WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

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ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 4674

(By Delegates Armstead, Harrison, Azinger, Evans, Williams and Capito)

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Passed March 11, 2000

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4674

(BY DELEGATES ARMSTEAD, HARRISON, AZINGER, EVANS, WILLIAMS AND CAPITO)

[Passed March 11, 2000; in effect from passage.]

AN ACT to amend and reenact section five, article two-e, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to high quality education programs and standards; efficiency standards and indicators; performance measures; process for improving education; education performance audits; office of education performance audits; on-site reviews; assessment and accountability; use of assessment information; accreditation and school system approval; impaired schools; intervention to correct impairments; Legislative intent; capacity; state board of education rules; creating the exemplary school accreditation standard for individual schools; and review of accountability system.

Be it enacted by the Legislature of West Virginia:
That section five, article two-e, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5. Process for improving education; office of education performance audits; education standards; school accreditation and school system approval; intervention to correct impairments.

(a) Legislative intent. — The purpose of this section is to establish a process for improving education that includes standards, assessment, accountability and capacity building to provide assurances that a thorough and efficient system of schools is being provided for all West Virginia public school students on an equal education opportunity basis and that the high quality standards are, at a minimum, being met.

(b) State board rules. — The state board shall promulgate rules in accordance with article three-b, chapter twenty-nine-a of this code establishing a unified county improvement plan for each county board and a unified school improvement plan for each public school in this state. The state board is not required to promulgate new rules if legislative rules meeting the requirements of article three-b, chapter twenty-nine-a of this code have been filed with the office of the secretary of state before the effective date of this section.

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

(1) Curriculum;
(2) Workplace readiness skills;
(3) Finance;
(4) Transportation;
(5) Special education;
(6) Facilities;
(7) Administrative practices;
(8) Training of county board members and administrators;
(9) Personnel qualifications;
(10) Professional development and evaluation;
(11) Student and school performance;
(12) A code of conduct for students and employees;
(13) Indicators of efficiency; and
(14) Any other such areas as determined by the state board.

(d) Performance measures. — The standards shall assure that all graduates are prepared for gainful employment or for continuing postsecondary education and training and that schools and school districts are making progress in achieving the education goals of the state.

The standards shall include measures of student performance to indicate when a thorough and efficient system of schools is being provided and of school and school system performance and processes that enable student performance. The measures of student performance and school and school system performance and processes shall include, but are not limited to, the following:
(1) The acquisition of student proficiencies as indicated by student performance by grade level measured, where possible, by a uniform statewide assessment program;

(2) School attendance rates;

(3) Student dropout rate;

(4) Percent of students promoted to next grade;

(5) Graduation rate;

(6) Average class size;

(7) Pupil-teacher ratio and number of exceptions to ratio requested by county boards and number granted;

(8) Number of split-grade classrooms;

(9) Percentage of graduates who enrolled in college; the percentage of graduates who enrolled in other postsecondary education; and the percentage of graduates who become fully employed within one year of high school graduation all as reported by the graduates on the assessment form attached to their individualized student transition plan, pursuant to section eight of this article and the percentage of graduates reporting;

(10) Pupil-administrator ratio;

(11) Parent involvement;

(12) Parent, teacher and student satisfaction;

(13) Operating expenditures per pupil;

(14) Percentage of graduates who attain the minimum level of performance in the basic skills recognized by the state board as laying the foundation for further learning and skill develop-
ment for success in college, other postsecondary education and
gainful employment and the grade level distribution in which
the minimum level of performance was met;

(15) Percentage of graduates who received additional
certification of their skills, competence and readiness for
college, other postsecondary education or employment above
the minimum foundation level of basic skills;

(16) Percentage of students in secondary and middle
schools who are enrolled in advanced placement or honors
classes, respectively; and

(17) **Indicators of efficiency.** – The state board shall, in
accordance with the provisions of article three-b, chapter
twenty-nine-a of this code, adopt and periodically review and
update indicators of efficiency for student and school system
performance and processes in the following areas:

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

(B) Transportation;

(C) Facilities;

(D) Administrative practices;

(E) Personnel;

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

(G) Any other indicators as determined by the state board.
(e) **Assessment and accountability of school and school system performance and processes.** — The state board shall establish by rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code, a system of education performance audits which measures the quality of education and the preparation of students based on the standards and measures of student, school and school system performance and processes, including, but not limited to, the standards and measures set forth in subsections (c) and (d) of this section. The system of education performance audits shall assist the state board in ensuring that the standards and measures established pursuant to this section are, at a minimum, being met and that a thorough and efficient system of schools is being provided. The system of education performance audits shall include: (1) The assessment of student, school and school system performance and the processes in place in schools and school systems which enable student performance; (2) the review of school and school system unified improvement plans; and (3) the periodic, random unannounced on-site review of school and school system performance and compliance with the standards.

(f) **Uses of school and school system assessment information.** — The state board shall use information from the system of education performance audits to assist it in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance, including, but not limited to, the following: (1) Determining school accreditation and school system approval status; (2) holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and (3) targeting additional resources when necessary to improve performance. Primary emphasis in determining school accreditation and school system approval status will be based on student, school and school system performance on measures selected by the state board. The state board shall make accreditation information available to the Legislature; the
governor; and to the general public and any individuals who request such information, subject to the provisions of any act, rule or regulation restricting the release of information. Based on the assessment of student, school and school system performance, the state board shall establish early detection and intervention programs to assist underachieving schools and school systems in improving performance before conditions become so grave as to warrant more substantive state intervention, including, but not limited to, making additional technical assistance, programmatic, monetary and staffing resources available where appropriate.

(g) Office of education performance audits. — To assist the state board in the operation of the system of education performance audits and in making determinations regarding the accreditation status of schools and the approval status of school systems, the state board shall establish an office of education performance audits which shall be operated under the direction of the state board independently of the functions and supervision of the state department of education and state superintendent. The office of education performance audits shall report directly to and be responsible to the state board in carrying out its duties under the provisions of this section. The office shall be headed by a director who shall be appointed by the state board and shall serve at the will and pleasure of the state board. The salary of the director shall not exceed the salary of the state superintendent of schools. The state board shall organize and sufficiently staff the office to fulfill the duties assigned to it by this section and the state board. Employees of the state department of education who are transferred to the office of education performance audits shall retain their benefit and seniority status with the department of education. Under the direction of the state board, the office of education performance audits shall receive from the West Virginia education information system staff research and analysis data on the performance of students, schools and school systems, and shall receive assistance from
staff at the state department of education and the state school building authority to carry out the duties assigned to the office. In addition to other duties which may be assigned to it by the state board or by statute, the office of education performance audits also shall:

(1) Assure that all statewide assessments of student performance are secure as required in section one-a, article two-e of this chapter;

(2) Administer all accountability measures as assigned by the state board, including, but not limited to, processes for the accreditation of schools and the approval of school systems, and recommend to the state board appropriate action, including, but not limited to, accreditation and approval action;

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

(4) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity to establish and maintain a thorough and efficient system of schools, including the identification of trends and the need for continuing improvements in education, and report those deficiencies and trends to the state board;

(5) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the Legislature and the state board, and make recommendations to the state board, the center for professional development, regional education service agencies, higher education governing boards and county boards; and
(6) Identify, in conjunction with the assessment and accountability processes, exemplary schools and school systems and best practices that improve student, school and school system performance, and make recommendations to the state board for recognizing and rewarding exemplary schools and school systems and promoting the use of best practices. The state board shall provide information on best practices to county school systems and shall use information identified through the assessment and accountability processes to select schools of excellence.

(h) **On-site reviews.** — At the direction of the state board or by weighted, random selection by the office of education performance audits, an unannounced on-site review shall be conducted by the office of education performance audits of any school or school system for purposes, including, but not limited to, the following: (1) Verifying data reported by the school or county board; (2) documenting compliance with policies and laws; (3) evaluating the effectiveness and implementation status of school and school system unified improvement plans; (4) investigating official complaints submitted to the state board that allege serious impairments in the quality of education in schools or school systems; and (5) investigating official complaints submitted to the state board that allege that a school or county board is in violation of policies or laws under which schools and county boards operate. The random selection of schools and school systems for an on-site review shall use a weighted random sample so that those with lower performance indicators and those that have not had a recent on-site review have a greater likelihood of being selected. Under the direction of the state board, the office of education performance audits shall appoint an education standards compliance review team to assist it in conducting on-site reviews. The teams shall be composed of an adequate number of persons who possess the necessary knowledge, skills and experience to make an accurate assessment of education programs and who are drawn from a
trained cadre established by the office of education performance audits. The state board shall have discretion in determining the number of persons to serve on a standards compliance review team based on the size of the school or school system as applicable. The teams shall be led by a member of the office of education performance audits. County boards shall be reim- bursed for the costs of substitutes required to replace county board employees while they are serving on an education standards compliance review team. The office of education performance audits shall report the findings of the on-site reviews to the state board for inclusion in the evaluation and determination of a school’s or county board’s accreditation or approval status as applicable.

(i) School accreditation. — The state board annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school: Exemplary accreditation status, full accreditation status, temporary accreditation status, conditional accreditation status, or shall declare the education programs at the school to be seriously impaired.

(1) Full accreditation status shall be given to a school when the school’s performance on the standards adopted by the state board pursuant to subsections (c) and (d) of this section is at a level which would be expected when all of the high quality education standards are being met.

(2) Temporary accreditation status shall be given to a school when the measure of the school’s performance is below the level required for full accreditation status. Whenever a school is given temporary accreditation status, the county board shall ensure that the school’s unified improvement plan is revised to increase the performance of the school to a full accreditation status level. The revised unified school improvement plan shall include objectives, a time line, a plan for
evaluation of the success of the improvements, cost estimates, and a date certain for achieving full accreditation. The revised plan shall be submitted to the state board for approval.

(3) Conditional accreditation status shall be given to a school when the school’s performance on the standards adopted by the state board is below the level required for full accreditation, but the school’s unified improvement plan has been revised to achieve full accreditation status by a date certain, the plan has been approved by the state board and the school is meeting the objectives and time line specified in the revised plan.

(4) Exemplary accreditation status shall be given to a school when the school’s performance on the standards adopted by the state board pursuant to subsections (c) and (d) of this section substantially exceeds the minimal level which would be expected when all of the high quality education standards are being met. The state board shall propose legislative rules in accordance with the provisions of article three-b, chapter twenty-nine-a, designated to establish standards of performance to identify exemplary schools.

(5) The state board shall establish and adopt standards of performance to identify seriously impaired schools and the state board may declare a school seriously impaired whenever extraordinary circumstances exist as defined by the state board. These circumstances shall include, but are not limited to, the failure of a school on temporary accreditation status to obtain approval of its revised unified school improvement plan within a reasonable time period as defined by the state board and the failure of a school on conditional accreditation status to meet the objectives and time line of its revised unified school improvement plan or to achieve full accreditation by the date specified in the revised plan. Whenever the state board determines that the quality of education in a school is seriously
impaired, the state board, shall appoint a team of improvement
consultants to make recommendations within sixty days of
appointment for correction of the impairment. Upon approval
of the recommendations by the state board, the recommenda-
tions shall be made to the county board. If progress in correct-
ing the impairment as determined by the state board is not made
within six months from the time the county board receives the
recommendations, the state board shall place the county board
on temporary approval status and provide consultation and
assistance to the county board to: (i) Improve personnel
management; (ii) establish more efficient financial management
practices; (iii) improve instructional programs and rules; or (iv)
make such other improvements as may be necessary to correct
the impairment. If the impairment is not corrected by a date
certain set by the state board, the county board shall be given
nonapproval status.

(j) Transfers from seriously impaired schools. — Whenever
a school is determined to be seriously impaired and fails to
improve its status within one year, any student attending such
school may transfer once to the nearest fully accredited school,
subject to approval of the fully accredited school and at the
expense of the school from which the student transferred.

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

(1) Full approval shall be given to a county board whose
education system meets or exceeds all of the high quality
standards for student, school and school system performance
and processes adopted by the state board and whose schools
have all been given full, temporary or conditional accreditation
status.
(2) Temporary approval shall be given to a county board whose education system is below the level required for full approval. Whenever a county board is given temporary approval status, the county board shall revise its unified county improvement plan to increase the performance of the school system to a full approval status level. The revised plan shall include objectives, a time line, a plan for evaluation of the success of the improvements, a cost estimate, and a date certain for achieving full approval. The revised plan shall be submitted to the state board for approval.

(3) Conditional approval shall be given to a county board whose education system is below the level required for full approval, but whose unified county improvement plan meets the following criteria: (i) The plan has been revised to achieve full approval status by a date certain; (ii) the plan has been approved by the state board; and (iii) the county board is meeting the objectives and time line specified in the revised plan.

(4) Nonapproval status shall be given to a county board which fails to submit and gain approval for its unified county improvement plan or revised unified county improvement plan within a reasonable time period as defined by the state board or fails to meet the objectives and time line of its revised unified county improvement plan or fails to achieve full approval by the date specified in the revised plan. The state board shall establish and adopt additional standards to identify school systems in which the program may be nonapproved and the state board may issue nonapproval status whenever extraordinary circumstances exist as defined by the state board. Furthermore, whenever a county board has more than a casual deficit, as defined in section one, article one of this chapter, the county board shall submit a plan to the state board specifying the county board’s strategy for eliminating the casual deficit. The state board either shall approve or reject the plan. If the plan is
rejected, the state board shall communicate to the county board the reason or reasons for the rejection of the plan. The county board may resubmit the plan any number of times. However, any county board that fails to submit a plan and gain approval for the plan from the state board before the end of the fiscal year after a deficit greater than a casual deficit occurred or any county board which, in the opinion of the state board, fails to comply with an approved plan may be designated as having nonapproval status. Whenever nonapproval status is given to a school system, the state board shall declare a state of emergency in the school system and shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correcting the emergency. Upon approval of the recommendations by the state board, the recommendations shall be made to the county board. If progress in correcting the emergency, as determined by the state board, is not made within six months from the time the county board receives the recommendations, the state board shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, the following: (i) Limiting the authority of the county superintendent and county board as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and rules and such other areas as may be designated by the state board by rule; (ii) taking such direct action as may be necessary to correct the emergency; and (iii) declaring that the office of the county superintendent is vacant.

(1) Notwithstanding any other provision of this section, the state board may intervene immediately in the operation of the county school system with all the powers, duties and responsibilities contained in subsection (k) of this section, if the state board finds the following:
(1) That the conditions precedent to intervention exist as provided in this section; and

(2) That delaying intervention for any period of time would not be in the best interests of the students of the county school system.

(m) Capacity. — The process for improving education includes a process for targeting resources strategically to improve the teaching and learning process. Development of unified school and school system improvement plans, pursuant to subsection (b) of this section, is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school and school system performance. When deficiencies are detected through the assessment and accountability processes, the revision and approval of school and school system unified improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies. When the state board determines that schools and school systems do not have the capacity to correct deficiencies, the state board shall work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the governor.

The state board shall recommend to the appropriate body, including, but not limited to, the Legislature, county boards, schools and communities, methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes by:

(1) Examining reports and unified improvement plans regarding the performance of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;
(2) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance of students or the deficiencies of the school or school system;

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

(4) Requesting technical assistance from the school building authority in assessing or designing comprehensive educational facilities plans;

(5) Recommending priority funding from the school building authority based on identified needs;

(6) Requesting special staff development programs from the center for professional development, higher education, regional education service agencies and county boards based on identified needs;

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

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

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

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

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

(n) Review of accountability system.
The Legislature finds that the effective implementation of a standards based accountability system is an important issue for the State’s public education system. In order for the State to make improvements in its standards based accountability system, it is essential to review the standards based accountability system currently in place to identify areas of possible improvements that may exist. It is the intent of the Legislature that each area of the standards based accountability system be reviewed in accordance with nationally recognized standards.

The state board shall conduct a comprehensive review of the current standards based accountability system and report the findings to the legislative oversight commission on education accountability with recommendations for improvements on or before the first day of January, two thousand one. The review shall include, but not be limited to, the following:

(A) The extent to which accountability goals and strategies focus on academic performance, and the extent that other purposes are clarified in terms of coherent, specific goals to be achieved;

(B) The extent to which designated authorities are charged with the efficient governance of the accountability system;

(C) The extent to which specific responsibilities for student learning and performance are assigned to designated agents;

(D) The extent to which accountability is based on accurate measures of performance as informed by assessments that are administered equitably to all students;

(E) The extent to which those responsible for governing accountability regularly report student and school performance information in useful terms and on a timely basis to school staff, students and their families, and local policymakers, and the news media;
(F) The extent to which incentives are established that effectively motivate agents to improve student learning, and the extent that consequences, which could include rewards, interventions or sanctions, are predictably applied in response to performance results;

(G) The extent to which agents are provided sufficient support and assistance to ensure they have the capacity necessary to help students achieve high performance standards;

(H) The extent to which policy makers work to ensure that education policies, mandated programs, financial resources, and the accountability system are well aligned so that consistent messages are communicated about education goals and priorities;

(I) The extent to which the accountability system has widespread support; and

(J) The extent to which various established partnerships work together to support districts, schools and teachers in their efforts to improve student achievement.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 4th day of April, 2000.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/3/10
Time 2:30pm