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By: **Delegates Owings, O'Donnell, Bartlett, Costa, Dwyer, and Sossi**  
Introduced and read first time: February 6, 2004  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Education Reform and State Accountability Act of 2004**

3 FOR the purpose of restructuring the State Board of Education and State  
4 Department of Education; altering the position of State Superintendent to be an  
5 elected position; providing that the Governor shall appoint certain professional  
6 assistants, including a certain number of Deputy State Superintendents;  
7 establishing the responsibilities of the professional assistants; establishing the  
8 process for review of the professional assistants; authorizing the elected State  
9 Superintendent to appoint and remove certain nonprofessional personnel;  
10 establishing the authority of the Department; specifying the membership of the  
11 State Board; providing for the appointment of student members of the State  
12 Board; requiring the members of the State Board to be elected from certain  
13 districts and with certain qualifications; specifying the term length of the  
14 members; providing for the qualifications and responsibilities of student  
15 members; authorizing the Governor to remove a member of the State Board for  
16 certain conduct; specifying the process for removal of a member of the State  
17 Board; requiring the State Board to hold monthly meetings; prohibiting the  
18 State Board from holding private or closed door meetings except under certain  
19 circumstances; providing for the selection of the president and vice president of  
20 the State Board; specifying that the State Superintendent have certain  
21 responsibilities and hold certain positions on the State Board; providing for the  
22 compensation of members of the State Board; specifying the authority of the  
23 State Board; requiring the State Board to follow a certain procedure in the  
24 adoption of bylaws, rules, and regulations; providing that the bylaws, rules, and  
25 regulations may be adopted by each county; repealing the authority of the State  
26 Board to enforce the adoption of the bylaws, rules, and regulations by each  
27 county; requiring the bylaws, rules, and regulations to be reviewed annually by  
28 the General Assembly, except in certain circumstances; requiring the State  
29 Board to consult with certain persons at certain times; requiring local education  
30 agencies to establish basic policy and guidelines for the program of instruction  
31 in their local school districts; authorizing the State Board to provide certain  
32 technical or professional assistance to the local education agencies; authorizing  
33 the State Board to investigate certain subjects; requiring the State Board to  
34 send to the Governor an annual State public school budget to include certain  
35 appropriations; authorizing the State Board to establish standards and guides

1 for planning and constructing school building projects; requiring the standards  
2 and guides for school building projects to be submitted to certain persons for  
3 approval; requiring the State Board to adopt bylaws, rules, and regulations that  
4 establish a certain ratio of professional employees to enrolled students;  
5 requiring the State Board to submit an annual report to the Governor after it is  
6 reviewed by local education agencies and local superintendents; requiring the  
7 State Board to develop and update an overall plan with certain items;  
8 authorizing the State Board to have oversight of noncollegiate educational  
9 institutions; authorizing the State Board to use money in the Public Education  
10 Partnership Fund for a certain purpose; providing for the election of the State  
11 Superintendent; providing for the term length and election cycle of the State  
12 Superintendent; providing for the compensation of the State Superintendent;  
13 authorizing the State Board to remove the State Superintendent for certain  
14 conduct; specifying the process for removal of the State Superintendent;  
15 providing for the duties and responsibilities of the State Superintendent;  
16 authorizing the publisher of the Annotated Code, in consultation with and  
17 subject to the approval of the Department of Legislative Services, to correct  
18 certain cross-references and terminology; and generally relating to the State  
19 Department of Education, State Board of Education, and State Superintendent.

20 BY repealing and reenacting, without amendments,  
21 Article - Education  
22 Section 2-101, 2-102, 2-201, and 2-301  
23 Annotated Code of Maryland  
24 (2001 Replacement Volume and 2003 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article - Education  
27 Section 2-103 through 2-106, 2-202 through 2-207, and 2-302 through 2-304  
28 Annotated Code of Maryland  
29 (2001 Replacement Volume and 2003 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
31 MARYLAND, That the Laws of Maryland read as follows:

32 **Article - Education**

33 2-101.

34 There is a State Department of Education, established as a principal  
35 department of the State government.

36 2-102.

37 (a) The head of the Department is the State Board of Education.

38 (b) The State Board is organized and has the general powers and duties as  
39 provided in Subtitle 2 of this title.

1 2-103.

2 (a) Acting under the bylaws, rules, and regulations of the State Board, the  
3 State Superintendent is responsible for the administration of the Department and  
4 has general supervision of all professional and clerical assistants of the Department.

5 (b) The State Superintendent shall be [appointed] ELECTED and has the  
6 general powers and duties as provided in Subtitle 3 of this title.

7 2-104.

8 (a) The following professional assistants shall be appointed to the Department  
9 BY THE GOVERNOR:

10 (1) No more than [three] TWO Deputy State Superintendents of Schools  
11 SHALL SERVE AS SUPPORT PROFESSIONALS UNDER THE ELECTED STATE  
12 SUPERINTENDENT;

13 (2) Any assistant State superintendents and directors authorized by the  
14 State Board and provided in the State budget; and

15 (3) Any other professional assistants and agents authorized by the State  
16 Board and provided in the State budget.

17 (b) (1) [From the nominees proposed by the State Superintendent, the State  
18 Board shall appoint all professional assistants to the Department, who] ALL  
19 PROFESSIONAL ASSISTANTS shall be in the executive service, management service, or  
20 special appointments in the State Personnel Management System.

21 [(2) With the advice of the State Superintendent, the State Board shall  
22 set the qualifications for each professional position.]

23 [(3)] (2) The ELECTED State Superintendent may NOT transfer  
24 professional assistants within the Department [as necessary] WITHOUT APPROVAL  
25 FROM THE ELECTED STATE BOARD DURING A PUBLIC HEARING.

26 (c) (1) All professional assistants, grade 31 and above, shall [serve at the  
27 pleasure of the State Board and the State Superintendent] SERVE AT THE PLEASURE  
28 OF THE GOVERNOR.

29 (2) All other professional assistants shall be removed in accordance with  
30 procedures set by the State Board.

31 (d) (1) In addition to the other duties specified in this section, each  
32 professional assistant to the Department has the duties assigned to him by the  
33 ELECTED State Superintendent.

34 (2) The Deputy State Superintendent designated by the ELECTED State  
35 Superintendent or by the ELECTED State Board is the acting State Superintendent  
36 when the ELECTED State Superintendent is absent or disabled.

1 (3) Assistant State superintendents and directors have charge of the  
2 various divisions of the Department.

3 (4) (I) THE ELECTED STATE BOARD SHALL REVIEW EACH  
4 PROFESSIONAL ASSISTANT POSITION 2 TIMES EVERY YEAR AND SHALL ESTABLISH  
5 PERFORMANCE RATINGS OR SERVICE CONTINUANCE RECOMMENDATIONS  
6 ACCORDING TO THE ESTABLISHED PERFORMANCE PLAN.

7 (II) THE ELECTED STATE BOARD SHALL CONSIDER WRITTEN  
8 COMMENTS FROM THE PUBLIC DURING THE PERFORMANCE REVIEW OF EACH  
9 PROFESSIONAL ASSISTANT.

10 2-105.

11 (a) Unless otherwise provided by law, the ELECTED State Superintendent  
12 shall appoint and remove all clerical assistants and other nonprofessional personnel  
13 of the Department in accordance with the provisions of the State Personnel and  
14 Pensions Article that govern the skilled service, with the exception of special  
15 appointments.

16 (b) The credential secretary and statistician of the Department are special  
17 appointments in the State Personnel Management System.

18 2-106.

19 The Department has authority over[:

20 (1) Matters of elementary and secondary education that affect this State;  
21 and

22 (2) The] THE general care and supervision of public elementary and  
23 secondary education.

24 2-201.

25 There is a State Board of Education in the Department.

26 2-202.

27 (a) The State Board consists of [11 regular] 8 ELECTED members, and [1] 2  
28 student [member, appointed by the Governor with the advice and consent of the  
29 Senate] MEMBERS.

30 [(b) (1) In making appointments to the State Board, the Governor shall  
31 consider representation from:

32 (i) All parts of this State; and

33 (ii) Areas of this State with concentrations of population or unique  
34 needs.

1 (2) The members of the Board shall be appointed from the general  
2 public.]

3 (B) (1) EACH STUDENT MEMBER SHALL BE APPOINTED BY THE GOVERNOR,  
4 ON RECOMMENDATIONS MADE BY THE LOCAL SCHOOL BOARDS, FROM A LIST OF  
5 THREE PERSONS NOMINATED BY THE MARYLAND ASSOCIATION OF STUDENT  
6 COUNCILS.

7 (2) EACH STUDENT MEMBER SHALL BE A SENIOR IN A MARYLAND  
8 PUBLIC HIGH SCHOOL.

9 (C) (1) EACH STATE BOARD MEMBER SHALL:

10 (I) BE ELECTED;

11 (II) REPRESENT A CONGRESSIONAL DISTRICT IN ACCORDANCE  
12 WITH THE 10-YEAR REDISTRICTING PLAN SET BY THE GENERAL ASSEMBLY; AND

13 (III) SERVE FOR A TERM OF 4 YEARS.

14 (2) EACH CANDIDATE FOR A POSITION ON THE ELECTED STATE BOARD  
15 SHALL BE:

16 (I) A MARYLAND CITIZEN IN GOOD STANDING; AND

17 (II) A RESIDENT OF THE CONGRESSIONAL DISTRICT FOR A PERIOD  
18 OF 3 YEARS PRIOR TO THE GENERAL ELECTION.

19 (3) The following individuals may not be [appointed] ELECTED to the  
20 STATE Board:

21 (i) Except for the student member, any individual who is subject to  
22 the authority of the STATE Board; AND

23 (ii) [The Governor; and

24 (iii) The State Superintendent] AN OFFICIAL WHO HAS ALREADY  
25 BEEN ELECTED TO ANOTHER OFFICE.

26 (4) [The student member shall be selected by the Governor from a list of  
27 2 persons nominated by the Maryland Association of Student Councils] A CANDIDATE  
28 FOR A POSITION ON THE ELECTED STATE BOARD MAY NOT BE A CANDIDATE FOR  
29 ANOTHER ELECTED POSITION IN THE SAME ELECTION YEAR.

30 [(c)] (D) (1) [The] EACH student member shall be:

31 (i) A regularly enrolled student; and

32 (ii) In good standing in a public high school in the State.

1           (2)     The student [member] MEMBERS may attend and participate in an  
2 executive session of the ELECTED STATE Board.

3           (3)     The student [member] MEMBERS may not vote on any matter that  
4 relates to:

5                   (i)     The dismissal of or other disciplinary action involving  
6 personnel;

7                   (ii)    Budget; or

8                   (iii)   Appeals to the ELECTED State Board under § 2-205, § 4-205, or  
9 § 6-202 of this article.

10    [(d)]    (E)    (1)    Each [regular] ELECTED STATE BOARD member [serves]  
11 SHALL SERVE for a term of 4 years and until a successor is [appointed] ELECTED  
12 WITHIN THE VACANT CONGRESSIONAL DISTRICT and qualifies. These terms are  
13 staggered as [required by the terms of the members serving on the State Board as of  
14 July 1, 1989] DETERMINED BY THE GOVERNOR AFTER THE 2006 ELECTION OF ALL  
15 STATE BOARD MEMBERS.

16           (2)     EACH ELECTED MEMBER SHALL BE SWORN IN BY THE GOVERNOR  
17 ON THE SECOND TUESDAY OF THE GENERAL ASSEMBLY SESSION AFTER THE  
18 GENERAL ELECTION.

19           [(2)]   (3)     The Governor shall appoint a new member to fill any vacancy  
20 on the STATE Board for the remainder of that term and until a successor is  
21 [appointed] ELECTED and qualifies.

22           [(3)]   (4)     A member is eligible for [reappointment] REELECTION but  
23 may not serve for more than two full 4-year terms.

24           [(4)]   (5)     The student member shall serve for a term of 1 year. [A  
25 student member is eligible for reappointment but may not serve more than two full  
26 1-year terms.]

27 2-203.

28    (a)     The Governor may remove [a] AN ELECTED member of the ELECTED State  
29 Board for:

30           (1)     Immorality;

31           (2)     Misconduct in office;

32           (3)     Incompetency; or

33           (4)     Willful neglect of duty.

1 (b) (1) Before removing [a] AN ELECTED member, the Governor shall send  
2 the ELECTED member a copy of the charges against him and give him an opportunity  
3 within 10 days to request a hearing.

4 (2) If the ELECTED member requests a hearing within the 10-day period:

5 (i) The Governor promptly shall hold a hearing, but a hearing may  
6 not be set within 10 days after the Governor sends the ELECTED member a notice of  
7 the hearing; and

8 (ii) The ELECTED member shall have an opportunity to be heard  
9 publicly before the Governor in his own defense, in person or by counsel.

10 (c) If [a] AN ELECTED member is removed, the Governor shall file in the  
11 office of the Secretary of State:

12 (1) A complete statement of all charges made against the ELECTED  
13 member;

14 (2) The findings of the Governor as to the charges; and

15 (3) A complete record of the proceedings.

16 2-204.

17 (a) (1) (I) [Each year, the] THE ELECTED State Board shall hold[:

18 (i) A meeting in July; and

19 (ii) At least three other regular meetings] MONTHLY MEETINGS ON  
20 THE SAME DAY OF EACH MONTH.

21 (II) EACH MEETING SHALL BE SCHEDULED TO ACCOMMODATE THE  
22 PUBLIC.

23 (III) THE ELECTED STATE BOARD MAY NOT HOLD PRIVATE OR  
24 CLOSED DOOR MEETINGS UNLESS THE ELECTED STATE BOARD IS ADDRESSING  
25 ISSUES IN ACCORDANCE WITH § 2-203 OF THIS SUBTITLE.

26 (2) The ELECTED STATE Board may hold special meetings OR PUBLIC  
27 TRAINING SEMINARS as necessary.

28 (b) (1) At the annual ELECTED STATE Board PUBLIC meeting in July, the  
29 ELECTED State Board shall select a president and a vice-president from among its  
30 members.

31 (2) A member may not serve for more than 4 years as president.

32 (c) (1) The ELECTED State Superintendent is the Chief Executive,  
33 Secretary, and Treasurer of the ELECTED State Board.

1           (2)     [He] THE ELECTED STATE SUPERINTENDENT shall attend each  
2 meeting of the ELECTED STATE Board and of its committees, except when [his own]  
3 THE ELECTED STATE SUPERINTENDENT'S tenure, salary, or the administration of  
4 [his] THE ELECTED STATE SUPERINTENDENT'S office are under consideration.

5           (3)     [He] THE ELECTED STATE SUPERINTENDENT may advise the  
6 ELECTED STATE Board on any question under consideration, but may not vote.

7     (d)     (1)     A member of the ELECTED State Board serves [without] WITH  
8 compensation [but] AND is entitled to reimbursement for expenses in accordance  
9 with the Standard State Travel Regulations.

10           (2)     THE GENERAL ASSEMBLY SHALL DETERMINE THE SALARY FOR  
11 EACH ELECTED STATE BOARD MEMBER.

12     (e)     The affirmative vote of a majority of the members then serving on the  
13 ELECTED State Board is required for any action by the Board.

14 2-205.

15     (a)     In addition to the other powers granted and duties imposed under this  
16 article, the ELECTED State Board has the powers and duties set forth in this section.

17     (b)     The ELECTED State Board shall:

18           (1)     [Determine] SUPERVISE AND MAKE POLICY RECOMMENDATIONS  
19 REGARDING the elementary and secondary [educational policies] SCHOOLS of this  
20 State; and

21           (2)     Cause to be carried out those provisions of this article that are within  
22 its jurisdiction.

23     (c)     (1)     The ELECTED State Board shall [adopt] CONDUCT REGULAR  
24 MEETINGS TO ADDRESS THE ADOPTION OF bylaws, rules, and regulations for the  
25 administration of the public schools.

26           [(2)     These bylaws, rules, and regulations have the force of law when  
27 adopted and published.]

28           (2)     THE ELECTED STATE BOARD SHALL SEND REPORTS INCLUDING THE  
29 PROPOSED BYLAWS, RULES, AND REGULATIONS TO EACH LOCAL EDUCATION  
30 AGENCY 10 DAYS BEFORE THE REGULAR SCHEDULED MONTHLY MEETINGS.

31           (3)     The bylaws, rules, and regulations [apply to] MAY BE ADOPTED BY  
32 each county. However, they do not apply to Baltimore City to the extent that they  
33 relate to matters that are the subject of other provisions of this article that do not  
34 apply to Baltimore City.

35     [(d)     The State Board may institute legal proceedings to enforce:

36           (1)     The provisions of this article that are within its jurisdiction; and



1 (2) The bylaws, rules, and regulations adopted by the Board.

2 (e) (1) Without charge and with the advice of the Attorney General, the  
3 State Board shall explain the true intent and meaning of the provisions of:

4 (i) This article that are within its jurisdiction; and

5 (ii) The bylaws, rules, and regulations adopted by the Board.

6 (2) The Board shall decide all controversies and disputes under these  
7 provisions.

8 (3) The decision of the Board is final.]

9 (D) (1) THE BYLAWS, RULES, AND REGULATIONS ADOPTED BY THE ELECTED  
10 STATE BOARD SHALL BE REVIEWED ANNUALLY BY THE GENERAL ASSEMBLY.

11 (2) A BYLAW, RULE, OR REGULATION THAT HAS BEEN ADOPTED BY ALL  
12 OF THE LOCAL EDUCATION AGENCIES, INCLUDING BALTIMORE CITY, MAY BE  
13 EXEMPTED FROM THE REVIEW OF THE GENERAL ASSEMBLY.

14 [(f)] (E) As Secretary to the ELECTED State Board, the ELECTED State  
15 Superintendent may administer oaths to witnesses in any matter before the ELECTED  
16 STATE Board.

17 [(g)] (F) (1) This subsection does not apply to Baltimore City to the extent  
18 that it relates to matters that are the subject of other provisions of this article that do  
19 not apply to Baltimore City.

20 (2) Through the ELECTED State Superintendent, the ELECTED State  
21 Board shall exercise general [control and] supervision over the public schools and  
22 educational interests of this State.

23 (3) [Through the State Superintendent, the] THE ELECTED STATE  
24 Board shall consult with and advise county boards, county superintendents and their  
25 staffs, principals, teachers, and interested citizens AT LEAST EVERY MONTH DURING  
26 THE REGULAR PUBLIC MEETINGS OR AS OFTEN AS REQUIRED BY A LOCAL  
27 EDUCATION AGENCY.

28 (4) The ELECTED STATE Board shall seek in every way to direct and  
29 develop public sentiment in support of public education.

30 [(h)] (G) (1) [With the advice of the State Superintendent, the State Board  
31 shall establish basic policy and guidelines for the program of instruction for the public  
32 schools] ALTHOUGH IT IS THE RESPONSIBILITY OF THE LOCAL EDUCATION AGENCY  
33 TO ESTABLISH BASIC POLICY AND GUIDELINES FOR THE PROGRAM OF INSTRUCTION  
34 IN THEIR LOCAL SCHOOL DISTRICT, THE ELECTED STATE BOARD MAY PROVIDE  
35 TECHNICAL OR PROFESSIONAL ASSISTANCE IN THE FOLLOWING AREAS:

36 (I) PROGRAM AND INSTRUCTION SELECTION;

- 1 (II) FEDERAL AID APPLICATION, IMPLEMENTATION, AND  
 2 TRANSITION;
- 3 (III) FUNDING REQUESTS OR DISPUTES;
- 4 (IV) ESCALATED DUE PROCESS FOR A SPECIAL EDUCATION  
 5 STUDENT;
- 6 (V) DISPUTES BETWEEN ELECTED AND NONELECTED SCHOOL  
 7 PERSONNEL; AND
- 8 (VI) PUBLIC COMPLAINTS REGARDING A LOCAL SCHOOL DISTRICT.

9 (2) [The policy and guidelines] ANY ASSISTANCE PROVIDED IN A  
 10 WRITTEN FORMAT shall be printed in sufficient quantities to provide copies to:

- 11 (i) Public school officials and teachers;
- 12 (ii) Private schools; and
- 13 (iii) Interested citizens of this State.

14 (3) The ELECTED State Board of Education shall require the  
 15 establishment of criteria in each county for the selection of applicants for enrollment  
 16 in public secondary school career and technology education programs. Enrollment  
 17 criteria developed for this purpose shall ensure equal access to programs.

18 [(i)] (H) (1) With the advice of the ELECTED State Superintendent, the  
 19 ELECTED State Board shall investigate:

- 20 (i) The educational needs of this State; and
- 21 (ii) Methods to improve educational conditions.

22 (2) If necessary, the ELECTED STATE Board may employ additional  
 23 expert assistance for these investigations.

24 [(j)] (I) (1) The ELECTED State Board shall send the Governor an annual  
 25 State public school budget including, subject to the State Constitution and existing  
 26 laws, the appropriation for:

- 27 (i) The Department; and
- 28 (ii) State aid to the counties for current expenses, for student  
 29 transportation and for the construction of school buildings.

30 (2) The budget shall be certified by the ELECTED State Superintendent  
 31 before it is sent to the Governor.

32 [(k)] (J) The ELECTED State Board shall:

- 1 (1) Consider the educational needs of this State; and
- 2 (2) With the advice of the ELECTED State Superintendent, recommend to  
3 the Governor and the General Assembly any legislation that it considers necessary.
- 4 [(l)] (K) (1) On the recommendation of the ELECTED State  
5 Superintendent, the ELECTED State Board shall establish standards and guides for  
6 planning and constructing school building projects.
- 7 (2) These standards and guides shall be used as the basis for reviewing  
8 plans and specifications submitted to the ELECTED State Superintendent AND THE  
9 GOVERNOR OR THE GOVERNOR'S DESIGNEE for approval.
- 10 (3) The ELECTED State Board shall maintain a school construction  
11 planning service to:
- 12 (i) Assist in the development and review of preliminary and final  
13 plans and specifications for any public school building project and the educational  
14 program that it is designed to house; and
- 15 (ii) Advise county boards as to the suitability of these construction  
16 plans on the basis of educational effectiveness, construction, and reasonable economy  
17 of costs.
- 18 (4) The ELECTED State Board shall collect, publish, and distribute to the  
19 county boards information on school construction procedures, methods, and  
20 materials.
- 21 [(m)] (L) (1) In this subsection, "professional employee" means an  
22 employee:
- 23 (i) For whom a certificate has been issued by the ELECTED State  
24 Superintendent; and
- 25 (ii) For whom a salary scale has been established by law for the  
26 position or who meets or exceeds the qualifications required for an established salary  
27 scale.
- 28 (2) From time to time, the ELECTED State Board shall adopt bylaws,  
29 rules, and regulations that establish a minimum ratio of professional employees to  
30 students enrolled in the public schools or any combination of grades in these schools.
- 31 (3) The ratio established by the ELECTED State Board for the total  
32 number of professional employees for each county, calculated to the nearest whole  
33 position on a pro rata basis, may not be more than:
- 34 (i) 46 for each 1,000 of the first 5,000 students enrolled as of  
35 September 30 of each year; and
- 36 (ii) 45 for each additional 1,000 students.

1 (4) A county may employ more professional employees than the number  
2 permitted in this subsection as it considers necessary.

3 (5) At least 95 percent of the permitted number of professional  
4 employees shall be assigned to public schools.

5 [(n)] (M) With the advice of the ELECTED State Superintendent, the  
6 ELECTED State Board shall require each private educational association, corporation,  
7 and institution to report annually, on or before August 31, its enrollment and courses  
8 of study on the forms that the ELECTED STATE Board provides.

9 [(o)] (N) (1) With the advice of the ELECTED State Superintendent, the  
10 ELECTED State Board shall specify the information each county board, school official,  
11 and teacher is to record and shall require the following information to be recorded:

12 (i) All financial accounts, including the annual budget; and

13 (ii) All educational records.

14 (2) The reports containing this information shall be made on the form  
15 that the ELECTED State Board, with the advice of the ELECTED State  
16 Superintendent, requires.

17 (3) If the ELECTED State Superintendent agrees, the required  
18 information may be sent in automatic data processing, machine-usable form.

19 [(p)] (O) (1) The ELECTED State Board shall submit an annual report to  
20 the Governor on:

21 (i) All operations of the Department;

22 (ii) The support, conditions, progress, and needs of elementary and  
23 secondary education in this State; and

24 (iii) The overall plan for elementary and secondary education in this  
25 State, AFTER PUBLIC REVIEW BY THE LOCAL EDUCATION AGENCIES AND LOCAL  
26 SUPERINTENDENTS.

27 (2) This annual report shall be printed in sufficient quantities for  
28 general distribution in this State AND SHALL BE POSTED ON THE STATE  
29 DEPARTMENT'S WEBSITE.

30 [(q)] (P) (1) The ELECTED State Board shall coordinate the overall growth  
31 and development of elementary and secondary education in this State TO SUPPORT  
32 THE REALISTIC NEEDS OF EACH LOCAL EDUCATION AGENCY.

33 (2) In consultation with the ELECTED State Superintendent, the  
34 ELECTED State Board shall develop and periodically update an overall plan  
35 consistent with the bylaws that shall identify:

- 1 (i) The present and future needs of elementary and secondary  
2 education throughout the State, including a discussion of the demographic  
3 composition of the elementary and secondary population;
- 4 (ii) The present and future capabilities of the public elementary  
5 and secondary education system in this State;
- 6 (iii) The short-range and long-range objectives and priorities for  
7 elementary and secondary education and methods and timelines for achieving and  
8 maintaining them;
- 9 (iv) Whether current programs adequately prepare graduates for  
10 employment opportunities in this State, or postsecondary education opportunities;
- 11 (v) The status and needs of the career and technology education  
12 program, the vocational rehabilitation program, and the library system of these  
13 programs;
- 14 (vi) The technological advancements that would enhance  
15 elementary and secondary education throughout the State;
- 16 (vii) Methods to upgrade and improve teacher education and teacher  
17 [certification] QUALIFICATION programs;
- 18 (viii) The school systems that have dropped below the statewide test  
19 averages and shall assess the options available to improve the test averages of these  
20 school systems;
- 21 (ix) The methods to improve the diagnosis of basic reading skill  
22 deficiencies of elementary and secondary school students and to improve the literacy  
23 rates of these students;
- 24 (x) The methods to increase the rate of retention and graduation of  
25 secondary school students;
- 26 (xi) The short-range and long-range objectives for the resolution of  
27 the problem of substance abuse by elementary and secondary school students; and
- 28 (xii) The short-range and long-range objectives for the resolution of  
29 the problems of youth and teenage pregnancy.
- 30 (3) EACH ITEM IN THE PLAN SHALL BE MADE PUBLIC AND SHALL BE  
31 OPEN FOR PUBLIC COMMENT DURING EACH MONTHLY MEETING.

32 2-206.

33 (a) In this section, "noncollegiate educational institution" means a school or  
34 other institution that offers an educational program but is not an institution of  
35 postsecondary education, as defined in § 10-101 of this article.

36 (b) (1) This section does not apply to:

1 (i) Apprenticeship and on-the-job training programs that are  
2 subject to the approval of the Apprenticeship and Training Council;

3 (ii) Individuals or entities that offer or arrange for instruction  
4 solely for avocational purposes through courses in areas such as art, music, dance,  
5 drama, sports, crafts, or photography, if these courses are designed primarily for  
6 developing skills for personal enrichment, recreation, or other leisure pursuits; or

7 (iii) Individuals or entities that offer or arrange for a supplemental  
8 educational program or tutoring in subjects usually taught in an elementary or  
9 secondary school to students concurrently enrolled in public, PUBLIC CHARTER, or  
10 nonpublic schools.

11 (2) This section does not apply to these individuals or entities specified  
12 in subparagraph (1)(ii) of this subsection solely on the basis that they use the word  
13 "school" as a part of their name, in literature or publications such as advertisements,  
14 brochures, catalogs or bulletins, or in other pronouncements.

15 (c) With the advice of the ELECTED State Superintendent, the ELECTED State  
16 Board shall adopt bylaws, rules, and regulations for the approval and accreditation of  
17 all public schools.

18 (d) With the advice of the ELECTED State Superintendent, the ELECTED State  
19 Board shall establish minimum requirements for issuing certificates and diplomas by  
20 public and private noncollegiate educational institutions in this State.

21 (e) (1) A noncollegiate educational institution may not operate in this State  
22 without a certificate of approval from the ELECTED State Board.

23 (2) The ELECTED State Board shall issue a certificate of approval to a  
24 noncollegiate educational institution if it finds that the facilities, conditions of  
25 entrance and scholarship, and educational qualifications and standards are adequate  
26 and appropriate for:

27 (i) The purposes of the institution;

28 (ii) The programs, training, and courses to be taught by the  
29 institution; and

30 (iii) The certificates and diplomas to be issued by it.

31 (3) The ELECTED State Board may not issue a certificate of approval to  
32 an institution that practices discrimination based on race, color, or national origin.

33 (4) This subsection does not apply to an institution operated by a bona  
34 fide church organization, including the Amish and Mennonite church parochial  
35 schools. However, an institution that does not have a certificate of approval from the  
36 ELECTED State Board may not receive State funds, except that an institution  
37 operated by a bona fide church organization is not required to have a certificate to

1 receive State funds for eligible students in the food service program who are enrolled  
2 in nursery school through the eighth grade.

3 (f) (1) If the ELECTED State Board believes that a noncollegiate educational  
4 institution that applies for a certificate of approval does not meet the conditions or  
5 standards necessary for the issuance of the certificate, it shall give the institution  
6 written notice of the specific deficiencies.

7 (2) Within 20 days of receipt of a notice of deficiencies, the institution  
8 may request a hearing before the ELECTED STATE Board, and, within 60 days of  
9 receipt of the request, the Board shall hold a hearing to determine if the certificate of  
10 approval should be issued.

11 (3) If, within 6 months from the date on which the application for  
12 certification was submitted to the ELECTED State Board, the institution has received  
13 neither a certificate of approval under subsection (e) of this section nor written notice  
14 of deficiencies under this subsection, it may request, within 20 days, a hearing before  
15 the ELECTED STATE Board to determine if the certificate of approval should be  
16 issued.

17 (g) (1) If the ELECTED State Board believes that a noncollegiate educational  
18 institution does not meet the conditions or standards on which its certificate of  
19 approval was based, it shall give the institution written notice of this belief.

20 (2) The notice shall specify the alleged deficiencies and direct the  
21 institution to correct them within a period of not less than 30 days as set by the  
22 ELECTED STATE Board. If the institution requests a hearing within 20 days of the  
23 notice, the ELECTED STATE Board shall hold a hearing to determine the matter.

24 (3) The order to correct the deficiencies shall be stayed until a  
25 determination is made after the hearing.

26 (h) (1) The ELECTED State Board may order a noncollegiate educational  
27 institution to end operations if the institution fails to correct the specified deficiencies  
28 within the period set by the ELECTED STATE Board and if:

29 (i) A hearing is not requested; or

30 (ii) After a hearing, the ELECTED STATE Board finds that the  
31 institution does not meet the conditions or standards.

32 (2) The order takes effect 15 days after it is issued.

33 (i) (1) An institution has the right to judicial review of any ELECTED State  
34 Board determination under this section as provided by the Administrative Procedure  
35 Act.

36 (2) The decision of the ELECTED State Board is presumed correct and  
37 proper and the institution has the burden of proving otherwise.

1 (3) The ELECTED State Board shall be a party to the proceeding.

2 (j) A noncollegiate educational institution shall:

3 (1) Be open for inspection by the ELECTED State Superintendent or his  
4 designee at all reasonable times; and

5 (2) Furnish the reports and information required by the ELECTED State  
6 Superintendent on the forms provided by the ELECTED State Superintendent.

7 (k) (1) Each noncollegiate educational institution, in conjunction with the  
8 county health department, shall provide scoliosis screening tests for all of their  
9 students at least once in grades 6 through 8.

10 (2) Each noncollegiate educational institution shall comply with the  
11 provisions of § 7-405(c) through (e) of this article.

12 2-207.

13 (a) (1) There is a Public Education Partnership Fund.

14 (2) The Fund shall be used to:

15 (i) Enhance cooperation between the private sector and public  
16 education entities;

17 (ii) Facilitate the expansion and development of new partnership  
18 initiatives;

19 (iii) Encourage the donation of corporate and foundation money to  
20 expand the outreach capacity of the Department; and

21 (iv) Strengthen the development of family and community  
22 involvement in public education.

23 (b) The Comptroller shall credit to the Public Education Partnership Fund  
24 any money that is received from public grants and private contributions.

25 (c) The ELECTED State Board, upon the recommendation of the ELECTED  
26 State Superintendent, may use money that is credited to the Public Education  
27 Partnership Fund for any activity or program that furthers the purposes listed in  
28 subsection (a)(2) of this section, including:

29 (1) Preparation and distribution of information packets and brochures;

30 (2) Development of public service announcements;

31 (3) Development of seminars and training programs focusing on public  
32 education priorities;

33 (4) Development of a family and community involvement hot line;



1 (5) Establishing appropriate award systems for the recognition of  
2 educators and business contributors; and

3 (6) Evaluating and recommending methods to improve the efficiency and  
4 promote the growth of private sector and public education partnerships.

5 (d) The Treasurer shall invest money from the Public Education Partnership  
6 Fund for the use of the Fund, and all earnings shall be credited to the Fund.

7 (e) Expenditures from the Fund shall be made pursuant to an appropriation  
8 approved by the General Assembly in the annual State budget or by the budget  
9 amendment procedure provided for in § 7-209 of the State Finance and Procurement  
10 Article.

11 (f) The Fund is a continuing, nonlapsing fund that:

12 (1) Is not subject to § 7-302 of the State Finance and Procurement  
13 Article; and

14 (2) May not be used as a substitute for State General Fund  
15 appropriations.

16 (g) The Public Education Partnership Fund is subject to audit by the  
17 Legislative Auditor as provided under § 2-1220 of the State Government Article.

18 2-301.

19 There is a State Superintendent of Schools in the Department.

20 2-302.

21 (a) (1) The State Superintendent shall be [appointed by the State Board for  
22 a term of 4 years beginning on July 1 after his appointment and serves until a  
23 successor is appointed and qualifies] ELECTED BY THE CITIZENS OF THE STATE AND  
24 SHALL SERVE FOR NOT MORE THAN TWO CONSECUTIVE TERMS OF 4 YEARS.

25 (2) (I) THE STATE SUPERINTENDENT SHALL BE ELECTED IN THE 2006  
26 GENERAL ELECTION AND SHALL BE SWORN IN BY THE GOVERNOR ON THE SECOND  
27 TUESDAY OF THE FOLLOWING GENERAL ASSEMBLY SESSION.

28 (II) THE ELECTION CYCLE OF THE STATE SUPERINTENDENT SHALL  
29 BE THE SAME AS THE MEMBERS OF THE GENERAL ASSEMBLY.

30 (b) The [State Board shall fix his salary and pay it] ELECTED STATE  
31 SUPERINTENDENT SALARY SHALL BE DETERMINED BY THE GENERAL ASSEMBLY  
32 AND SHALL BE PAID from the appropriation for the expenses and maintenance of the  
33 Department.

34 [(c) The State Superintendent shall:

35 (1) Be an experienced and competent educator;

- 1 (2) Be a graduate of an accredited college or university;
- 2 (3) Have at least 2 years of special academic and professional graduate  
3 preparation in an accredited college or university; and
- 4 (4) Have at least 7 years of experience in teaching and administration.]
- 5 [(d)] (C) (1) The ELECTED State Board may remove the ELECTED State  
6 Superintendent for:
- 7 (i) Immorality;
- 8 (ii) Misconduct in office; OR
- 9 [(iii) Insubordination;
- 10 (iv) Incompetency; or]
- 11 [(v)] (III) Willful neglect of duty.
- 12 (2) Before removing the ELECTED State Superintendent, the ELECTED  
13 State Board shall send the ELECTED STATE Superintendent a copy of the charges  
14 against him and give him an opportunity within 10 days to request a hearing.
- 15 (3) If the ELECTED State Superintendent requests a hearing within the  
16 10-day period:
- 17 (i) The ELECTED State Board promptly shall hold a hearing, but a  
18 hearing may not be set within 10 days after the ELECTED State Board sends the  
19 ELECTED State Superintendent a notice of the hearing; and
- 20 (ii) The ELECTED State Superintendent shall have an opportunity  
21 to be heard publicly before the ELECTED State Board in his own defense, in person or  
22 by counsel.
- 23 [(e)] (D) The [State Board] GOVERNOR shall appoint a new State  
24 Superintendent to fill a vacancy in that office for the remainder of the unexpired  
25 term.
- 26 2-303.
- 27 (a) In addition to the other powers granted and duties imposed under this  
28 article, the ELECTED State Superintendent has the powers and duties set forth in this  
29 section.
- 30 (b) [(1)] The ELECTED State Superintendent shall enforce the provisions of:
- 31 [(i)] (1) This article that are within his jurisdiction; and
- 32 [(ii)] (2) The bylaws, rules, and regulations of the ELECTED State  
33 Board.

1           [(2)    If an educational institution or county board violates any of these  
2 provisions, the State Superintendent, by written notice, may require the State  
3 Comptroller to withhold from that institution or board:

4                   (i)       All or any part of an appropriation made by the General  
5 Assembly; and

6                   (ii)       All or any part of any other payment from funds budgeted by  
7 the State.]

8       (c)       The ELECTED State Superintendent shall:

9                   (1)       Carry out the educational policies of the ELECTED State Board;

10                  (2)       Call and conduct conferences of county boards and professional  
11 personnel of the county school systems on the condition, needs, and improvement of  
12 the schools; and

13                  (3)       Prepare and publish pamphlets to:

14                           (i)       Stimulate public interest;

15                           (ii)       Promote the [work] ART of education; and

16                           (iii)       Foster professional insight and efficiency in teachers.

17       (d)       The ELECTED State Superintendent is a member of the Governor's  
18 Executive Council.

19       (e)       The ELECTED State Superintendent shall:

20                   (1)       Receive and examine each report required under the bylaws, rules,  
21 and regulations of the ELECTED State Board; and

22                   (2)       Examine the expenditures, business methods, and accounts of each  
23 county board and advise each county board about them.

24       (f)       (1)       Subject to the bylaws, rules, and regulations of the ELECTED State  
25 Board, the ELECTED State Superintendent shall approve or disapprove each:

26                           (i)       Proposal for the purchase or sale of any ground, school site, or  
27 building;

28                           (ii)       Plan or specification for the remodeling of a school building if  
29 the remodeling costs more than \$350,000;

30                           (iii)       Plan or specification for the construction of a new school  
31 building; and

32                           (iv)       Change order that costs more than \$25,000 for the remodeling,  
33 restoration, or construction of a school building.

1           (2)     If the ELECTED State Superintendent disapproves any plan,  
2 specification, proposal, or change order, he shall state in writing the reasons for his  
3 disapproval.

4           (3)     If the construction is to be done by a county board, the board may not  
5 begin until the plans and specifications are approved in writing by the ELECTED  
6 State Superintendent.

7           (4)     If the construction is to be done by contract, the contract is invalid  
8 without the written approval of the ELECTED State Superintendent.

9       (g)     (1)     The ELECTED State Superintendent shall certificate the professional  
10 personnel in each public school in accordance with this article and subject to the  
11 bylaws, rules, and regulations of the Professional Standards and Teacher Education  
12 Board.

13           (2)     Renewal requirements for any professionally certificated employee  
14 may be waived if:

15                   (i)     The renewal is recommended by the county superintendent  
16 having jurisdiction over the employee; and

17                   (ii)    The professionally certificated employee is:

18                           1.     55 years old or older; or

19                           2.     Employed in public or approved nonpublic school service  
20 for at least 25 years.

21       (h)     (1)     If the program is based on and complies with the standards  
22 established by the bylaws, rules, and regulations of the ELECTED State Board, the  
23 ELECTED State Superintendent shall approve any program of instruction offered by a  
24 State institution under the supervision of:

25                   (i)     The Department of Juvenile Services;

26                   (ii)    The Developmental Disabilities Administration, or Mental  
27 Hygiene Administration of the Department of Health and Mental Hygiene;

28                   (iii)   The Department of Public Safety and Correctional Services; or

29                   (iv)    The residential school located within the Institute of Psychiatry  
30 and Human Behavior of the University Hospital.

31           (2)     If the ELECTED State Superintendent grants approval, he shall issue  
32 a certificate of approval for the program to the institution that offers the program.

33           (3)     The certificate may be revoked for cause by the ELECTED State  
34 Superintendent.

35           (4)     Each institution that offers an approved program shall:

1 (i) Be open at all reasonable times for inspection of the program by  
2 the ELECTED State Superintendent or his designated agent; and

3 (ii) Furnish the information and reports that the ELECTED State  
4 Superintendent considers necessary for evaluation of the program.

5 (5) The ELECTED State Superintendent shall issue a certificate of  
6 completion of credit to a resident of an institution who successfully completes an  
7 approved program of instruction.

8 (i) (1) The ELECTED State Superintendent may furnish visual and auditory  
9 aids, educational television, and any other aids to facilitate instruction in all subjects  
10 in any school, institution, or organization under the supervision of the ELECTED State  
11 Board.

12 (2) Material collected for this purpose may be made available for a  
13 limited time to any responsible institution or organization for the benefit of citizens of  
14 this State.

15 (3) The ELECTED State Superintendent may make contracts to carry out  
16 the provisions of this subsection.

17 (j) The ELECTED State Superintendent shall perform any other duties  
18 assigned to him:

19 (1) Under this article; or

20 (2) By the ELECTED State Board.

21 2-304.

22 (a) In this section, "noncollegiate educational institution" means a school or  
23 other institution that offers an educational program but is not an institution of  
24 postsecondary education, as defined in § 10-101 of this article.

25 (b) (1) Before a private noncollegiate educational institution that operates  
26 in this State ends operations, including those operated by bona fide church  
27 organizations, the chief administrative officer of the institution shall file with the  
28 ELECTED State Superintendent the original or a legible copy of all essential records of  
29 the academic achievements of each former student of the institution who received  
30 instruction in any combination of grades 9 through 12 or their equivalents.

31 (2) These records shall be prepared to present as a separate document  
32 the academic record of each former student and the academic information that  
33 customarily is required by postsecondary educational institutions when considering a  
34 student for admission.

35 (c) The ELECTED State Superintendent shall keep a permanent file of these  
36 records.

1 (d) Any person who willfully fails or refuses to comply with the provisions of  
2 this section is guilty of a misdemeanor and on conviction is subject to a fine not  
3 exceeding \$1,000 for each violation.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the  
5 Annotated Code of Maryland, in consultation with and subject to the approval of the  
6 Department of Legislative Services, shall correct, with no further action required by  
7 the General Assembly, cross references and terminology rendered incorrect by this Act  
8 or by any other Act of the General Assembly of 2004 that affects provisions enacted by  
9 this Act. The publisher shall adequately describe any such correction in an editor's  
10 note following the section affected.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
12 effect October 1, 2004.