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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 4111

(By Delegates Mezzatesta and Williams)



Passed January 23, 2004

In Effect from Passage

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H. B. 4111

(BY DELEGATES MEZZATESTA AND WILLIAMS)

[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.

1 (i) *Legislative findings, purpose and intent.* —

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

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

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

10 (C) A system for holding schools and school systems
11 accountable for student performance and progress toward
12 obtaining a high quality education which is delivered in an
13 efficient manner; and

14 (D) A method for building the capacity and improving the
15 efficiency of schools and school systems to improve student
16 performance and progress.

17 (2) The Legislature further finds that as the constitutional
18 body charged with the general supervision of schools as
19 provided by general law, the state board has the authority and
20 the responsibility to establish the standards, assess the perfor-
21 mance and progress of students against the standards, hold
22 schools and school systems accountable, and assist schools and
23 school systems to build capacity and improve efficiency so that
24 the standards are met, including, when necessary, seeking

25 additional resources in consultation with the Legislature and the
26 governor.

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

38 (4) Therefore, the purpose of this section is to establish a
39 process for improving education that includes the four primary
40 elements as set forth in subdivision (1) of this subsection to
41 provide assurances that a thorough and efficient system of
42 schools is being provided for all West Virginia public school
43 students on an equal education opportunity basis and that the
44 high quality standards are, at a minimum, being met.

45 (5) The intent of the Legislature in enacting this section is
46 to establish a process through which the Legislature, the
47 governor and the state board can work in the spirit of coopera-
48 tion and collaboration intended in the process for improving
49 education to consult and examine, when necessary, the perfor-
50 mance and progress of students, schools and school systems and
51 consider alternative measures to ensure that all students
52 continue to receive the thorough and efficient education to
53 which they are entitled. However, nothing in this section
54 requires any specific level of funding by the Legislature.

55 (b) *Unified county and school improvement plans.* — The
56 state board shall promulgate rules in accordance with article

57 three-b, chapter twenty-nine-a of this code establishing a
58 unified county improvement plan for each county board and a
59 unified school improvement plan for each public school in this
60 state. The rules shall specify that the unified school improve-
61 ment plan shall include all appropriate plans required by law
62 including, but not limited to, the following:

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

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

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

73 (4) The school based improvement plan set forth in the
74 Elementary and Secondary Education Act pursuant to 29 U.S.C.
75 §6301, *et seq.*

76 The plans are required to be included only to the extent
77 permitted by state and federal law.

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

84 (1) Curriculum;

85 (2) Workplace readiness skills;

- 86 (3) Finance;
- 87 (4) Transportation;
- 88 (5) Special education;
- 89 (6) Facilities;
- 90 (7) Administrative practices;
- 91 (8) Training of county board members and administrators;
- 92 (9) Personnel qualifications;
- 93 (10) Professional development and evaluation;
- 94 (11) Student performance and progress;
- 95 (12) School and school system performance and progress;
- 96 (13) A code of conduct for students and employees;
- 97 (14) Indicators of efficiency; and
- 98 (15) Any other areas determined by the state board.

99 (d) *Performance measures.* — The standards shall assure
100 that all graduates are prepared for gainful employment or for
101 continuing post-secondary education and training and that
102 schools and school systems are making progress in achieving
103 the education goals of the state.

104 The standards shall include measures of student perfor-
105 mance and progress and measures of school and school system
106 performance, progress and processes that enable student
107 performance. The measures of student performance and
108 progress and school and school system performance, progress
109 and processes shall include, but are not limited to, the follow-
110 ing:

111 (1) The acquisition of student proficiencies as indicated by
112 student performance and progress by grade level measured,
113 where possible, by a uniform statewide assessment program;

114 (2) School attendance rates;

115 (3) The student dropout rate;

116 (4) The high school graduation rate;

117 (5) The percentage of graduates who enrolled in college and
118 the percentage of graduates who enrolled in other post-second-
119 ary education within one year following high school graduation;

120 (6) The percentage of graduates who received additional
121 certification of their skills, competence and readiness for
122 college, other post-secondary education or employment above
123 the level required for graduation; and

124 (7) The percentage of students who enrolled in and the
125 percentage of students who successfully completed advanced
126 placement, dual credit and honors classes, respectively, by
127 grade level.

128 (e) *Indicators of efficiency.* — In accordance with the
129 provisions of article three-b, chapter twenty-nine-a of this code,
130 the state board shall adopt and periodically review and update
131 indicators of efficiency for student and school system perfor-
132 mance and processes in the following areas:

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

135 (2) Transportation;

136 (3) Facilities;

137 (4) Administrative practices;

138 (5) Personnel;

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

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

145 (f) *Assessment and accountability of school and school*
146 *system performance and processes.* — In accordance with the
147 provisions of article three-b, chapter twenty-nine-a of this code,
148 the state board shall establish by rule a system of education
149 performance audits which measures the quality of education
150 and the preparation of students based on the standards and
151 measures of student, school and school system performance,
152 progress and processes, including, but not limited to, the
153 standards and measures set forth in subsections (c) and (d) of
154 this section. The system of education performance audits shall
155 assist the state board, the Legislature and the governor in
156 ensuring that the standards and measures established pursuant
157 to this section are, at a minimum, being met and that a thorough
158 and efficient system of schools is being provided.

159 The system of education performance audits shall include:

160 (1) The assessment of student performance and progress,
161 school and school system performance and progress, and the
162 processes in place in schools and school systems which enable
163 student performance and progress;

164 (2) The review of school and school system unified
165 improvement plans; and

166 (3) The periodic on-site review of school and school system
167 performance and progress and compliance with the standards.

168 (g) *Uses of school and school system assessment informa-*
169 *tion.* — The state board and the process for improving educa-
170 tion council established pursuant to section five-c of this article
171 shall use information from the system of education performance
172 audits to assist them in ensuring that a thorough and efficient
173 system of schools is being provided and to improve student,
174 school and school system performance and progress. Informa-
175 tion from the system of education performance audits further
176 shall be used by the state board for these purposes, including,
177 but not limited to, the following: (1) Determining school
178 accreditation and school system approval status; (2) holding
179 schools and school systems accountable for the efficient use of
180 existing resources to meet or exceed the standards; and (3)
181 targeting additional resources when necessary to improve
182 performance and progress. Primary emphasis in determining
183 school accreditation and school system approval status is based
184 on student performance and progress, school and school system
185 performance and progress and such other measures as selected
186 by the state board. The state board shall make accreditation
187 information available to the Legislature, the governor, the
188 general public and to any individuals who request the informa-
189 tion, subject to the provisions of any act or rule restricting the
190 release of information.

191 Based on the assessment of student, school and school
192 system performance and progress, the state board shall establish
193 early detection and intervention programs using the available
194 resources of the department of education, the regional educa-
195 tional service agencies, the center for professional development
196 and the principals academy, as appropriate, to assist under-
197 achieving schools and school systems to improve performance
198 before conditions become so grave as to warrant more substan-
199 tive state intervention. Assistance shall include, but is not
200 limited to, providing additional technical assistance and
201 programmatic, professional staff development, providing
202 monetary, staffing and other resources where appropriate, and,

203 if necessary, making appropriate recommendations to the
204 process for improving education council.

205 (h) *Office of education performance audits.* —

206 (1) To assist the state board and the process for improving
207 education council in the operation of a system of education
208 performance audits that will enable them to evaluate whether a
209 thorough and efficient education is being provided, and to assist
210 the state board in making determinations regarding the accredi-
211 tation status of schools and the approval status of school
212 systems, the state board shall establish an office of education
213 performance audits which shall be operated under the direction
214 of the state board independently of the functions and supervi-
215 sion of the state department of education and state superinten-
216 dent. The office of education performance audits shall report
217 directly to and be responsible to the state board in carrying out
218 its duties under the provisions of this section.

219 (2) The office shall be headed by a director who shall be
220 appointed by the state board and who shall serve at the will and
221 pleasure of the state board. The salary of the director shall not
222 exceed the salary of the state superintendent of schools.

223 (3) The state board shall organize and sufficiently staff the
224 office to fulfill the duties assigned to it by law and by the state
225 board. Employees of the state department of education who are
226 transferred to the office of education performance audits retain
227 their benefit and seniority status with the department of
228 education.

229 (4) Under the direction of the state board, the office of
230 education performance audits shall receive from the West
231 Virginia education information system staff research and
232 analysis data on the performance and progress of students,
233 schools and school systems, and shall receive assistance, as
234 determined by the state board, from staff at the state department

235 of education, the regional education service agencies, the center
236 for professional development, the principals academy and the
237 state school building authority to carry out the duties assigned
238 to the office.

239 (5) In addition to other duties which may be assigned to it
240 by the state board or by statute, the office of education perfor-
241 mance audits also shall:

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

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

247 (i) Processes for the accreditation of schools and the
248 approval of school systems. These processes shall focus on
249 those measurable criteria related to student performance and
250 progress and to the delivery of instruction which will enable
251 student performance and progress; and

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

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

262 (D) Determine, in conjunction with the assessment and
263 accountability processes, whether statewide system deficiencies
264 exist in the capacity to establish and maintain a thorough and

265 efficient system of schools, including the identification of
266 trends and the need for continuing improvements in education,
267 and report those deficiencies and trends to the state board and
268 the process for improving education council;

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

277 (F) Identify, in conjunction with the assessment and
278 accountability processes, exemplary schools and school systems
279 and best practices that improve student, school and school
280 system performance, and make recommendations to the state
281 board and the process for improving education council for
282 recognizing and rewarding exemplary schools and school
283 systems and promoting the use of best practices. The state
284 board shall provide information on best practices to county
285 school systems and shall use information identified through the
286 assessment and accountability processes to select schools of
287 excellence; and

288 (G) Develop reporting formats, such as check lists, which
289 shall be used by the appropriate administrative personnel in
290 schools and school systems to document compliance with
291 various of the applicable laws, policies and process standards
292 as considered appropriate and approved by the state board,
293 including, but not limited to, compliance with limitations on the
294 number of pupils per teacher in a classroom and the number of
295 split grade classrooms. Information contained in the reporting
296 formats shall be examined during an on-site review to deter-
297 mine compliance with laws, policies and standards. Intentional

298 and grossly negligent reporting of false information is ground
299 for dismissal.

300 (i) *On-site reviews.* —

301 (1) At the direction of the state board or by weighted
302 selection by the office of education performance audits, an on-
303 site review shall be conducted by the office of education
304 performance audits of any school or school system for pur-
305 poses, including, but not limited to, the following:

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

307 (B) Documenting compliance with policies and laws;

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

310 (D) Investigating official complaints submitted to the state
311 board that allege serious impairments in the quality of educa-
312 tion in schools or school systems;

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

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

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

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

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

353 The persons designated by the state board shall be responsi-
354 ble for completing the report on the findings and recommenda-
355 tions of the on-site review in their area of expertise. It is the
356 intent of the Legislature that the persons designated by the state
357 board participate in all on-site reviews that involve their area of
358 expertise to the extent practicable so that the on-site review

359 process will evaluate compliance with the standards in a
360 uniform, consistent and expert manner.

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

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

373 (7) The office of education performance audits shall report
374 the findings of the on-site reviews to the state board for
375 inclusion in the evaluation and determination of a school's or
376 county board's accreditation or approval status as applicable.
377 The report on the findings of an on-site review shall be submit-
378 ted to the state board within thirty days following the conclu-
379 sion of the on-site review and to the county superintendent and
380 principals of schools within the reviewed school system within
381 forty-five days following the conclusion of the on-site review.
382 A copy of the report shall be provided to the process for
383 improving education council.

384 (j) *School accreditation.* -- The state board annually shall
385 review the information from the system of education perfor-
386 mance audits submitted for each school and shall issue to every
387 school one of the following approval levels: Exemplary
388 accreditation status, full accreditation status, temporary
389 accreditation status, conditional accreditation status, or seri-
390 ously impaired status.

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

405 (2) Temporary accreditation status shall be given to a
406 school when the measure of the school's performance and
407 progress is below the level required for full accreditation status.
408 Whenever a school is given temporary accreditation status, the
409 county board shall ensure that the school's unified improvement
410 plan is revised to increase the performance and progress of the
411 school to a full accreditation status level. The revised unified
412 school improvement plan shall include objectives, a time line,
413 a plan for evaluation of the success of the improvements, cost
414 estimates, and a date certain for achieving full accreditation.
415 The revised plan shall be submitted to the state board for
416 approval.

417 (3) Conditional accreditation status shall be given to a
418 school when the school's performance and progress on the
419 standards adopted by the state board are below the level
420 required for full accreditation, but the school's unified improve-
421 ment plan has been revised to achieve full accreditation status
422 by a date certain, the plan has been approved by the state board
423 and the school is meeting the objectives and time line specified
424 in the revised plan.

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

434 (5) The state board shall establish and adopt standards of
435 performance and progress to identify seriously impaired schools
436 and the state board may declare a school seriously impaired
437 whenever extraordinary circumstances exist as defined by the
438 state board.

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

441 (i) The failure of a school on temporary accreditation status
442 to obtain approval of its revised unified school improvement
443 plan within a reasonable time period as defined by the state
444 board;

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

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

450 (B) Whenever the state board determines that the quality of
451 education in a school is seriously impaired, the state board shall
452 appoint a team of improvement consultants to make recommen-
453 dations within sixty days of appointment for correction of the
454 impairment. When the state board approves the recommenda-
455 tions, they shall be communicated to the county board. If

456 progress in correcting the impairment as determined by the state
457 board is not made within six months from the time the county
458 board receives the recommendations, the state board shall place
459 the county board on temporary approval status and provide
460 consultation and assistance to the county board to assist it in the
461 following areas:

462 (i) Improving personnel management;

463 (ii) Establishing more efficient financial management
464 practices;

465 (iii) Improving instructional programs and rules; or

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

468 (C) If the impairment is not corrected by a date certain as
469 set by the state board:

470 (i) The state board shall appoint a monitor who shall be
471 paid at county expense to cause improvements to be made at the
472 school to bring it to full accreditation status within a reasonable
473 time period as determined by the state board. The monitor's
474 work location shall be at the school and the monitor shall work
475 collaboratively with the principal. The monitor shall, at a
476 minimum, report monthly to the state board on the measures
477 being taken to improve the school's performance and the
478 progress being made. The reports may include requests for
479 additional assistance and recommendations required in the
480 judgment of the monitor to improve the school's performance,
481 including, but not limited to, the need for targeting resources
482 strategically to eliminate deficiencies;

483 (ii) The state board may make a determination, in its sole
484 judgment, that the improvements necessary to provide a
485 thorough and efficient education to the students at the school

486 cannot be made without additional targeted resources, in which
487 case, it shall establish a plan in consultation with the county
488 board that includes targeted resources from sources under the
489 control of the state board and the county board to accomplish
490 the needed improvements. Nothing in this subsection shall be
491 construed to allow a change in personnel at the school to
492 improve school performance and progress, except as provided
493 by law;

494 (iii) If the impairment is not corrected within one year after
495 the appointment of a monitor, the state board may make a
496 determination, in its sole judgment, that continuing a monitor
497 arrangement is not sufficient to correct the impairment and may
498 intervene in the operation of the school to cause improvements
499 to be made that will provide assurances that a thorough and
500 efficient system of schools will be provided. This intervention
501 may include, but is not limited to, establishing instructional
502 programs, taking such direct action as may be necessary to
503 correct the impairments, declaring the position of principal is
504 vacant and assigning a principal for the school who shall serve
505 at the will and pleasure of and, under the sole supervision of,
506 the state board: *Provided*, That prior to declaring that the
507 position of the principal is vacant, the state board must make a
508 determination that all other resources needed to correct the
509 impairment are present at the school. If the principal who was
510 removed elects not to remain an employee of the county board,
511 then the principal assigned by the state board shall be paid by
512 the county board. If the principal who was removed elects to
513 remain an employee of the county board, then the following
514 procedure applies:

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

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

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

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

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

533 (k) *Transfers from seriously impaired schools.* — When-
534 ever a school is determined to be seriously impaired and fails to
535 improve its status within one year, any student attending the
536 school may transfer once to the nearest fully accredited school,
537 subject to approval of the fully accredited school and at the
538 expense of the school from which the student transferred.

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

545 (1) Full approval shall be given to a county board whose
546 education system meets or exceeds all of the high quality
547 standards for student, school and school system performance,
548 progress and processes adopted by the state board and whose
549 schools have all been given full, temporary or conditional

550 accreditation status. A school system which meets or exceeds
551 the measures of student performance and progress set forth in
552 subsection (d) of this section, and which does not have any
553 deficiencies which would endanger student health or safety or
554 other extraordinary circumstances as defined by the state board,
555 shall remain on full accreditation status for six months follow-
556 ing an on-site review in which other deficiencies are noted. The
557 school shall have an opportunity to correct those deficiencies,
558 notwithstanding other provisions of this subsection.

559 (2) Temporary approval shall be given to a county board
560 whose education system is below the level required for full
561 approval. Whenever a county board is given temporary ap-
562 proval status, the county board shall revise its unified county
563 improvement plan to increase the performance and progress of
564 the school system to a full approval status level. The revised
565 plan shall include objectives, a time line, a plan for evaluation
566 of the success of the improvements, a cost estimate, and a date
567 certain for achieving full approval. The revised plan shall be
568 submitted to the state board for approval.

569 (3) Conditional approval shall be given to a county board
570 whose education system is below the level required for full
571 approval, but whose unified county improvement plan meets
572 the following criteria:

573 (i) The plan has been revised to achieve full approval status
574 by a date certain;

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

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

578 (4) Nonapproval status shall be given to a county board
579 which fails to submit and gain approval for its unified county
580 improvement plan or revised unified county improvement plan

581 within a reasonable time period as defined by the state board or
582 which fails to meet the objectives and time line of its revised
583 unified county improvement plan or fails to achieve full
584 approval by the date specified in the revised plan.

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

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

604 (C) Whenever nonapproval status is given to a school
605 system, the state board shall declare a state of emergency in the
606 school system and shall appoint a team of improvement
607 consultants to make recommendations within sixty days of
608 appointment for correcting the emergency. When the state
609 board approves the recommendations, they shall be communi-
610 cated to the county board. If progress in correcting the emer-
611 gency, as determined by the state board, is not made within six
612 months from the time the county board receives the recommen-
613 dations, the state board shall intervene in the operation of the

614 school system to cause improvements to be made that will
615 provide assurances that a thorough and efficient system of
616 schools will be provided. This intervention may include, but is
617 not limited to, the following:

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

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

627 (iii) Delegating to the state superintendent both the author-
628 ity to conduct hearings on personnel matters and school closure
629 or consolidation matters and, subsequently, to render the
630 resulting decisions, and the authority to appoint a designee for
631 the limited purpose of conducting hearings while reserving to
632 the state superintendent the authority to render the resulting
633 decisions;

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

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

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

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

650 (m) Notwithstanding any other provision of this section, the
651 state board may intervene immediately in the operation of the
652 county school system with all the powers, duties and responsi-
653 bilities contained in subsection (l) of this section, if the state
654 board finds the following:

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

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

663 (n) *Capacity*. — The process for improving education
664 includes a process for targeting resources strategically to
665 improve the teaching and learning process. Development of
666 unified school and school system improvement plans, pursuant
667 to subsection (b) of this section, is intended, in part, to provide
668 mechanisms to target resources strategically to the teaching and
669 learning process to improve student, school and school system
670 performance. When deficiencies are detected through the
671 assessment and accountability processes, the revision and
672 approval of school and school system unified improvement
673 plans shall ensure that schools and school systems are effi-
674 ciently using existing resources to correct the deficiencies.

675 When the state board determines that schools and school
676 systems do not have the capacity to correct deficiencies, the
677 state board shall work with the county board to develop or
678 secure the resources necessary to increase the capacity of
679 schools and school systems to meet the standards and, when
680 necessary, seek additional resources in consultation with the
681 Legislature and the governor.

682 The state board shall recommend to the appropriate body
683 including, but not limited to, the process for improving educa-
684 tion council, the Legislature, county boards, schools and
685 communities methods for targeting resources strategically to
686 eliminate deficiencies identified in the assessment and account-
687 ability processes. When making determinations on recommen-
688 dations, the state board shall include, but is not limited to, the
689 following methods:

690 (1) Examining reports and unified improvement plans
691 regarding the performance and progress of students, schools
692 and school systems relative to the standards and identifying the
693 areas in which improvement is needed;

694 (2) Determining the areas of weakness and of ineffective-
695 ness that appear to have contributed to the substandard perfor-
696 mance and progress of students or the deficiencies of the school
697 or school system;

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

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

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

707 (6) Requesting special staff development programs from the
708 center for professional development, the principals academy,
709 higher education, regional educational service agencies and
710 county boards based on identified needs;

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

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

715 (9) Ensuring that the need for facilities in counties with
716 increased enrollment are appropriately reflected and recom-
717 mended for funding;

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

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

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

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

6 (2) Contract with the United States of America, or any
7 instrumentality, agency or political subdivision thereof, for the

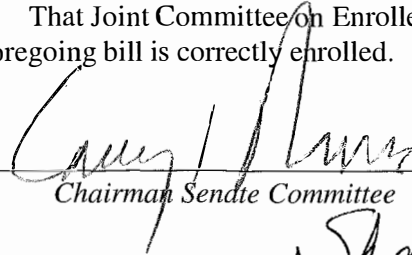
8 sale or exchange of its interest in the land or any part thereof;
9 and

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

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

20 (c) Notwithstanding the provisions of section seven of this
21 article, neither the grantor of the land or any part thereof nor his
22 heirs or assigns has the right to purchase the land or any part
23 thereof or have any other rights whatever under section seven
24 of this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



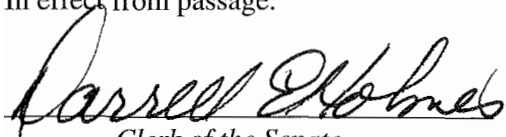
Chairman Senate Committee



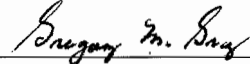
Chairman House Committee

Originating in the House.

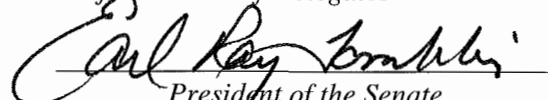
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates

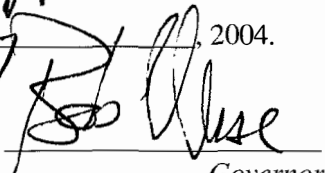


President of the Senate



Speaker of the House of Delegates

The within is approved this the 29th
day of January, 2004.



Governor

PRESENTED TO THE
GOVERNOR

Date 1/26/04

Time 4:16 pm