditation status for the remainder of the accreditation period
5 and shall have an opportunity to correct those deficiencies,
6 notwithstanding other provisions of this subsection.

7 (2) Temporary accreditation status shall be given to a school
8 when the school's performance and progress are below the level
9 required for full accreditation status. Whenever a school is given
10 temporary accreditation status, the county board shall ensure that
11 the school's electronic strategic improvement plan is revised in
12 accordance with subsection (b) of this section to increase the
13 performance and progress of the school to a full accreditation
14 status level. The revised plan shall be submitted to the state
15 board for approval.

16 (3) Conditional accreditation status shall be given to a
17 school when the school's performance and progress are below the
18 level required for full accreditation, but the school's electronic
19 strategic improvement plan meets the following criteria:

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

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

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

25 (4) Exemplary accreditation status shall be given to a school
26 when the school's performance and progress substantially exceed the

1 standards adopted by the state board pursuant to subsections (f),
2 ~~and~~ (g) and (h) of this section. The state board shall promulgate
3 legislative rules in accordance with the provisions of article
4 three-b, chapter twenty-nine-a of this code designated to establish
5 standards of performance and progress to identify exemplary
6 schools.

7 (5) Distinction accreditation status shall be given to a
8 school when the school's performance and progress exceed the
9 standards adopted by the state board. The state board shall
10 promulgate legislative rules in accordance with the provisions of
11 article three-b, chapter twenty-nine-a of this code establishing
12 standards of performance and progress to identify schools of
13 distinction.

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

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

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

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

26 (iii) The failure of a school to meet a standard by the date

1 specified in the revised plan; and

2 (iv) The results of the most recent statewide assessment in
3 reading and math or other multiple measures as determined by the
4 state board that identify the school as low performing at its
5 programmatic level in three of the last five years.

6 (B) Whenever the state board determines that the quality of
7 education in a school is low performing, the state board shall
8 appoint a team of improvement consultants from the West Virginia
9 Department of Education State System of Support to make
10 recommendations for correction of the low performance. These
11 recommendations shall be communicated to the county board and a
12 process shall be established in conjunction with the State System
13 of Support to correct the identified deficiencies. If progress in
14 correcting the low performance as determined by the state board is
15 not made within one year following the implementation of the
16 measures adopted to correct the identified deficiencies or by a
17 date certain established by the state board after at least one year
18 of implementation, the state board shall place the county board on
19 temporary approval status and provide consultation and assistance
20 to the county board to assist it in the following areas:

21 (i) Improving personnel management;

22 (ii) Establishing more efficient financial management
23 practices;

24 (iii) Improving instructional programs and rules; or

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

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

3 (i) The state board shall appoint a monitor who shall be paid
4 at county expense to cause improvements to be made at the school to
5 bring it to full accreditation status within a reasonable time
6 period as determined by the state board. The monitor's work
7 location shall be at the school and the monitor shall work
8 collaboratively with the principal. The monitor shall, at a
9 minimum, report monthly to the state board on the measures being
10 taken to improve the school's performance and the progress being
11 made. The reports may include requests for additional assistance
12 and recommendations required in the judgment of the monitor to
13 improve the school's performance, including, but not limited to,
14 the need for targeting resources strategically to eliminate
15 deficiencies;

16 (ii) The state board may make a determination, in its sole
17 judgment, that the improvements necessary to provide a thorough and
18 efficient education to the students at the school cannot be made
19 without additional targeted resources, in which case it shall
20 establish a plan in consultation with the county board that
21 includes targeted resources from sources under the control of the
22 state board and the county board to accomplish the needed
23 improvements. Nothing in this subsection shall be construed to
24 allow a change in personnel at the school to improve school
25 performance and progress, except as provided by law;

26 (iii) If the low performance is not corrected within one year

1 after the appointment of a monitor, the state board may make a
2 determination, in its sole judgment, that continuing a monitor
3 arrangement is not sufficient to correct the low performance and
4 may intervene in the operation of the school to cause improvements
5 to be made that will provide assurances that a thorough and
6 efficient system of schools will be provided. This intervention
7 may include, but is not limited to, establishing instructional
8 programs, taking such direct action as may be necessary to correct
9 the low performance, declaring the position of principal is vacant
10 and assigning a principal for the school who shall serve at the
11 will and pleasure of and, under the sole supervision of, the state
12 board: *Provided*, That prior to declaring that the position of the
13 principal is vacant, the state board must make a determination that
14 all other resources needed to correct the low performance are
15 present at the school. If the principal who was removed elects not
16 to remain an employee of the county board, then the principal
17 assigned by the state board shall be paid by the county board. If
18 the principal who was removed elects to remain an employee of the
19 county board, then the following procedure applies:

20 (I) The principal assigned by the state board shall be paid by
21 the state board until the next school term, at which time the
22 principal assigned by the state board shall be paid by the county
23 board;

24 (II) The principal who was removed is eligible for all
25 positions in the county, including teaching positions, for which
26 the principal is certified, by either being placed on the transfer

1 list in accordance with section seven, article two, chapter
2 eighteen-a of this code, or by being placed on the preferred recall
3 list in accordance with section seven-a, article four, chapter
4 eighteen-a of this code; and

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

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

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

15 ~~(o)~~ (p) *Transfers from low-performing schools.* -- Whenever a
16 school is determined to be low performing and fails to improve its
17 status within one year, following state intervention in the
18 operation of the school to correct the low performance, any student
19 attending the school may transfer once to the nearest fully
20 accredited school in the county, subject to approval of the fully
21 accredited school and at the expense of the school from which the
22 student transferred.

23 ~~(p)~~ (q) *School system approval.* -- The state board annually
24 shall review the information submitted for each school system from
25 the system of education performance audits and issue one of the
26 following approval levels to each county board: Full approval,

1 temporary approval, conditional approval or nonapproval.

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

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

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

23 (i) The plan has been revised in accordance with subsection
24 (b) of this section;

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

26 (iii) The county board is meeting the objectives and time line

1 specified in the revised plan.

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

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

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

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

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

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

23 (iii) Delegating to the state superintendent both the
24 authority to conduct hearings on personnel matters and school
25 closure or consolidation matters and, subsequently, to render the
26 resulting decisions and the authority to appoint a designee for the

1 limited purpose of conducting hearings while reserving to the state
2 superintendent the authority to render the resulting decisions;

3 (iv) Functioning in lieu of the county board ~~of education~~ in
4 a transfer, sale, purchase or other transaction regarding real
5 property; and

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

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

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

19 ~~(q)~~ (r) Notwithstanding any other provision of this section,
20 the state board may intervene immediately in the operation of the
21 county school system with all the powers, duties and
22 responsibilities contained in subsection ~~(p)~~ (q) of this section,
23 if the state board finds the following:

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

1 of the county school system; or

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

6 ~~(r)~~ (s) *Capacity*. -- The process for improving education
7 includes a process for targeting resources strategically to improve
8 the teaching and learning process. Development of electronic
9 school and school system strategic improvement plans, pursuant to
10 subsection (b) of this section, is intended, in part, to provide
11 mechanisms to target resources strategically to the teaching and
12 learning process to improve student, school and school system
13 performance. When deficiencies are detected through the assessment
14 and accountability processes, the revision and approval of school
15 and school system electronic strategic improvement plans shall
16 ensure that schools and school systems are efficiently using
17 existing resources to correct the deficiencies. When the state
18 board determines that schools and school systems do not have the
19 capacity to correct deficiencies, the state board shall work with
20 the county board to develop or secure the resources necessary to
21 increase the capacity of schools and school systems to meet the
22 standards and, when necessary, seek additional resources in
23 consultation with the Legislature and the Governor.

24 The state board shall recommend to the appropriate body
25 including, but not limited to, ~~the Process for Improving Education~~
26 ~~Council~~, the Legislature, county boards, schools and communities

1 methods for targeting resources strategically to eliminate
2 deficiencies identified in the assessment and accountability
3 processes. When making determinations on recommendations, the
4 state board shall include, but is not limited to, the following
5 methods:

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

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

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

20 (4) Requesting technical assistance from the School Building
21 Authority in assessing or designing comprehensive educational
22 facilities plans;

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

25 (6) Requesting special staff development programs from the
26 Center for Professional Development, the Principals Academy, higher

1 education, regional educational service agencies and county boards
2 based on identified needs;

3 (7) Submitting requests to the Legislature for appropriations
4 to meet the identified needs for improving education;

5 (8) Directing county boards to target their funds
6 strategically toward alleviating deficiencies;

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

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

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