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House Bill No. 4319
(By Fahey, Morgan, Perry, Shelton, Paxton, Harrison and Canterbury)

Passed March 6, 2002
In Effect July 1, 2002
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H. B. 4319

(BY FAHEY, MORGAN, PERRY, SHELTON, PAXTON, HARRISON AND CANTERBURY)

[Passed March 6, 2002; in effect July 1, 2002.]

AN ACT to amend and reenact sections five-a, twenty-three-a and twenty-six, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section five-e; to amend and reenact sections five and nine, article two-e of said chapter; to further amend said article by adding thereto a new section, designated section five-c; to amend and reenact sections one, three and four, article two-i of said chapter; to amend and reenact section eighteen-b, article five of said chapter; to amend article twenty of said chapter by adding thereto a new section, designated section one-d; to amend and reenact section twelve, article two, chapter eighteen-a of said code; to amend and reenact sections one and two-c, article three of said chapter; to amend and reenact sections one, two and two-b, article three-a of said chapter; and to amend and reenact section nine, article three-b, chapter twenty-nine-a of said code all relating to education generally; the process for improving education; filing copies of proposed state board of education rules
with the legislative oversight commission on education accountability; higher education participation in development of public education assessments; requiring public institutions of higher education to include plans for using data in compacts after a certain date; specifying possible uses of data; improving the quality, coordination and efficiency of professional staff development in the public schools; changing the process, parties and time frame for state board establishment of professional staff development goals and master plan for professional staff development; establishing first priority for goals; adding state institutions of higher education to list of agencies to receive master plan for professional staff development; providing for periodic amendments to plan; establishing legislative intent for regional educational service agencies; definition; refocusing agencies' programs and services using performance based accountability model; setting forth legislative purpose in establishing agencies; establishing priorities for agencies' programs and services; requiring state board to promulgate rules by a certain date for effective administration and operation of agencies; prohibiting delegation of state board's constitutional authority for the general supervision of schools to the agencies; providing for discretion in certain programs; providing for selection of staff; prohibiting certain personnel changes before certain date; providing for appointment of regional councils; requiring state board to establish statewide standards for service delivery by agencies; providing for amendments to standards; providing for establishment of procedures for financial operation of agencies; requiring state board to establish by rule procedures for agencies to acquire and hold real property; providing for establishment of agency service areas and requiring each county to be a member of the agency in its geographical area; removing authority for agency board to implement regional programs and services by a majority vote of its board of directors; clarifying submission of agency reports and evaluations; prohibiting a member of a county board from being an employee of an agency; requiring agency executive director to attend annually at
least one meeting of each member county board within the service area; making certain findings with respect to process for improving education; adding progress to the criteria for school accreditation and school system approval; delineating authority and responsibility of state board and Legislature in process for improving education; further specifying intent; requiring state board to promulgate rules specifying that unified school improvement plans are to contain other required plans to extent permitted by law; eliminating certain performance standards and clarifying or strengthening others; strengthening purposes of system; providing for additional state and regional agencies to be used for early detection and intervention in low performing schools; requiring process for accrediting schools and school systems to focus on measurable criteria related to student performance and progress; specifying recommendations to be made to process for improving education council; expanding purposes of office of education performance audits; requiring development of reporting formats for certain information, specifying their use and providing penalty for intentional or grossly negligent reporting of false information; establishing relationship of audit with other required reviews and inspections and prohibiting duplication and more stringent compliance measures; providing for five school-day notice of on site review; authorizing unannounced on-site reviews under certain circumstances; authorizing on-site reviews of limited scope; providing for state board designation of certain expert persons to participate in on-site audits, lead teams and complete reports; revising process for appointment of team to assist person or persons designated by state board to participate in on-site review; requiring office of education performance audits to reimburse substitute expense; providing for exit conferences for on-site reviews; specifying time limit for submitting reports of on site reviews; requiring copies of on-site reports to be provided to process for improving education council; providing for schools and school systems to remain on full accreditation or approval for certain period if certain conditions are met; including
process for improving education council as an appropriate body for receipt of certain reports on capacity building; including principals academy as potential staff development provider to build capacity; authorizing state board to make determinations on continuing school monitor and to intervene in operation of school or school system at any time under certain limited circumstances; specifying certain types of intervention; specifying process for replacing a school principal; limiting actions of county board that would further impair a low performing school; authorizing state board to appoint a monitor for a school after the state board intervention period has been completed; authorizing state board to delegate certain powers and duties to state superintendent; adding an additional condition when state board intervention in operation of school system is authorized; establishing process for improving education council; providing for membership, reimbursement of expenses, and powers of council; designating governor to convene meetings and serve as council chair; requiring state board to notify council members of proposed changes to certain state board rules; providing for certain members of council to request governor to call meetings; requiring state board or its designees to meet and consult with council; authorizing council members and staff to participate as observers in on-site reviews of schools or school systems; exempting approved virtual and distance learning courses of West Virginia virtual school from mandatory use of primary source instructional materials listed on state multiple list subject to certain requirements; making West Virginia professional staff development advisory council an advisory council to the state board; reducing the number of members on the council; revising purpose and functions; providing that members may be reimbursed for expenses by the state board; providing for a council chair; authorizing state board to promulgate a rule adopting the national standards for school counseling programs; requiring county boards to provide training to implement the rule to the extent funding is available; requiring state board to adopt basic
model for individualized education programs for exceptional students not to exceed federal laws, policies, rules and regulations; providing that professional educators may not be required to prepare and/or implement an individualized education program which exceeds requirements of federal and state laws, policies, rules or regulations; allowing less frequent evaluations for certain professional personnel; providing that classroom teachers may request more frequent evaluations; providing that evaluations serve as basis to improve personnel performance; requiring that personnel demonstrate competence on state board adopted technology standards and providing for an improvement plan for those who can not demonstrate such competence; directing that lesson plans may not be used as a substitute for observations in the performance evaluation process nor for the performance audit documentation; directing that lesson plans may not be required to include certain nonessential items; directing that classroom teachers may not be required to keep records of routine contacts with parents or guardians; replacing outdated references to the college and university system boards and adding chancellor of higher education policy commission; requiring training and professional development through the principals academy to be specifically designed for the principals required to attend; establishing priority order for principals to attend the academy; requiring that training be completed within twelve months, except in the cases of principals whose schools are seriously impaired; requiring center for professional development to provide for all principals to attend the academy at least once every six years subject to available funding; requiring that members of the principals standards advisory council be selected by their relevant constituency organizations; reconstituting the membership on a certain date; requiring the center for professional development to reimburse the expenses of persons attending the academy; removing authorization to pay a stipend to persons who attend the academy outside of their employment term; prohibiting requiring persons to complete training and professional development
...through the academy at certain times; requiring the center for professional development to use alternative methods of scheduling and instructional delivery to minimize time principals are away from school duties; expanding general mission of center for professional development to include assistance and support to regional and local education agencies in identifying and providing programs to meet local needs; establishing term limit for certain board members; requiring educators serving on center for professional development board be experienced educators with recognized knowledge, ability and performance in teaching or management; requiring that one of the three citizen members on the board be a representative of public higher education; providing for co-chairs of the center for professional development; making the executive director of center for professional development a will and pleasure employee of center for professional development board; directing executive director to chair the principals standards advisory council; requiring professional development project to cooperate and coordinate with the institutions of higher education to provide programs to aid teachers in meeting the requirements for additional endorsements; providing for the state board to certify certain professional staff development courses provided by center for professional development to meet the requirements if no agreement with higher education is reached; removing authorization for summer institutes in the principals academy and listing priorities for principal training; clarifying procedures for state board to file rules with legislative oversight commission on education accountability; and authorizing legislative oversight commission on education accountability to make recommendations to the state board and the Legislature regarding rules.

Be it enacted by the Legislature of West Virginia:

That sections five-a, twenty-three-a, and twenty-six, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said
article be further amended by adding thereto a new section, designated section five-e; that sections five and nine, article two-e of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five-c; that sections one, three, and four, article two-i of said chapter be amended and reenacted; that section eighteen-b, article five of said chapter be amended and reenacted; that article twenty of said chapter be further amended by adding thereto a new section, designated section one-d; that section twelve, article two, chapter eighteen-a of said code be amended and reenacted; that sections one and two-c, article three of said chapter be amended and reenacted; that sections one, two and two-b, article three-a of said chapter be amended and reenacted; and that section nine, article three-b, chapter twenty-nine-a of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5a. Board rules to be filed with Legislature.

The state board of education shall file twenty copies of any rule that it proposes to promulgate, adopt, amend or repeal under the authority of the constitution or of this code with the legislative oversight commission on education accountability pursuant to article three-b, chapter twenty-nine-a of this code. “Rule,” as used herein, means a regulation, standard, statement of policy, or interpretation of general application and future effect.

§18-2-5e. Higher education participation in development and use of public education assessments.

(a) It is the duty of the state board to consult with the duly selected representatives of public higher education appointed pursuant to subsection (b) of this section and to make full use of their expertise when developing assessment instruments to
be administered in the public schools. Among other things, the higher education representatives shall assist the state board in assuring that assessment instruments provide meaningful data to be used by higher education pursuant to subsection (d) of this section.

(b) The chancellor of the higher education policy commission shall appoint appropriate representatives from the system of public higher education to participate in the development of any assessment instruments required by rules of the state board to be administered in grades nine through twelve of the public schools of this state. It is the responsibility of these higher education representatives to assist the state board in developing assessments that test the knowledge and skills needed for success in postsecondary education.

(d) Not later than the school year beginning in two thousand five, the higher education policy commission shall require that each institution’s compact, as set forth in section two, article one-b, chapter eighteen-b of this code, includes provisions for incorporating the data generated by public education assessments into their decision making processes. The use of the data may include, but is not limited to, consideration as a factor in admission to postsecondary education, college placement, or determinations of necessity for remedial course work.

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

(a) Legislative intent — The intent of this section is to provide for the coordination of professional development programs by the state board and to promote high quality instructional delivery and management practices for a thorough and efficient system of schools.
(b) Goals — The state board annually shall establish goals for professional staff development in the public schools of the state. As a first priority, the state board shall require adequate and appropriate professional staff development to ensure high quality teaching that will enable students to achieve the content standards established for the required curriculum in the public schools.

The state board shall submit the goals to the state department of education, the center for professional development, the regional educational service agencies, the higher education policy commission and the legislative oversight commission on education accountability on or before the fifteenth day of January, each year.

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

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

(c) The center for professional development shall design a proposed professional staff development program plan to achieve the goals of the state board and shall submit the
proposed plan to the state board for approval as soon as possible following receipt of the state board goals each year.

The proposed plan shall include a strategy for evaluating the effectiveness of the professional staff development programs delivered under the plan and a cost estimate. The state board shall review the proposed plan and return it to the center for professional development noting whether the proposed plan is approved or is not approved, in whole or in part. If a proposed plan is not approved in whole, the state board shall note its objections to the proposed plan or to the parts of the proposed plan not approved and may suggest improvements or specific modifications, additions or deletions to address more fully the goals or eliminate duplication. If the proposed plan is not wholly approved, the center for professional development shall revise the plan to satisfy the objections of the state board. State board approval is required prior to implementation of the professional staff development plan.

(d) The state board approval of the proposed professional staff development plan shall establish a master plan for professional staff development which shall be submitted by the state board to the affected agencies and to the legislative oversight commission on education accountability. The master plan shall include the state board approved plans for professional staff development by the state department of education, the center for professional development, the state institutions of higher education and the regional educational service agencies to meet the professional staff development goals of the state board. The master plan also shall include a plan for evaluating the effectiveness of the professional staff development delivered through the programs and a cost estimate.

The master plan shall serve as a guide for the delivery of coordinated professional staff development programs by the state department of education, the center for professional development, the state institutions of higher education and the regional educational service agencies.
development, the state institutions of higher education and the
regional educational service agencies beginning on the first day
of June in the year in which the master plan was approved
through the thirtieth day of May in the following year: Pro-
vided, That nothing in this section shall prohibit changes in the
master plan, subject to state board approval, to address staff
development needs identified after the master plan was ap-
proved.

§18-2-26. Establishment of multicounty regional educational
service agencies; purpose; authority of state
board; governance; annual performance stan-
dards.

(a) Legislative intent — The intent of the Legislature in
providing for establishment of regional education service
agencies, hereinafter referred to in this section as agency or
agencies, is to provide for high quality, cost effective education
programs and services to students, schools and school systems.

Since the first enactment of this section in one thousand
nine hundred seventy-two, the focus of public education has
shifted from a reliance on input models to determine if educa-
tion programs and services are providing to students a thorough
and efficient education to a performance based accountability
model which relies on the following:

(1) Development and implementation of standards which
set forth the things that students should know and be able to do
as the result of a thorough and efficient education including
measurable criteria to evaluate student performance and
progress;

(2) Development and implementation of assessments to
measure student performance and progress toward meeting the
standards;
(3) Development and implementation of a system for holding schools and school systems accountable for student performance and progress toward obtaining a high quality education which is delivered in an efficient manner; and

(4) Development and implementation of a method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress.

(b) Purpose — In establishing the agencies the Legislature envisions certain areas of service in which the agencies can best assist the state board in implementing the standards based accountability model pursuant to subsection (a) of this section and, thereby, in providing high quality education programs. These areas of service include the following:

(1) Providing technical assistance to low performing schools and school systems;

(2) Providing high quality, targeted staff development designed to enhance the performance and progress of students in state public education;

(3) Facilitating coordination and cooperation among the county boards within their respective regions in such areas as cooperative purchasing; sharing of specialized personnel, communications and technology; curriculum development; and operation of specialized programs for exceptional children;

(4) Installing, maintaining and/or repairing education related technology equipment and software with special attention to the state level basic skills and SUCCESS programs;

(5) Receiving and administering grants under the provisions of federal and/or state law; and
(6) Developing and/or implementing any other programs or services as directed by law or by the state board.

(c) State board rule — The state board shall reexamine the powers and duties of the agencies in light of the changes in state level education policy that have occurred and shall establish multi-county regional educational service agencies by rule, promulgated in accordance with the provisions of article three-b, chapter twenty-nine-a of this code.

The rule shall contain all information necessary for the effective administration and operation of the agencies. In developing the rule, the state board may not delegate its constitutional authority for the general supervision of schools to the agencies, however, it may allow the agencies greater latitude in the development and implementation of programs in the service areas outlined in subsection (b) of this section with the exceptions of providing technical assistance to low performing schools and school systems and providing high quality, targeted staff development designed to enhance the performance and progress of students in state public education. These two areas constitute the most important responsibilities for the agencies.

The rule establishing the agencies shall be promulgated before the first day of November, two thousand two, and shall be consistent with the provisions of this section. It shall include, but is not limited to, the following procedures:

(1) Providing for a uniform governance structure for the agencies containing at least these elements:

(A) Selection by the state board of an executive director who shall be responsible for the administration of his or her respective agency. The rule shall provide for the state board to
consult with the appropriate regional council during the selection process;

(B) Development of a job description and qualifications for the position of executive director, together with procedures for informing the public of position openings and for taking and evaluating applications for these positions;

(C) Provisions for the agencies to employ other staff, as necessary, with the approval of the state board and upon the recommendation of the executive director: Provided, That prior to the first day of July, two thousand three, no person who is an employee of an agency on the effective date of this section may be terminated or have his or her salary and benefit levels reduced as the sole result of the changes made to this section or by state board rule;

(D) Appointment by the county boards of a regional council in each agency area consisting of representatives of county boards and county superintendents from within that area for the purpose of advising and assisting the executive director in carrying out his or her duties. The state board may provide for membership on the regional council for representatives from other agencies and institutions who have interest or expertise in the development or implementation of regional education programs; and

(E) Selection by the state superintendent of a representative from the state department of education to serve on each regional council. These representatives shall meet with their respective regional councils at least quarterly;

(2) Establishing statewide standards by the state board for service delivery by the agencies. These standards may be revised annually and shall include, but are not limited to,
programs and services to fulfill the purposes set forth in subsection (b) of this section;

(3) Establishing procedures for developing and adopting an annual basic operating budget for each agency and for other budgeting and accounting procedures as the state board may require;

(4) Establishing procedures to clarifying that agencies may acquire and hold real property;

(5) Dividing the state into appropriate, contiguous geographical areas and designating an agency to serve each area. The rule shall provide that each of the state’s counties is contained within a single service area and that all counties located within the boundaries of each agency, as determined by the state board, shall be members of that agency; and

(6) Such other standards or procedures as the state board finds necessary or convenient.

(d) Regional services — In furtherance of the purposes provided for in this section, the state board and the regional council of each agency shall continually explore possibilities for the delivery of services on a regional basis which will facilitate equality in the education offerings among counties in its service area, permit the delivery of high quality education programs at a lower per student cost, strengthen the cost effectiveness of education funding resources, reduce administrative and/or operational costs, including the consolidation of administrative, coordinating and other county level functions into region level functions, and promote the efficient administration and operation of the public school systems generally.

Technical, operational, programmatic or professional services are among the types of services appropriate for delivery on a regional basis.
(e) Virtual education — The state board, in conjunction with the various agencies, shall develop an effective model for the regional delivery of instruction in subjects where there exists low student enrollment or a shortage of certified teachers or where the delivery method substantially improves the quality of an instructional program. The model shall incorporate an interactive electronic classroom approach to instruction. To the extent funds are appropriated or otherwise available, county boards or regional educational service agencies may adopt and utilize the model for the delivery of the instruction.

(f) Computer information system — Each county board of education shall use the uniform integrated regional computer information system recommended by the state board for data collection and reporting to the state department of education. County boards of education shall bear the cost of and fully participate in the implementation of the system by using one of the following methods:

(1) Acquiring necessary, compatible equipment to participate in the regional computer information system; or

(2) Following receipt of a waiver from the state superintendent, operating a comparable management information system at a lower cost which provides at least all uniform integrated regional computer information system software modules and allows on-line, interactive access for schools and the county board office onto the statewide communications network. All data formats shall be the same as for the uniform integrated regional information system and will reside at the regional computer.

Any county granted a waiver shall receive periodic notification of any incompatibility or deficiency in its system. No county shall expand any system either through the purchase of additional software or hardware that does not advance the goals
and implementation of the uniform integrated regional computer information system as recommended by the state board.

(g) Reports and evaluations — Each agency shall submit to the state superintendent on such date and in such form as specified in the rules adopted by the state board a report and evaluation of the technical assistance and other services provided and utilized by the schools within each respective region and their effectiveness. Additionally, any school may submit an evaluation of the services provided by the agency to the state superintendent at any time. This report shall include an evaluation of the agency program, suggestions on methods to improve utilization and suggestions on the development of new programs and the enhancement of existing programs. The reports and evaluations submitted pursuant to this subsection shall be submitted to the state board and shall be made available upon request to the standing committees on education of the West Virginia Senate and House of Delegates and to the secretary of education and the arts.

(h) Funding sources — An agency may receive and disburse funds from the state and federal governments, from member counties, or from gifts and grants.

(i) Employee expenses — Notwithstanding any other provision of this code to the contrary, employees of agencies shall be reimbursed for travel, meals and lodging at the same rate as state employees under the travel management office of the department of administration.

A county board member may not be an employee of an agency.

(j) Meetings and compensation —

(1) Agencies shall hold at least one half of their regular meetings during hours other than those of a regular school day.
The executive director of each agency shall attend at least one meeting of each of the member county boards of education each year to explain the agency’s services, garner suggestions for program improvement and provide any other information as may be requested by the county board.

(2) Notwithstanding any other provision of this code to the contrary, county board members serving on regional councils may receive compensation at a rate not to exceed one hundred dollars per meeting attended, not to exceed fifteen meetings per year. County board members serving on regional councils may be reimbursed for travel at the same rate as state employees under the rules of the travel management office of the department of administration.

(k) **Computer installation, maintenance and repair** — Agencies shall serve as the lead agency for computer installation, maintenance and repair for the basic skills and SUCCESS computer programs. Each agency shall submit a quarterly status report on turn around time for computer installation, maintenance and repair to the state superintendent of schools who shall then submit a report to the legislative oversight commission on education accountability. The status report for turn around time for computer installation, maintenance and repair shall be based on the following suggested time schedules:

- Network File Servers ............... forty-eight hours
- Local Area Networks ............... forty-eight hours
- West Virginia Education Information System ............... twenty-four hours
- Computer Workstations ............. three to five days
- Printers ............................. three to five days
Other Peripherals ................. three to five days

Agencies also shall submit an audit report to the legislative oversight commission on education accountability each year.

(l) Professional development — Pursuant to the processes and provisions of section twenty-three-a, article two, chapter eighteen of this code, each agency shall provide coordinated professional development programs within its region to meet the professional development goals established by the state board.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

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

(a) Legislative findings, purpose and intent.

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

(A) Standards which set forth the things that students should know and be able to do as the result of a thorough and efficient education including measurable criteria to evaluate student performance and progress;

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

(C) A system for holding schools and school systems accountable for student performance and progress toward obtaining a high quality education which is delivered in an efficient manner; and
(D) A method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress.

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

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

(4) Therefore, the purpose of this section is to establish a process for improving education that includes the four primary elements as set forth in subdivision one of this subsection 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.
(5) The intent of the Legislature in enacting this section is to establish a process through which the Legislature, the governor and the state board can work in the spirit of cooperation and collaboration intended in the process for improving education to consult and examine, when necessary, the performance and progress of students, schools and school systems and consider alternative measures to ensure that all students continue to receive the thorough and efficient education to which they are entitled. However, nothing in this section requires any specific level of funding by the Legislature.

(b) Unified county and school improvement plans. — 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 rules shall specify that the unified school improvement plan shall include all appropriate plans required by law including, but not limited to the following:

(1) The report required to be delivered to the county-wide council on productive and safe schools pursuant to subsection (f), section two, article five-a of this chapter;

(2) Plans or applications required in the area of technology pursuant to 20 U.S.C. 6845, section seven, article two-e of this chapter, state board policy or rule or any other county, state or federal law;

(3) The strategic plan to manage the integration of special needs students as required by section five, article five-a, of this chapter; and

(4) the school based improvement plan set forth in the Elementary and Secondary Education Act pursuant to 29 U.S.C. §6301 et seq.
The plans are required to be included only to the extent permitted by state and federal law.

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

1. Curriculum;
2. 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 performance and progress;
12. School and school system performance and progress;
13. A code of conduct for students and employees;
14. Indicators of efficiency; and
15. Any other areas determined by the state board.
(d) *Performance measures.* — The standards shall assure that all graduates are prepared for gainful employment or for continuing post-secondary education and training and that schools and school systems are making progress in achieving the education goals of the state.

The standards shall include measures of student performance and progress and measures of school and school system performance, progress and processes that enable student performance. The measures of student performance and progress and school and school system performance, progress and processes shall include, but are not limited to, the following:

1. The acquisition of student proficiencies as indicated by student performance and progress by grade level measured, where possible, by a uniform statewide assessment program;
2. School attendance rates;
3. The student dropout rate;
4. The high school graduation rate;
5. The percentage of graduates who enrolled in college and the percentage of graduates who enrolled in other post-secondary education within one year following high school graduation;
6. The percentage of graduates who received additional certification of their skills, competence and readiness for college, other post-secondary education or employment above the level required for graduation; and
7. The percentage of students who enrolled in and the percentage of students who successfully completed advanced placement, dual credit and honors classes, respectively, by grade level.
(e) Indicators of efficiency. — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and periodically review and update indicators of efficiency for student and school system performance and processes in the following areas:

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

(2) Transportation;

(3) Facilities;

(4) Administrative practices;

(5) Personnel;

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

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

(f) Assessment and accountability of school and school system performance and processes. — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall establish by rule a system of education performance audits which measures the quality of education and the preparation of students based on the standards and measures of student, school and school system performance, progress 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, the Legislature and the governor 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 performance and progress, school and school system performance and progress, and the processes in place in schools and school systems which enable student performance and progress; (2) the review of school and school system unified improvement plans; and (3) the periodic on-site review of school and school system performance and progress and compliance with the standards.

(g) **Uses of school and school system assessment information.** — The state board and the process for improving education council established pursuant to section five-c of this article shall use information from the system of education performance audits to assist them in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance and progress. Information from the system of education performance audits further shall be used by the state board for these purposes, including, but not limited to, the following: (1) Determining school accreditation and school system approval status; (2) holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and (3) targeting additional resources when necessary to improve performance and progress. Primary emphasis in determining school accreditation and school system approval status is based on student performance and progress, school and school system performance and progress and such other measures as selected by the state board. The state board shall make accreditation information available to the Legislature, the governor, the general public and to any individuals who request the information, subject to the provisions of any act or rule restricting the release of information.
Based on the assessment of student, school and school system performance and progress, the state board shall establish early detection and intervention programs using the available resources of the department of education, the regional educational service agencies, the center for professional development and the principals academy, as appropriate, to assist underachieving schools and school systems to improve performance before conditions become so grave as to warrant more substantive state intervention. Assistance shall include, but is not limited to, providing additional technical assistance and programmatic, professional staff development, providing monetary, staffing and other resources where appropriate, and, if necessary, making appropriate recommendations to the process for improving education council.

(h) Office of education performance audits.

(1) To assist the state board and the process for improving education council in the operation of a system of education performance audits that will enable them to evaluate whether a thorough and efficient education is being provided, and to assist the state board 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.

(2) The office shall be headed by a director who shall be appointed by the state board and who 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.
(3) The state board shall organize and sufficiently staff the office to fulfill the duties assigned to it by law and by the state board. Employees of the state department of education who are transferred to the office of education performance audits retain their benefit and seniority status with the department of education.

(4) Under the direction of the state board, the office of education performance audits shall receive from the West Virginia education information system staff research and analysis data on the performance and progress of students, schools and school systems, and shall receive assistance, as determined by the state board, from staff at the state department of education, the regional education service agencies, the center for professional development, the principals academy and the state school building authority to carry out the duties assigned to the office.

(5) In addition to other duties which may be assigned to it by the state board or by statute, the office of education performance audits also shall:

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

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

(i) Processes for the accreditation of schools and the approval of school systems. These processes shall focus on those measurable criteria related to student performance and progress and to the delivery of instruction which will enable student performance and progress; and
(ii) Recommendations to the state board on appropriate action, including, but not limited to, accreditation and approval action;

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

(D) 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 and the process for improving education council;

(E) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the Legislature and the state board, and make recommendations to the state board, the process for improving education council, the center for professional development, the regional educational service agencies, the higher education policy commission, and the county boards;

(F) Identify, in conjunction with the assessment and accountability processes, exemplary schools and school systems and best practices that improve student, school and school system performance, and make recommendations to the state board and the process for improving education council 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; and

(G) Develop reporting formats, such as check lists, which shall be used by the appropriate administrative personnel in schools and school systems to document compliance with various of the applicable laws, policies and process standards as considered appropriate and approved by the state board, including, but not limited to, compliance with limitations on the number of pupils per teacher in a classroom and the number of split grade classrooms. Information contained in the reporting formats shall be examined during an on-site review to determine compliance with laws, policies and standards. Intentional and grossly negligent reporting of false information is ground for dismissal.

(i) On-site reviews.

(1) At the direction of the state board or by weighted selection by the office of education performance audits, an 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:

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

(B) Documenting compliance with policies and laws;

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

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

(F) Determining and reporting whether required reviews and inspections have been conducted by the appropriate agencies, including, but not limited to, the state fire marshal, the health department, the school building authority and the responsible divisions within the department of education, and whether noted deficiencies have been or are in the process of being corrected. The office of education performance audits may not conduct a duplicate review or inspection nor mandate more stringent compliance measures.

(2) The selection of schools and school systems for an on-site review shall use a weighted sample so that those with lower performance and progress indicators and those that have not had a recent on-site review have a greater likelihood of being selected. The director of the office of education performance audits shall notify the county superintendent of schools five school days prior to commencing an on-site review of the county school system and shall notify both the county superintendent and the principal five school days prior to commencing an on-site review of an individual school: Provided, That the state board may direct the office of education performance audits to conduct an unannounced on-site review of a school or school system if the state board believes circumstances warrant an unannounced on-site review.

(3) The office of education performance audits may conduct on-site reviews which are limited in scope to specific areas in addition to full reviews which cover all areas.

(4) An on-site review of a school or school system shall include a person or persons who has expert knowledge and
experience in the area or areas to be reviewed and who is designated by the state board from the department of education and the agencies responsible for assisting the office. If the size of the school or school system being reviewed necessitates the use of an on-site review team or teams, the person or persons designated by the state board shall advise and assist the director to appoint the team or teams. The person or persons designated by the state board shall be the team leaders.

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

(5) The office of education performance audits shall reimburse a county board for the costs of substitutes required to replace county board employees while they are serving on a review team.

(6) At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be present for at least the portion of the conference pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and the superintendent shall be provided the opportunity to be present.

(7) 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.
The report on the findings of an on-site review shall be submitted to the state board within thirty days following the conclusion of the on-site review and to the county superintendent and principals of schools within the reviewed school system within forty-five days following the conclusion of the on-site review. A copy of the report shall be provided to the process for improving education council.

(j) 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 one of the following approval levels: Exemplary accreditation status, full accreditation status, temporary accreditation status, conditional accreditation status, or seriously impaired status.

(1) Full accreditation status shall be given to a school when the school’s performance and progress on the standards adopted by the state board pursuant to subsections (c) and (d) of this section are at a level which would be expected when all of the high quality education standards are being met. A school which meets or exceeds the measures of student performance and progress set forth in subsection (d) of this section, and which does not have any deficiencies which would endanger student health or safety or other extraordinary circumstances as defined by the state board, shall remain on full accreditation status for six months following an on-site review in which other deficiencies are noted. The school shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

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

(5) The state board shall establish and adopt standards of performance and progress 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.

(A) These circumstances shall include, but are not limited to, the following:
(i) 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;

(ii) The failure of a school on conditional accreditation status to meet the objectives and time line of its revised unified school improvement plan; or

(iii) The failure of a school to achieve full accreditation by the date specified in the revised plan.

(B) 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. When the state board approves the recommendations, they shall be communicated to the county board. If progress in correcting 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 assist it in the following areas:

(i) Improving personnel management;

(ii) Establishing more efficient financial management practices;

(iii) Improving instructional programs and rules; or

(iv) Making any other improvements that are necessary to correct the impairment.

(C) If the impairment is not corrected by a date certain as set by the state board:
(i) The state board shall appoint a monitor who shall be paid at county expense to cause improvements to be made at the school to bring it to full accreditation status within a reasonable time period as determined by the state board. The monitor’s work location shall be at the school and the monitor shall work collaboratively with the principal. The monitor shall, at a minimum, report monthly to the state board on the measures being taken to improve the school’s performance and the progress being made. The reports may include requests for additional assistance and recommendations required in the judgment of the monitor to improve the school's performance, including, but not limited to, the need for targeting resources strategically to eliminate deficiencies;

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

(iii) If the impairment is not corrected within one year after the appointment of a monitor, the state board may make a determination, in its sole judgment, that continuing a monitor arrangement is not sufficient to correct the impairment and may intervene in the operation of the school 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, establishing instructional programs, taking such direct action as may be necessary to correct the impairments, declaring the position of principal is
vacant and assigning a principal for the school who shall serve
at the will and pleasure of and, under the sole supervision of,
the state board: Provided, That prior to declaring that the
position of the principal is vacant, the state board must make a
determination that all other resources needed to correct the
impairment are present at the school. If the principal who was
removed elects not to remain an employee of the county board,
then the principal assigned by the state board shall be paid by
the county board. If the principal who was removed elects to
remain an employee of the county board, then the following
procedure applies:

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

(II) The principal who was removed shall be placed on the
preferred recall list for all positions in the county for which the
principal is certified, as defined in section seven, article four of
this chapter; and

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

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

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

(k) Transfers from seriously impaired schools. — When-
ever a school is determined to be seriously impaired and fails to
improve its status within one year, any student attending the
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.

(1) 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,
progress and processes adopted by the state board and whose
schools have all been given full, temporary or conditional
accreditation status. A school system which meets or exceeds
the measures of student performance and progress set forth in
subsection (d) of this section, and which does not have any
deficiencies which would endanger student health or safety or
other extraordinary circumstances as defined by the state board,
shall remain on full accreditation status for six months follow-
ing an on-site review in which other deficiencies are noted. The
school shall have an opportunity to correct those deficiencies,
notwithstanding other provisions of this subsection.

(2) Temporary approval shall be given to a county board
whose education system is below the level required for full
approval. Whenever a county board is given temporary ap-
proval status, the county board shall revise its unified county
improvement plan to increase the performance and progress 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 which 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.

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

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

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

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

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

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

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

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

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

(m) 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 (l) of this section, if the state board finds the following:

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

(2) That the conditions precedent to intervention exist as provided in this section and that the state board had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.
(n) 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 process for improving education council, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making determinations on recommendations, the state board shall include, but is not limited to, the following methods:

1. Examining reports and unified improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;

2. Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard perfor-
mance and progress 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 progress 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, the principals academy, higher education, regional educational 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.
§18-2E-5c. Process for improving education council established; membership; expenses; meetings; powers.

(a) Process for improving education council — There is hereby established the process for improving education council for the purpose of providing opportunities for consultation among state policy leaders on the process for improving education, including, but not limited to, determination of the things that students should know and be able to do as the result of a thorough and efficient education, the performance and progress of students toward meeting the high quality standards established by the state board, and any further improvements necessary to increase the capacity of schools and school systems to deliver a thorough and efficient education.

(b) Council membership — The legislative oversight commission on education accountability, together with the governor, ex officio, or the governor’s designee, and the chancellor of the higher education policy commission, ex officio, or the chancellor’s designee, comprise the process for improving education council. Ex officio members are entitled to vote. The governor or the governor’s designee shall convene the council, as appropriate, and shall serve as chair. The council may meet at any time at the call of the governor or the governor’s designee.

(c) Compensation — Members of the council shall serve without compensation, but shall be reimbursed as provided by law by their respective agencies for all reasonable and necessary expenses actually incurred in the performance of their official duties under this section upon presentation of an itemized sworn statement of their expenses.

(d) Powers of the council.

The council has the following powers:
(1) To meet and consult with the state board, or their designees, and make recommendations on issues related to student, school and school system performance. The following steps are part of the consultation process:

(A) The state board shall notify each member of the council whenever the state board proposes to amend its rules on any of the following issues:

(i) High quality education standards and efficiency standards established pursuant to section five of this article;

(ii) Indicators of efficiency established pursuant to section five of this article; and

(iii) Assessment and accountability of school and school system performance and processes established pursuant to section five of this article.

(B) If the governor, or the governor’s designee, believes it is necessary for the council to meet and consult with the state board, or its designees, on changes proposed to any of the issues outlined in subdivision one of this subsection, he or she may convene a meeting of the council.

(C) If both the president of the Senate and the speaker of the House of Delegates believe it is necessary for the council to meet and consult with the state board, or its designees, they shall notify the governor who shall convene a meeting of the council.

(D) If the chancellor, or the chancellor’s designee, believes that it is necessary for the council to meet and consult with the state board, or its designees, he or she may request the governor to convene a meeting of the council.
(2) To require the state board, or its designees, to meet with
the council to consult on issues that lie within the scope of the
council’s jurisdiction;

(3) To participate as observers in any on-site review of a
school or school system conducted by the office of education
performance audits; and

(4) To authorize any employee of the agencies represented
by council members to participate as observers in any on-site
review of a school or school system conducted by the office of
education performance audits.


(a) Findings: — The Legislature finds that:

(1) West Virginia schools have improved and expanded
internet access which enables schools to offer courses through
the internet and other new and developing technologies;

(2) Current technology is available to provide students with
more resources for learning and new and developing technolo-
gies offer even more promise for expanded learning opportuni-
ties;

(3) A number of states and other jurisdictions have devel-
oped internet-based instruction which is available currently and
which is being used by schools in this state;

(4) To educate better the students of West Virginia, more
course and class offerings can be made available through
technology, especially to students who are geographically
disadvantaged;

(5) Virtual learning enables students to learn from remote
sites, learn at times other than the normal school day and learn
at a different pace and gives students access to courses that would not be available in their area;

(6) There is a need to assure that internet-based courses and courses offered through new and developing technologies are of high quality; and

(7) The state and county school systems can benefit from the purchasing power the state can offer.

(b) The Legislature hereby creates the West Virginia virtual school. The West Virginia virtual school shall be located within the office of technology and information systems within the West Virginia department of education.

(c) The state superintendent of schools shall appoint the director of the West Virginia virtual school with the approval of the state board.

(d) The director of the West Virginia virtual school has the following powers and duties:

(1) To contract with providers for courses and other services;

(2) To review courses and courseware and make determinations and recommendations relative to the cost and quality of the courses and the alignment with the instructional goals and objectives of the state board;

(3) To develop policy recommendations for consideration by the state board, which may include, but not be limited to, the following:

(A) Hardware and software considerations for the offering of courses on the internet or other developing technologies;
(B) Standards of teachers and other school employees who are engaged in the activities surrounding the offering of courses on the internet or other developing technologies;

(C) Sharing of resources with other agencies of government, both within and outside West Virginia, to facilitate the offering of courses on the internet or other developing technologies;

(D) Methods for including courses offered on the internet or through other developing technologies in alternative education programs;

(E) Methods for making courses offered on the internet or through other developing technologies available for students receiving home instruction;

(F) Methods for brokering the courses offered on the internet or through other developing technologies;

(G) Methods for applying for grants;

(H) Methods for employing persons who are the most familiar with the instructional goals and objectives to develop the courses to be offered on the internet and through other developing technologies; and

(I) Proper funding models that address all areas of funding including, but not limited to, which county, if any, may include a student receiving courses on the internet or through other developing technologies in enrollment and who, if anyone, is required to pay for the courses offered on the internet or through other developing technologies; and

(4) Any other powers and duties necessary to address the findings of the Legislature in subsection (a) of this section.
(e) Subject to the process outlined in this section, the West Virginia virtual school’s approved virtual and distance learning courses are exempt from the mandatory use of primary source instructional materials listed on the state multiple list.

(f) The West Virginia department of education shall report the progress of the West Virginia virtual school to the legislative oversight commission on education accountability on or before the first day of September, two thousand.

ARTICLE 21. STAFF DEVELOPMENT COUNCILS.

§18-21-1. Legislative purpose.

The purpose of this article is to create the West Virginia professional staff development advisory council and eight regional professional staff development councils to advise and assist the state board with ensuring the coordination and quality of professional staff development programs that address locally identified needs for professional staff development and meet the goals for professional staff development established by the state board.

§18-21-3. Creation of West Virginia professional staff development advisory council; members; and functions.

(a) There shall be a West Virginia professional staff development advisory council which shall consist of the following members:

(1) The chairpersons of each of the eight regional staff development councils established in section five of this article;

(2) The coordinators of each of the eight regional educational service agency staff development councils;
§ 18-21-4. Functions of the West Virginia professional staff development advisory council.

The council shall advise and assist the state board in all phases of developing or amending the goals for professional staff development required by subsection (b) of this section. Advice and assistance shall include, but is not limited to the following:

(a) Reporting to the state board on the professional staff development needs identified by the public schools within the respective regions;
(b) Recommending effective professional staff development programs to meet identified needs;

(c) Providing local input on the proposed goals and on the professional staff development plan proposed by the center for professional development pursuant to subsection (c) of this section;

(d) Communicating professional staff development information and findings to the regional and county staff development councils; and

(e) Advancing the coordination and quality of professional staff development programs in the public schools of West Virginia.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18b. School counselors in public schools.

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with article three of this chapter.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may provide consultant services for parents, teachers and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.
(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the “National Standards for School Counseling Programs” of the American school counselor association. A school counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive dropout prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel, shall spend at least seventy-five percent of work time in a direct counseling relationship with pupils, and shall devote no more than one fourth of the work day to administrative activities: Provided, That such activities are counselor related.

(g) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-1d. Adoption of a state model for individualized education program.

The state board shall adopt a basic model for individualized education programs to be used by all special education teachers throughout the public schools of the state when preparing individualized education programs for students with exceptional needs.
The model shall comply with, but may not exceed, all state laws and federal laws, policies, rules, and regulations relating to providing education services to students with exceptional needs and shall include instructions for adapting the model to specific exceptionalities.

No professional educator may be required to prepare or implement an individualized education program which exceeds the requirements of federal and state laws, policies, rules or regulations.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-12. Performance evaluations of school personnel; professional personnel evaluation process.

(a) The state board of education shall adopt a written system for the evaluation of the employment performance of personnel, which system shall be applied uniformly by county boards of education in the evaluation of the employment performance of personnel employed by the board.

(b) The system adopted by the state board of education for evaluating the employment performance of professional personnel shall be in accordance with the provisions of this section.

(c) For purposes of this section, “professional personnel” “professional” or “professionals”, means professional personnel as defined in section one, article one of this chapter.

(d) In developing the professional personnel performance evaluation system, and amendments thereto, the state board shall consult with the professional development project of the center for professional development created in section three,
article three-a of this chapter. The center shall participate actively with the state board in developing written standards for evaluation which clearly specify satisfactory performance and the criteria to be used to determine whether the performance of each professional meets such standards.

(e) The performance evaluation system shall contain, but shall not be limited to, the following information:

(1) The professional personnel positions to be evaluated, whether they be teachers, substitute teachers, administrators, principals, or others;

(2) The frequency and duration of the evaluations, which shall be on a regular basis and of such frequency and duration as to insure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn: Provided, That for school personnel with five or more years of experience, who have not received an unsatisfactory rating, evaluations shall be conducted no more than once every three years unless the principal determines an evaluation for a particular school employee is needed more frequently; Provided, however, That a classroom teacher may exercise the option of being evaluated at more frequent intervals.

(3) The evaluation shall serve the following purposes:

(A) Serve as a basis for the improvement of the performance of the personnel in their assigned duties;

(B) Provide an indicator of satisfactory performance for individual professionals;

(C) Serve as documentation for a dismissal on the grounds of unsatisfactory performance; and
(D) Serve as a basis for programs to increase the professional growth and development of professional personnel;

(4) The standards for satisfactory performance for professional personnel and the criteria to be used to determine whether the performance of each professional meets such standards and other criteria for evaluation for each professional position evaluated. Effective the first day of July two thousand three and thereafter, professional personnel, as appropriate, shall demonstrate competency in the knowledge and implementation of the technology standards adopted by the state board. If a professional fails to demonstrate competency, in the knowledge and implementation of these standards, he or she will be subject to an improvement plan to correct the deficiencies; and

(5) Provisions for a written improvement plan, which shall be specific as to what improvements, if any, are needed in the performance of the professional and shall clearly set forth recommendations for improvements, including recommendations for additional education and training during the professional’s recertification process.

(f) A professional whose performance is considered to be unsatisfactory shall be given notice of deficiencies. A remediation plan to correct deficiencies shall be developed by the employing county board of education and the professional. The professional shall be given a reasonable period of time for remediation of the deficiencies and shall receive a statement of the resources and assistance available for the purposes of correcting the deficiencies.

(g) No person may evaluate professional personnel for the purposes of this section unless the person has an administrative certificate issued by the state superintendent and has successfully completed education and training in evaluation skills
through the center for professional development, or equivalent education training approved by the state board, which will enable the person to make fair, professional, and credible evaluations of the personnel whom the person is responsible for evaluating. After the first day of July, one thousand nine hundred ninety-four, no person may be issued an administrative certificate or have an administrative certificate renewed unless the state board determines that the person has successfully completed education and training in evaluation skills through the center for professional development, or equivalent education and training approved by the state board.

(h) Any professional whose performance evaluation includes a written improvement plan shall be given an opportunity to improve his or her performance through the implementation of the plan. If the next performance evaluation shows that the professional is now performing satisfactorily, no further action may be taken concerning the original performance evaluation. If the evaluation shows that the professional is still not performing satisfactorily, the evaluator either shall make additional recommendations for improvement or may recommend the dismissal of the professional in accordance with the provisions of section eight of this article.

(i) Lesson plans are intended to serve as a daily guide for teachers and substitutes for the orderly presentation of the curriculum. Lesson plans may not be used as a substitute for observations by an administrator in the performance evaluation process. A classroom teacher, as defined in section one, article one of this chapter, may not be required to include in his or her lesson plans any of the following:

(1) Teach and reteach strategies;

(2) Write to learn activities;
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108 (3) Cultural diversity;

109 (4) Color coding; or

110 (5) Any other similar items which are not required to serve
111 as a guide to the teacher or substitute for daily instruction; and

112 (j) The Legislature finds that classroom teachers must be
113 free of unnecessary paper work so that they can focus their time
114 on instruction. Therefore, classroom teachers may not be
115 required to keep records or logs of routine contacts with parents
116 or guardians.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL
DEVELOPMENT.

§18A-3-1. Teacher preparation programs; program approval and
standards; authority to issue teaching certificates.

1 (a) The education of professional educators in the state shall
2 be under the general direction and control of the state board of
3 education after consultation with the secretary of education and
4 the arts and the chancellor of the higher education policy
5 commission, who shall represent the interests of teacher
6 preparation programs within the institutions of higher education
7 in this state as those institutions are defined in section two,
8 article one, chapter eighteen-b of this code.

9 The education of professional educators in the state
10 includes all programs leading to certification to teach or serve
11 in the public schools including: (1) Those programs in all
12 institutions of higher education, including student teaching in
13 the public schools; (2) beginning teacher internship programs;
14 (3) the granting of West Virginia certification to persons who
15 received their preparation to teach outside the boundaries of this
16 state; (4) any alternative preparation programs in this state
17 leading to certification, including programs established pursu-
ant to the provisions of section one-a of this article and pro-
grams which are in effect on the effective date of this section;
and (5) any continuing professional education, professional
development and in-service training programs for professional
educators employed in the public schools in the state.

(b) The state board of education, after consultation with the
secretary of education and the arts and the chancellor of the
higher education policy commission, who shall represent the
interests of teacher preparation programs within the institutions
of higher education in this state as those institutions are defined
in section two, article one, chapter eighteen-b of this code, shall
adopt standards for the education of professional educators in
the state and for the awarding of certificates valid in the public
schools of this state subject to the following conditions:

(1) The standards approved by the board for teacher
preparation shall include a provision for the study of multicultu-
ral education. As used in this section, multicultural education
means the study of the pluralistic nature of American society
including its values, institutions, organizations, groups, status
positions and social roles.

(2) Effective the first day of January, one thousand nine
hundred ninety-three, the standards approved by the board shall
also include a provision for the study of classroom management
techniques and shall include methods of effective management
of disruptive behavior which shall include societal factors and
their impact on student behavior.

(c) To give prospective teachers the teaching experience
needed to demonstrate competence as a prerequisite to certifica-
tion, the state board of education may enter into an agreement
with county boards for the use of the public schools. Such
agreement shall recognize student teaching as a joint responsi-
bility of the teacher preparation institution and the cooperating
public schools and shall include: (1) The minimum qualifications for the employment of public school teachers selected as supervising teachers; (2) the remuneration to be paid public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers; and (3) minimum standards to guarantee the adequacy of the facilities and program of the public school selected for student teaching. The student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher.

(d) The state superintendent of schools may issue certificates to graduates of teacher education programs and alternative teacher education programs approved by the state board of education and in accordance with rules adopted by the state board after consultation with the secretary of education and the arts and the chancellor of the higher education policy commission. A certificate to teach shall not be granted to any person who is not a citizen of the United States, is not of good moral character and physically, mentally and emotionally qualified to perform the duties of a teacher and who has not attained the age of eighteen years on or before the first day of October of the year in which his or her certificate is issued; except that an exchange teacher from a foreign country, or an alien person who meets the requirements to teach, may be granted a permit to teach within the public schools of the state.

(e) In consultation with the secretary of education and the arts and the chancellor of the higher education policy commission institutions of higher education approved for teacher preparation may cooperate with each other, with the center for professional development and with one or more county boards in the organization and operation of centers to provide selected phases of the teacher preparation program such as student teaching, beginning teacher internship programs, instruction in methodology and seminar programs for college students,
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84 teachers with provisional certification, professional support
85 team members and supervising teachers.

86 The institutions of higher education, the center for profes-
87 sional development and county boards may by mutual agree-
88 ment budget and expend funds for the operation of the centers
89 through payments to the appropriate fiscal office of the partici-
90 pating institutions, the center for professional development and
91 the county boards.

92 (f) The provisions of this section shall not be construed to
93 require the discontinuation of an existing student teacher
94 training center or school which meets the standards of the state
95 board of education.

96 (g) All institutions of higher education approved for teacher
97 preparation in the school year of one thousand nine hundred
98 sixty-two—sixty-three shall continue to hold that distinction so
99 long as they meet the minimum standards for teacher prepara-
100 tion. Nothing contained herein shall infringe upon the rights
101 granted to any institution by charter given according to law
102 previous to the adoption of this code.

§18A-3-2c. Training through the principals academy.

1 (a) Principal training and professional development
2 required. — After the effective date of this section and subject
3 to the provisions of subsection (c) of this section, every
4 principal shall complete training and professional development
5 through the principals academy as provided in subsection (b) of
6 this section.

7 (b) Principal training and professional development
8 through the academy. — The academy and the persons required
9 to complete training and professional development through the
10 academy shall adhere to the following guidelines:
(1) All persons assigned as a principal for the first time in a West Virginia school after the first day of July, two thousand two, shall complete specialized training and professional development for newly appointed principals through the academy within the first twelve months following assignment;

(2) All principals of schools which have been designated as seriously impaired, in accordance with section five, article two-e, chapter eighteen of this code, shall complete specialized training and professional development through the academy specifically designed to assist the principal to improve school performance commencing as soon as practicable following receipt of the designation.

(3) All principals who are subject to an improvement plan, in accordance with section twelve, article two of this chapter, shall complete specialized training and professional development through the academy specifically designed for principals subject to an improvement plan. The specialized training and professional development shall be completed within twelve months from the date that the principal is first subject to the improvement plan;

(4) All principals who transfer to a school with a significantly different grade configuration shall complete specialized training and professional development for principals in schools with the grade configuration to which they transferred through the academy within the first twelve months following transfer; and

(5) All persons serving as school principals shall complete training and professional development through the academy designed to build the qualities, proficiencies and skills required of all principals as determined by the state board.

(c) Academy and requirements to complete training and professional development subject to funding. — The requirement that principals complete training and professional develop-
opment through the academy shall be subject to the availability
of funds for the principals academy from legislative appropri-
ation and from other sources. If these funds are insufficient to
provide for the total cost of the training and professional
development required by subsection (b) of this section, then the
academy shall provide training and professional development
for the persons described in subdivisions (1) through (5), of
subsection (b) according to the priority in which the subdivi-
sions appear in that subsection. If such funds are insufficient to
provide for the training and professional development of all the
persons described in one or more of subdivisions (1) through
(5), subsection (b) of this section, the academy is authorized to
determine which persons described within the subdivision or
subdivisions shall be admitted and which shall not be admitted:
Provided, That the principals academy shall make every effort
to ensure that all principals receive training and professional
development through the academy at least once every six years
effective the first day of July, two thousand two and thereafter:
Provided, however, That nothing in this section shall be
construed to require any specific level of funding by the
Legislature.

(d) Principals standards advisory council. — To assist the
state board in the performance of the duties described in
subsection (e) of this section, there is hereby created a “Princi-
pals Standards Advisory Council,” which shall consist of nine
persons, as follows: The executive director of the center for
professional development, who shall serve as the ex officio
chair; three principals, one from an elementary school and one
from a middle school or a junior high school selected by the
West Virginia association of elementary and middle school
principals, and one from a high school selected by the West
Virginia association of secondary school principals; one county
school superintendent selected by the West Virginia association
of school administrators; and two representatives from higher
education who teach in principal preparation programs selected by the teacher education advisory council; and two citizen representatives who are knowledgeable on issues addressed in this section, appointed by the governor. Members of the principals standards advisory council who are public employees shall be granted release time from their employment for attending meetings of the council. Members may be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties by the center for professional development. The terms of all members appointed to the principals standards advisory council under the prior enactment of this section shall terminate on the thirty-first day of August, two thousand two. The principals standards advisory council as amended on the effective date of this section shall become effective on the first day of September, two thousand two.

(e) Establishment of standards. — On or before the first day of October, one thousand nine hundred ninety-six, the state board shall approve and promulgate rules regarding the minimum qualities, proficiencies and skills that will be required of principals after the first day of January, one thousand nine hundred ninety-seven. The state board shall promulgate and may from time to time amend such rules after consultation with the principals standards advisory council created in subsection (d) of this section. The rules promulgated by the state board shall address at least the following:

(1) Staff relations, including, but not limited to, the development and use of skills necessary to make a positive use of faculty senates, manage faculty and staff with courtesy and mutual respect, coach and motivate employees, and build consensus as a means of management;

(2) School community leadership qualities, including, but not limited to, the ability to organize and leverage community initiative, communicate effectively, work effectively with local
school improvement councils, manage change, resolve conflict
and reflect the highest personal values;

(3) Educational proficiencies, including, but not limited to,
knowledge of curriculum, instructional techniques, student
learning styles, student assessment criteria, school personnel
performance, evaluation skills and family issues; and

(4) Administrative skills, including, but not limited to,
organizational, fiscal, public policy and total quality manage-
ment skills and techniques.

(f) Waivers. — Any person desiring to be relieved of the
requirements of all or any part of this section may apply in
writing to the state board for a waiver. Upon a showing of
reasonable cause why relief should be granted, the state board
may grant a waiver, upon such terms and conditions as the state
board shall determine proper, as to all or any part of this
section.

(g) Failure to comply. — Any person who fails or refuses
to complete training and professional development through the
academy, as required by the provisions of this section, and who
fails to obtain a waiver, as described in subsection (f) of this
section, shall be ineligible to be employed as, or serve in the
capacity of, a principal.

(h) Tracking of requirement. — On or before the first day
of January, one thousand nine hundred ninety-seven, the state
board shall establish a system to track the progress of each
person required to complete training through the academy and
shall regularly advise such persons of their progress.

(i) Payment of reasonable and necessary expenses and
stipends. — The center for professional development shall
reimburse persons attending the academy for reasonable and
necessary expenses. A person may not be required to complete
training and professional development through the principals academy before the fifteenth day of September and after the first day of June of the school year. The center for professional development shall utilize alternative methods of instructional delivery and scheduling, including electronic delivery, as considered appropriate to minimize the amount of time principals completing training and professional development through the academy are required to be away from their school duties. Nothing in this section shall be construed to require any specific level of funding by the Legislature.

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

§18A-3A-1. Center for professional development established; intent and mission; principals academy curriculum and expenses; authorization to charge fees.

(a) Teaching is a profession that directly correlates to the social and economic well-being of a society and its citizens. Superior teaching is essential to a well educated and productive populace. Strong academic leadership provided by principals and administrators skilled in modern management principles is also essential. The intent of this article is to recognize the value of professional involvement by experienced educators, principals and administrators in building and maintaining a superior force of professional educators and to establish avenues for applying such involvement.

(b) The general mission of the center is to advance the quality of teaching and management in the schools of West Virginia through (1) the implementation primarily of statewide training, professional staff development and technical assistance programs and practices as recommended by the state board to assure the highest quality of teaching and management; and (2) the provision of technical and other assistance and support to regional and local education agencies in identifying and providing high quality professional staff development
and training programs and implementing best practices to meet their locally identified needs. The center also may implement local programs if the state board, in its master plan for professional staff development established pursuant to section twenty-three-a, article two, chapter eighteen of this code, determines that there is a specific local need for the programs. Additionally, the center shall perform such duties as are assigned to it by law.

Nothing in this article shall be construed to require any specific level of funding by the Legislature.

(c) The center board shall consist of eleven persons as follows: The secretary of education and the arts, ex officio, and the state superintendent of schools, ex officio, both of whom shall be entitled to vote; three members of the state board, elected by the state board; three experienced educators, of whom two shall be working classroom teachers, and one of whom shall be a school or county administrator appointed by the governor by and with the advice and consent of the Senate, all of whom shall be experienced educators who have achieved recognition for their superior knowledge, ability and performance in teaching or management, as applicable; and three citizens of the state, one of whom shall be a representative of public higher education, and all of whom shall be knowledgeable in matters relevant to the issues addressed by the center, including, but not limited to, professional development and management principles, appointed by the governor by and with the advice and consent of the Senate. Not more than two appointees shall be residents within the same congressional district. The center board shall be cochaired by the secretary of education and the arts and the state superintendent.

All successive elections shall be for two-year terms. Members elected from the state board may serve no more than two consecutive two-year terms. The state board shall elect
another member to fill the unexpired term of any person so
elected who subsequently vacates state board membership. Of
the initial appointed members, three shall be appointed for one-
year terms and three shall be appointed for two-year terms. All
successive appointments shall be for two-year terms. An
experienced educator may serve no more than two consecutive
two-year terms. The governor shall appoint a new member to
fill the unexpired term of any vacancy in the appointed mem-
bership.

(d) The center for professional development board shall
meet at least quarterly and the appointed members shall be
reimbursed for reasonable and necessary expenses actually
incurred in the performance of their official duties from funds
appropriated or otherwise made available for such purposes
upon submission of an itemized statement therefor.

(e) From appropriations to the center for professional
development, the center board shall employ and fix the com-
pensation of an executive director with knowledge and experi-
ence in professional development and management principles
and such other staff as may be necessary to carry out the
mission and duties of the center. The executive director shall
serve at the will and pleasure of the center board. The executive
director of the center also shall serve as the chair of the prin-
cipals standards advisory council created in section two-c, article
three of this chapter, and shall convene regular meetings of this
council to effectuate the purposes of this council.

When practicable, personnel employed by state higher
education agencies and state, regional and county public
education agencies shall be made available to the center to
assist in the operation of projects of limited duration.

(f) The center shall assist in the delivery of programs and
activities pursuant to this article to meet statewide, and if
needed as determined by the goals and master plan for professional staff development established by the state board pursuant to section twenty-three-a, article two, chapter eighteen of this code, the local professional development needs of teachers, principals and administrators and may contract with existing agencies or agencies created after the effective date of this section or others to provide training programs in the most efficient manner. Existing programs currently based in agencies of the state shall be continued in the agency of their origin unless the center establishes a compelling need to transfer or cancel the existing program. The center shall recommend to the governor the transfer of funds to the providing agency, if needed, to provide programs approved by the center.

(g) The center for professional development shall implement training and professional development programs for the principals academy based upon the minimum qualities, proficiencies and skills necessary for principals in accordance with the standards established by the state board pursuant to the terms of section two-c, article three of this chapter.

(h) In accordance with section two-c, article three of this chapter, the center shall be responsible for paying reasonable and necessary expenses for persons attending the principals academy: Provided, That nothing in this section shall be construed to require any specific level of funding by the Legislature.

(i) Persons attending the professional development offerings of the center and such other courses and services as shall be offered by the center for professional development, except the principals academy shall be assessed fees which shall be less than the full cost of attendance. There is hereby created in the state treasury a special revenue account known as the “center for professional development fund”. All moneys collected by the center shall be deposited in the fund for
expenditure by the center board for the purposes specified in this section. Moneys remaining in the fund at the end of the fiscal year are subject to reappropriation by the Legislature.

§18A-3A-2. Professional development project.

Subject to the provisions of section twenty-three-a, article two, chapter eighteen of this code, through this project the center shall:

(1) Identify, coordinate, arrange and otherwise assist in the delivery of professional development programs and activities that help professional educators acquire the knowledge, skills, attitudes, practices and other such pertinent complements deemed essential for an individual to demonstrate appropriate performance as a professional personnel in the public schools of West Virginia. The basis for such performance shall be the laws, policies and regulations adopted for the public schools of West Virginia, and amendments thereto. The center also may permit and encourage school personnel such as classroom aides, higher education teacher education faculty and higher education faculty in programs such as articulated tech prep associate degree and other programs to participate in appropriate professional development programs and activities with public school professional educators;

(2) Identify, coordinate, arrange and otherwise assist in the delivery of professional development programs and activities that help principals and administrators acquire knowledge, skills, attitudes and practices in academic leadership and management principles for principals and administrators and such other pertinent complements deemed essential for principals and administrators to demonstrate appropriate performance in the public schools of West Virginia. The basis for such performance shall be the laws, policies and regulations adopted
(3) Serve in a coordinating capacity to assure that the knowledge, skills, attitude and other pertinent complements of appropriate professional performance which evolve over time in the public school environment are appropriately reflected in the programs approved for the education of professional personnel, including, but not limited to, advising the teacher education programs of major statutory and policy changes in the public schools which affect the job performance requirements of professional educators, including principals and administrators;

(4) Provide for the routine updating of professional skills of professional educators, including principals and administrators, through in-service and other programs. Such routine updating may be provided by the center through statewide or regional institutes which may require a registration fee;

(5) Provide consultation and assistance to county staff development councils established under the provisions of section eight, article three of this chapter in planning, designing, coordinating, arranging for and delivering professional development programs to meet the needs of the professional educators of their district. From legislative appropriations to the center for professional development, exclusive of such amounts required for the expenses of the principals academy, the center shall, unless otherwise directed by the Legislature, provide assistance in the delivery of programs and activities to meet the expressed needs of the school districts for professional development to help teachers, principals and administrators demonstrate appropriate performance based on the laws, policies and regulations adopted for the public schools of West Virginia; and
(6) Cooperate and coordinate with the institutions of higher education to provide professional staff development programs that satisfy some or all of the criteria necessary for currently certified professional educators to meet the requirements for an additional endorsement in an area of certification and for certification to teach in the middle school grades.

If the center is not able to reach agreement with the representatives of the institutions providing teacher education programs on which courses will be approved for credit toward additional endorsements, the state board may certify certain professional staff development courses to meet criteria required by the state board. This certification shall be done on a course by course basis.


There is hereby established within the center for professional development the “Principals Academy”. Training through the principals academy shall include at least the following:

(a) Training designed to build within principals the minimum qualities, proficiencies and skills that will be required of all principals pursuant to the rules of the state board;

(b) Specialized training and professional development programs for all principals; and

(c) Specialized training and professional development programs for the following principals:

(1) Newly appointed principals;

(2) Principals whose schools have been designated as seriously impaired, which programs shall commence as soon as practicable following the designation;
(3) Principals subject to improvement plans; and

(4) Principals of schools with significantly different grade level configurations.

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES ACT.

ARTICLE 3B. STATE BOARD OF EDUCATION RULE MAKING.

§29A-3B-9. Submission of legislative rules to the legislative oversight commission on education accountability.

(a) When the board proposes a legislative rule, the board shall submit to the legislative oversight commission on education accountability at its offices or at a regular meeting of the commission twenty copies of (1) the full text of the legislative rule as proposed by the board and filed with the office of the secretary of state, with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible; (2) a brief summary of the content of the legislative rule and a description and a copy of any existing rule which the agency proposes to amend or repeal; (3) a statement of the circumstances which require the rule; (4) a fiscal note containing all information included in a fiscal note for either house of the Legislature and a statement of the economic impact of the rule on the state or its residents; and (5) any other information which the commission may request or which may be required by law.

(b) The commission shall review each proposed legislative rule and, in its discretion, may hold public hearings thereon. Such review shall include, but not be limited to, a determination of:

(1) Whether the board has exceeded the scope of its statutory authority in approving the proposed legislative rule;
(2) Whether the proposed legislative rule is in conformity with the legislative intent of the statute which the rule is intended to implement, extend, apply, interpret or make specific;

(3) Whether the proposed legislative rule conflicts with any other provision of this code or with any other rule adopted by the same or a different agency;

(4) Whether the proposed legislative rule is necessary to fully accomplish the objectives of the statute under which the proposed rule was promulgated;

(5) Whether the proposed legislative rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it;

(6) Whether the proposed legislative rule could be made less complex or more readily understandable by the general public; and

(7) Whether the proposed legislative rule was promulgated in compliance with the requirements of this article and with any requirements imposed by any other provision of this code.

(c) After reviewing the legislative rule, the commission may recommend to the board any changes needed to comply with the legislative intent of the statute upon which the rule is based or otherwise to modify the activity subject to the rule, or may make any other recommendations to the board as it considers appropriate.

(d) When the board finally adopts a legislative rule, the board shall submit to the legislative oversight commission on education accountability at its offices or at a regular meeting of the commission six copies of the rule as adopted by the board. After reviewing the legislative rule, the commission may
Recommend to the Legislature any statutory changes needed to clarify the legislative intent of the statute upon which the rule is based or may make any other recommendations to the Legislature as it considers appropriate.
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 July 1, 2002.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 15th day of March, 2002.

Governor