WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

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ENROLLED

House Bill No. 4111

(By Delegates Mezzatesta and Williams)

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Passed January 23, 2004

In Effect from Passage
AN ACT to amend and reenact §18-2E-5 of the code of West Virginia, 1931, as amended; and to amend and reenact §18-5-7a of said code, all relating to education; state board of education; county boards of education; modifying powers and authorities; legislative findings, purpose and intent; process for improving education; education standards and accountability measures; office of education performance audits; school accreditation and school system approval; intervention to correct impairments; and disposition of school property in flood control projects.

Be it enacted by the Legislature of West Virginia:

That §18-2E-5 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that §18-5-7a of said code be amended and reenacted, all to read as follows:

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 (1) 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
uniformed county improvement plan for each county board and a
uniformed school improvement plan for each public school in this
state. The rules shall specify that the uniformed school improve-
ment 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.
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168 (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 perfor-
mance 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 deter-
mine 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
(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.
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(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. — Whenever 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.

(l) 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 communi-
cated to the county board. If progress in correcting the emer-
gency, as determined by the state board, is not made within six
months from the time the county board receives the recommen-
dations, 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 author-
ity to conduct hearings on personnel matters and school closure
or consolidation matters and, subsequently, to render the
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;

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

(v) 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 performance 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.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-7a. Disposition of school property in flood control projects.

(a) If at any time the board ascertains that any land or part thereof then being used for school purposes is to be included in any federal flood control project the board may:

(1) Sell, dismantle, remove or relocate any buildings thereon;

(2) Contract with the United States of America, or any instrumentality, agency or political subdivision thereof, for the
sale or exchange of its interest in the land or any part thereof; and

(3) Without auction sell or exchange its interest in the land or any part thereof to the United States of America, or any instrumentality, agency or political subdivision thereof, in accordance with the terms and provisions of the contract.

(b) If the flood control project is proposed in a county where the state board of education has intervened in the operation of the county school system pursuant to the provisions of section five, article two-e of this chapter or any other constitutional or statutory authority to intervene, the powers granted in this section are vested in the state board.

(c) Notwithstanding the provisions of section seven of this article, neither the grantor of the land or any part thereof nor his heirs or assigns has the right to purchase the land or any part thereof or have any other rights whatever under section seven of this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

[Signature]

Chairman House Committee

[Signature]

Originating in the House.

In effect from passage.

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker of the House of Delegates

[Signature]

The within is approved this the ___ day of January, 2004.

Governor

[Signature]
PRESENTED TO THE
GOVERNOR

Date 4/20/04
Time 4:16 PM