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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



**ENROLLED**  
*Com. Sub. for Com. Sub. for*  
SENATE BILL NO. 420

(By Senator *Tucker, Mr. President, et al*)



PASSED April 8, 1989

In Effect July 1, 1989 **Passage**

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
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FOR  
**Senate Bill No. 420**

(By SENATORS TUCKER, MR. PRESIDENT, AND HARMAN,  
BY REQUEST OF THE EXECUTIVE)

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[Passed April 8, 1989; to take effect July 1, 1989.]

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AN ACT to repeal articles twenty-two, twenty-four, twenty-six, twenty-six-b, twenty-six-c and twenty-six-d, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section ten, article two, chapter two of said code; to amend and reenact section eleven, article one, chapter nine-a of said code; to amend and reenact section two, article five, chapter ten of said code; to amend and reenact sections one, three and ten, article two, chapter eighteen of said code; to amend and reenact sections two, three, four and five, article two-b of said chapter; to further amend said chapter eighteen by adding thereto a new article, designated article ten-h; to amend and reenact sections one, two, three and six, article twenty-six-a of said chapter; to amend and reenact section five, article twenty-nine of said chapter; to amend and reenact section five and thirteen, article thirty of said chapter; to further amend said code by adding thereto two new chapters, designated chapters



eighteen-b and eighteen-c; and to amend and reenact section four, article three-b, chapter sixty-one of said code, all relating to the reorganization of higher education; clarifying the meaning of board of regents in rules for construction of statutes; changing membership on the advisory council to the department of veterans' affairs, the educational broadcasting authority and the state board of education; authorizing the state board of education to promulgate rules for granting certificates and awards with respect to certain vocational-technical-occupational programs; abolishing the state board of vocational education effective the first day of July, one thousand nine hundred ninety; establishing the joint commission on vocational-technical-occupational education effective the first day of July, one thousand nine hundred eighty-nine; providing that the joint commission shall be the sole agency for administering vocational-technical-occupational education; establishing implementation team to review the work of the joint commission and requiring certain reports; establishing area vocational education program funds for secondary vocational education and post-secondary vocational education; authorizing certain boards to expend funds; vesting title to property in certain boards effective the first day of July, one thousand nine hundred eighty-nine; creating the Albert Yanni programs of excellence in vocational-technical education; establishing an academy for talented vocational-technical education students and administrators; establishing a scholarship program for secondary vocational-technical education graduates and educators for enumerated purposes; establishing an interdisciplinary doctoral program for vocational-technical education; establishing an effective schools program in vocational-technical education; establishing a unified technology transfer program; placing state autism training center under jurisdiction of board of trustees; providing that same hearing examiner may not hear grievance brought before education employees grievance board by former grievant; changing composition and quorum of board of directors of the West Virginia higher education tuition trust; changing conditions precedent to adminis-

tration of trust; creating the University of West Virginia board of trustees and the board of directors of the state college system; providing definitions and assigning the state institutions of higher education to the state university system or the state college system and providing for the governance of each system by separate governing boards; transferring the powers, duties, authorities, orders, resolutions, rules, titles to property, valid agreements and obligations, and statutory powers and duties of the board of regents to the appropriate governing boards and abolishing the board of regents; placing board of trustees and board of directors under the jurisdiction of the department of education and the arts; providing for coordination of policies and purposes of state university system and state college system by secretary of education and the arts; requiring study of certain institutions of higher education for the purpose of determining their role and mission within the reorganized system of higher education; providing for review of rules promulgated by board of trustees and board of directors; transferring supervision of state institutions of higher education from board of regents to appropriate governing board; requiring each governing board to develop a system of comparison information and allocation decisions for implementation; providing powers and duties of governing boards and institutional presidents; establishing a task force on faculty salaries and resource allocation; providing for composition, appointment, terms and qualifications of members of University of West Virginia board of trustees; providing for meetings and compensation; providing additional duties of board of trustees; changing name of college of graduate studies to University of West Virginia college of graduate studies and transferring operation of the institution to the board of trustees; transferring operation of West Virginia school of osteopathic medicine to board of trustees; providing for composition, appointment, terms and qualifications of members of board of directors of the state college system; providing for meetings and compensation; providing additional duties of board of directors; providing for the continuance and establishment of community colleges, technical courses

and job training and establishing eight community college service areas; establishing a separate division of community colleges within the state college system and creating position of vice chancellor for community colleges; moving the authority to adopt rules for accreditation of private proprietary institutions awarding specialized associate degrees from the state board of education to the board of directors of state college system and providing penalties for violations; providing definition for proprietary schools that award specialized associate degrees; providing remedies for students under consumer laws; establishing the West Virginia joint commission for vocational-technical-occupational education subject to the jurisdiction of the department of education and the arts; providing definitions; providing for composition, terms and qualifications of members of joint commission; providing for meetings, compensation and duties and responsibilities of members of the joint commission; providing for general administration of board of trustees and board of directors; providing for employment of chancellors, senior administrator and staff for the boards; appointing director of state department of health as vice chancellor for health affairs and requiring study of role and mission of state medical schools for governor and legislature; enumerating powers and duties of senior administrator; authorizing board of trustees and board of directors to participate in reciprocal regional and interstate higher educational agreements; authorizing board of trustees and board of directors to apply for, accept, administer and expend funds from federal and private grants, appropriations, allocations and programs for higher education and establishing related powers and duties; authorizing board of trustees and board of directors to appoint and compensate security officers; granting powers, authority and responsibilities of law-enforcement officers to security officers and establishing eligibility for law-enforcement training at an approved academy; authorizing the acquisition, operation and regulation of parking areas, roads and facilities at state institutions of higher education and providing civil and criminal penalties for violations; providing for

accreditation of institutions of higher education and standards for degrees; providing three areas for budget appropriations within the system of higher education; providing for allocation and disposition of appropriated funds; authorizing the board of trustees and the board of directors to contract for programs, services and facilities; providing for purchase or acquisition of materials, supplies, equipment and printing through the senior administrator; permitting private institutions of higher education to join as purchasers and to be responsible for payment of purchases; eliminating reference to board of regents in various code provisions and replacing it with reference to governing boards; providing that members of advisory councils of faculty may be elected by ballot process; providing for proportional representation on advisory councils of students; increasing membership on advisory councils of classified employees; increasing membership on advisory council on federal resources and increasing mileage allowance; eliminating reference to West Virginia Anatomical Board and replacing it with reference to the University of West Virginia Anatomical Board; seniority for full-time classified personnel; seniority to be observed in reducing work force; preferred recall list; renewal of listing; notice of vacancies; eliminating reference to board of regents and replacing it with reference to governing boards in code provisions relating to granting sabbatical leaves, effect of leave of absence on academic tenure and rank, notice to probationary faculty members of retention or nonretention and hearing procedures, and faculty and classified employee continuing education and development program; defining Marshall University as a doctoral institution and placing it on the minimum salary schedule for full-time faculty at doctoral institutions; providing a five percent salary increase for faculty beginning the first day of January, one thousand nine hundred ninety and providing for the distribution of such salary increase; providing for the employment of faculty after the first day of July, one thousand nine hundred eighty-nine and assigning them to the appropriate salary schedule; eliminating reference to board of

regents and replacing it with reference to appropriate governing board in code provisions relating to merit increases and salary adjustment, additional employment by mutual agreement and classified employee salary schedule and classification system; changing definition of classified employee and adding new definition for job and grade classification; redesignating chapter number for higher education classified employee monthly salary schedule; eliminating reference to board of regents and replacing it with reference to governing boards in code provisions relating to establishment of personnel classification system, assignment to classification and to salary schedule and classified employee salary; requiring governing boards to establish by rule an equitable system of job classifications for review by secretary of education and the arts and for implementation by the first day of July, one thousand nine hundred ninety; requiring governing boards to notify employees of assignment to classification, job title, pay grade and providing for appeal procedures; eliminating reference to board of regents and replacing it with reference to governing boards in code provisions relating to classified employees salary, annual review of classifications and classification system, conferences regarding personnel classification, hirings after effective date and additional employment by mutual agreement; establishing effective date of the first day of July, one thousand nine hundred eighty-nine for classified employee salary and experience increment; providing five percent salary increase and method of distributing such increase for classified staff beginning on the first day of January, one thousand nine hundred ninety; eliminating reference to board of regents and replacing it with reference to governing boards in code provisions relating to fees and other money collected at state institutions of higher education, enrollment, tuition and other fees at educational institutions, refund of fees, higher education resource fee, faculty improvement fee and medical education fee; establishing a health professions education fee; eliminating reference to board of regents and replacing it with reference to governing boards in code provisions

relating to fee waivers—undergraduate schools, fee waivers—professional and graduate schools and tuition and fee waivers for children and spouses of officers and firefighters killed in the line of duty; providing that additional registration fees collected from students shall be paid into special capital improvements fund which shall be expended jointly by the governing boards; redesignating chapter reference in code provision relating to authority to excuse students in certain educational programs from payment of enrollment fees; eliminating reference to board of regents and replacing it with reference to governing boards in code provisions relating to disposition and use of student union fees, issuance of revenue bonds, fees and money derived from athletic contests, fees from operation of dormitories, faculty homes, dining halls, and cafeterias, book stores, changing disposition of end of year bookstore moneys, authority of educational institutions to provide special services and programs, collection and disposition of fees; providing that funds collected from certain sources and interest revenue generated by special student fee account shall be expended only at or for the institution where such funds or fee was collected; creating a center for regional progress and providing for a director, powers and mission and purpose; redesignating chapter reference for code provisions relating to institute for public affairs and institute for international trade development; providing for private non-profit research and development corporations under agreements with state institutions of higher education; research and development agreements for state institutions of higher education; creating a “High-Tech 2000” program and foundation for science and technology to assist business and industry in adopting new technology; redesignating chapter reference in code provisions relating to authorization to sell West Virginia University poultry farm properties located in Morgantown and authorization to sell West Virginia University vacant lot located in Morgantown and biological research station located in Terra Alta; providing that senior administrator shall administer programs for student financial assistance, guaranteed student loans and medical stu-

dent loans; authorizing board of trustees to contract for training of students in optometry; eliminating reference to board of regents and replacing it with reference to governing boards in code provisions relating to trespass on student residence premises or student facility premises of an institution of higher education.

*Be it enacted by the Legislature of West Virginia:*

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

## **CHAPTER 2. COMMON LAW, STATUTES, LEGAL HOLIDAYS, DEFINITIONS AND LEGAL CAPACITY.**

### **ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL DAYS; CONSTRUCTION OF STATUTES; DEFINITIONS.**

#### **§2-2-10. Rules for construction of statutes.**

- 1 The following rules shall be observed in the con-
- 2 struction of statutes, unless a different intent on the
- 3 part of the Legislature be apparent from the context:
- 4 (a) A word importing the singular number only may

5 be applied to several persons or things, as well as to  
6 one person or thing; a word importing the plural  
7 number only may be applied to one person or thing as  
8 well as to several; and a word importing the masculine  
9 gender only may be applied to females as well as  
10 males;

11 (b) Words purporting to give a joint authority to  
12 three or more persons confer such authority upon a  
13 majority of them, and not upon any less number;

14 (c) The words "written" or "in writing" include any  
15 representation of words, letters or figures, whether by  
16 printing, engraving, writing or otherwise. But when  
17 the signature of any person is required, it must be in  
18 his or her own proper handwriting, or his or her  
19 mark, attested, proved or acknowledged;

20 (d) The words "preceding," "succeeding" or "follow-  
21 ing" used in reference to any section or sections of a  
22 chapter or statute, mean next preceding, next succeed-  
23 ing or next following that in which such reference is  
24 made, unless a different interpretation be required by  
25 the context;

26 (e) An officer shall be deemed to have qualified  
27 when he or she has done all that is required by law  
28 to be done before proceeding to exercise the authority  
29 and discharge the duties of his or her office;

30 (f) The words "the governor" are equivalent to "the  
31 executive of the state" or "the person having the  
32 executive power";

33 (g) "Justice" or "justices" as used in article one,  
34 chapter fifty-one of this code and in other references  
35 to a member or members of the supreme court of  
36 appeals shall mean and apply to a judge or the judges  
37 of said court as provided for in the constitution of the  
38 state. The word "justice" in any other context is  
39 equivalent to the words "justice of the peace," and the  
40 word "notary" is equivalent to "notary public";

41 (h) The word "state," when applied to a part of the  
42 United States and not restricted by the context,  
43 includes the District of Columbia and the several



44 territories, and the words "United States" also include  
45 the said district and territories;

46 (i) The word "person" or "whoever" shall include  
47 corporations, societies, associations and partnerships, if  
48 not restricted by the context;

49 (j) The words "personal representative" include the  
50 executor of a will, the administrator of the estate of a  
51 deceased person, the administrator of such estate with  
52 the will annexed, the administrator de bonis non of  
53 such estate, whether there be a will or not, the sheriff  
54 or other officer lawfully charged with the administra-  
55 tion of the estate of a deceased person, and every other  
56 curator or committee of a decedent's estate for or  
57 against whom suits may be brought for causes of  
58 action which accrued to or against such decedent;

59 (k) The word "will" embraces a testament, a codicil,  
60 an appointment by will or writing in the nature of a  
61 will in exercise of a power, also any other testamen-  
62 tary disposition;

63 (l) The word "judgment" includes decrees and  
64 orders for the payment of money or the conveyance or  
65 delivery of land or personal property, or some interest  
66 therein, or any undertaking, bond or recognizance  
67 which has the legal effect of a judgment;

68 (m) The words "under disability" include persons  
69 under the age of eighteen years, insane persons, and  
70 convicts while confined in the penitentiary;

71 (n) The words "insane person" include everyone  
72 who has mental illness as defined in section two,  
73 article one, chapter twenty-seven of this code;

74 (o) The word "convict" means a person confined in  
75 the penitentiary of this or any other state, or of the  
76 United States;

77 (p) The word "land" or "lands" and the words "real  
78 estate" or "real property" include lands, tenements  
79 and hereditaments, all rights thereto and interests  
80 therein except chattel interests;

81 (q) The words "personal estate" or "personal prop-

82 erty” include goods, chattels, real and personal,  
83 money, credits, investments and the evidences thereof;

84 (r) The word “property” or “estate” embraces both  
85 real and personal estate;

86 (s) The word “offense” includes every act or omis-  
87 sion for which a fine, forfeiture or punishment is  
88 imposed by law;

89 (t) The expression “laws of the state” includes the  
90 constitution of the state and the constitution of the  
91 United States, and treaties and laws made in pursu-  
92 ance thereof;

93 (u) The word “town” includes a city, village or town,  
94 and the word “council,” any body or board, whether  
95 composed of one or more branches, who are autho-  
96 rized to make ordinances for the government of a city,  
97 town or village;

98 (v) When a council of a town, city or village, or any  
99 board, number of persons or corporations, are autho-  
100 rized to make ordinances, bylaws, rules, regulations or  
101 orders, it shall be understood that the same must be  
102 consistent with the laws of this state;

103 (w) The words “county court” include any existing  
104 tribunal created in lieu of a county court; the words  
105 “commissioner of the county court” and “county  
106 commissioner” mean, and have reference to, the  
107 commissioners, or one of them, composing the county  
108 court, in pursuance of section twenty-two, article eight  
109 of the constitution, as amended, or any existing  
110 tribunal created in lieu of a county court;

111 (x) The word “horse” embraces a stallion, a mare  
112 and a gelding;

113 (y) The words “railroad” and “railway” shall be  
114 construed by the courts of this state to mean the same  
115 thing in law; and, in any proceeding wherein a  
116 railroad company or a railway company is a party, it  
117 shall not be deemed error to call a railroad company  
118 a railway company or vice versa; nor shall any  
119 demurrer, plea or any other defense be set up to a

120 motion, pleading or indictment in consequence of such  
121 misdescription;

122 (z) The sectional headings or headlines of the several  
123 sections of this code printed in black-faced type are  
124 intended as mere catchwords to indicate the contents  
125 of the section and shall not be deemed or taken to be  
126 titles of such sections, or as any part of the statute,  
127 and, unless expressly so provided, they shall not be so  
128 deemed when any of such sections, including the  
129 headlines, are amended or reenacted;

130 (aa) The words "infant" and "minor" mean persons  
131 under the age of eighteen years as such words are  
132 used in this code or in rules and regulations promul-  
133 gated by the supreme court of appeals;

134 (bb) A statute is presumed to be prospective in its  
135 operation unless expressly made retrospective;

136 (cc) Unless there is a provision in a section, article  
137 or chapter of this code specifying that the provisions  
138 thereof shall not be severable, the provisions of every  
139 section, article or chapter of this code, whether  
140 enacted before or subsequent to the effective date of  
141 this subdivision, shall be severable so that if any  
142 provision of any such section, article or chapter is held  
143 to be unconstitutional or void, the remaining provi-  
144 sions of such section, article or chapter shall remain  
145 valid, unless the court finds the valid provisions are so  
146 essentially and inseparably connected with, and so  
147 dependent upon, the unconstitutional or void provision  
148 that the court cannot presume the Legislature would  
149 have enacted the remaining valid provisions without  
150 the unconstitutional or void one, or unless the court  
151 finds the remaining valid provisions, standing alone,  
152 are incomplete and are incapable of being executed in  
153 accordance with the legislative intent: *Provided*, That  
154 if any such section, article or chapter of this code has  
155 its own severability clause, then such severability  
156 clause shall govern and control with respect to such  
157 section, article or chapter in lieu of the provisions of  
158 this subdivision. The provisions of this subdivision  
159 shall be fully applicable to all future amendments or

160 additions to this code, with like effect as if the  
161 provisions of this subdivision were set forth in extenso  
162 in every such amendment or addition and were  
163 reenacted as a part thereof, unless such amendment or  
164 addition contains its own severability clause;

165 (dd) A reference to any section, article or chapter of  
166 this code applies to all reenactments, revisions or  
167 amendments thereof;

168 (ee) If a statute refers to a series of numbers or  
169 letters, the first and the last numbers or letters in the  
170 series are deemed to be included;

171 (ff) The words "board of regents," wherever they  
172 appear in the code, means the board of trustees  
173 created by section one, article one, chapter eighteen-b  
174 of this code and the board of directors created by  
175 section one, article one, chapter eighteen-b of this code  
176 unless the term is used in relation to activities  
177 conducted solely by an institution or institutions  
178 governed by article two, chapter eighteen-b of this  
179 code in which case it only means the board of trustees,  
180 or where the term is used in relation to activities  
181 conducted solely by an institution or institutions  
182 governed by article three, chapter eighteen-b of the  
183 code in which case it only means the board of directors.

## **CHAPTER 9A. VETERANS' AFFAIRS.**

### **ARTICLE 1. DEPARTMENT OF VETERANS' AFFAIRS.**

#### **§9A-1-11. Advisory council.**

1 There is hereby established an advisory council to  
2 the West Virginia department of veterans' affairs,  
3 which shall meet on the call of the chairman of the  
4 veterans' council with the veterans' council at any of  
5 its regular or special meetings, in connection with the  
6 establishment of rules of the department to effectuate  
7 the purposes of this article and promote the efficient  
8 operation of the department, but the advisory council  
9 shall have no vote. The director, in carrying out his  
10 powers and duties, shall have the right to call on the  
11 individual members of the advisory council, and  
12 through them or their department, agency or organi-

13 zation, and also to call on such other departments or  
14 agencies of the state, as may be necessary, for advice,  
15 aid and assistance. The members of the advisory  
16 council shall be the state superintendent of free  
17 schools, commissioner of agriculture, adjutant general,  
18 state banking commissioner, state director of health,  
19 secretary of education and the arts, commissioner of  
20 corrections, commissioner of the department of high-  
21 ways and the commissioner of the department of  
22 human services, or their duly authorized and accre-  
23 dited representatives.

**CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECRE-  
ATION; ATHLETIC ESTABLISHMENTS; MONUMENTS  
AND MEMORIALS; ROSTER OF SERVICEMEN; EDUCA-  
TIONAL BROADCASTING AUTHORITY.**

**ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.**

**§10-5-2. West Virginia educational broadcasting authority;  
members; organization; officers; employees;  
meetings; expenses.**

1 The West Virginia educational broadcasting author-  
2 ity, heretofore created, is hereby continued as a public  
3 benefit corporation. It shall consist of eleven voting  
4 members, who shall be residents of the state, of whom  
5 one shall be the state superintendent of schools, one  
6 shall be a member of the West Virginia board of  
7 education to be selected by it annually, one shall be a  
8 member of the university of West Virginia board of  
9 trustees to be selected by it annually, and one shall be  
10 a member of the board of directors of the state college  
11 system to be selected by it annually. The other seven  
12 members shall be appointed by the governor by and  
13 with the advice and consent of the Senate for overlap-  
14 ping terms of seven years, one term expiring each  
15 year, except that the appointment to fill the member-  
16 ship position for the term expiring in the year one  
17 thousand nine hundred eighty-three, shall be for a  
18 term of six years. Not less than one appointive mem-  
19 ber shall come from each congressional district.  
20 Employees of noncommercial broadcasting stations in  
21 West Virginia are not eligible for appointment to the

22 authority. The present members of the authority shall  
23 continue to serve out the terms to which they were  
24 appointed. Any vacancy among the appointive  
25 members shall be filled by the governor by appoint-  
26 ment for the unexpired term.

27 The chairperson and vice chairperson of the author-  
28 ity as of the effective date of this section shall continue  
29 in their respective offices until their successors are  
30 elected. Thereafter, at its annual meeting in each year  
31 the authority shall elect one of its members as chair-  
32 person and one as vice chairperson. The authority is  
33 authorized to select an executive director and such  
34 other personnel as may be necessary to perform its  
35 duties and to fix the compensation of such personnel  
36 to be paid out of moneys appropriated for this purpose.  
37 The executive director shall keep a record of the  
38 proceedings of the authority and shall perform such  
39 other duties as it may prescribe. The authority is  
40 authorized to establish such office or offices as may be  
41 necessary for the proper performance of its duties.

42 The authority shall hold an annual meeting and may  
43 meet at such other times and places as may be  
44 necessary, such meetings to be held upon its own  
45 resolution or at the call of the chairperson of the  
46 authority. The members shall serve without compen-  
47 sation but may be reimbursed for actual expenses  
48 incident to the performance of their duties upon  
49 presentation to the chairperson of an itemized sworn  
50 statement thereof.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 2. STATE BOARD OF EDUCATION.**

#### **§18-2-1. Creation; composition; appointment, qualifications, terms and removal of members; offices.**

1 There shall be a state board of education, to be  
2 known as the West Virginia board of education, which  
3 shall be a corporation and as such may contract and be  
4 contracted with, plead and be impleaded, sue and be  
5 sued, and have and use a common seal. The state  
6 board shall consist of twelve members, of whom one

7 shall be the state superintendent of schools, ex officio;  
8 one of whom shall be the chancellor of the board of  
9 trustees, ex officio; and one of whom shall be the  
10 chancellor of the board of directors, ex officio, none of  
11 whom shall be entitled to vote. The other nine  
12 members shall be citizens of the state, appointed by  
13 the governor, by and with the advice and consent of  
14 the Senate, for overlapping terms of nine years, except  
15 that the original appointments shall be for terms of  
16 one, two, three, four, five, six, seven, eight and nine  
17 years, respectively. Terms of office shall begin on the  
18 fifth day of November of the appropriate year and end  
19 on the fourth day of November of the appropriate  
20 year. At least two but not more than three members  
21 shall be appointed from each congressional district.

22 No more than five of the appointive members shall  
23 belong to the same political party, and no person shall  
24 be eligible for appointment to membership on the  
25 state board who is a member of any political party  
26 executive committee or holds any other public office  
27 or public employment under the federal government  
28 or under the government of this state or any of its  
29 political subdivisions, or who is an appointee or  
30 employee of the board. Members shall be eligible for  
31 reappointment. Any vacancy on the board shall be  
32 filled by the governor by appointment for the unex-  
33 pired term.

34 Notwithstanding the provisions of section four,  
35 article six, chapter six of this code, no member of the  
36 state board may be removed from office by the  
37 governor except for official misconduct, incompetence,  
38 neglect of duty, or gross immorality and then only in  
39 the manner prescribed by law for the removal by the  
40 governor of state elective officers.

41 Before exercising any authority or performing any  
42 duties as a member of the state board, each member  
43 shall qualify as such by taking and subscribing to the  
44 oath of office prescribed by section five, article four of  
45 the constitution of West Virginia, the certificate  
46 whereof shall be filed with the secretary of state. A  
47 suitable office in the state department of education at

48 the state capitol shall be provided for the use of the  
49 state board.

**§18-2-3. Meetings; compensation and expenses of members.**

1 The state board shall hold at least six meetings in  
2 every year at such times and places as it may pre-  
3 scribe. It may meet at such other times as may be  
4 necessary, such meetings to be held upon its own  
5 resolution or at the call of the president of the state  
6 board. The members of the state board, other than the  
7 ex officio members of the board, shall be paid one  
8 hundred dollars per diem each day or any part thereof  
9 spent in the performance of their duties under this  
10 article, and shall be reimbursed for all reasonable and  
11 necessary expenses actually incurred incident to the  
12 performance of their duties. The state superintendent  
13 of schools, the chancellor of the board of trustees and  
14 the chancellor of the board of directors shall be  
15 reimbursed for such expenses, but shall not receive a  
16 per diem allowance. Upon presentation of itemized  
17 sworn statements, the per diem and reimbursement  
18 payments shall be made from appropriations made by  
19 the Legislature to the state board.

**§18-2-10. Certificates and awards.**

1 The state board of education shall make rules and  
2 regulations and shall determine the minimum stand-  
3 ards for the granting of certificates and awards for  
4 secondary vocational education, adult basic education,  
5 adult occupational education and adult technical  
6 preparatory education, subject to the provisions of  
7 section two, article two-b of this chapter and article  
8 three-a of chapter eighteen-b of this code.

**ARTICLE 2B. AREA VOCATIONAL PROGRAM.**

**§18-2B-2. State board of vocational education; authority to  
establish programs, etc. until July 1, 1990;  
Joint Commission for Vocational-Technical-  
Occupational Education; state board of edu-  
cation and board of directors; authority to  
establish programs, etc.; division of voca-  
tional education established; rules and regu-  
lations; director.**



1 (a) For the purpose of this article, the state board of  
2 education is designated as the state board of vocational  
3 education serving and meeting as the sole agency  
4 responsible for the administration of vocational educa-  
5 tion and for supervision of the administration thereof  
6 by local educational agencies and is hereby authorized  
7 and empowered to establish, operate and maintain  
8 area vocational educational programs including the  
9 acquisition by purchase, lease, gift or otherwise of  
10 necessary lands and the construction, expansion,  
11 remodeling, alteration and equipping of necessary  
12 buildings for the purpose of operating and conducting  
13 educational training centers. The state board of  
14 vocational education may delegate for such period of  
15 time as it may determine its operational authority for  
16 multi-county vocational centers to an administrative  
17 council composed of equal representation from each of  
18 the participating county boards of education, the  
19 superintendent of schools from each participating  
20 county, and the state director of vocational education  
21 or his representative. To this end, there is hereby  
22 expressly established in the state board of education a  
23 division of vocational education which shall establish  
24 the area or areas in which the programs are to be  
25 conducted and shall have authority to promulgate,  
26 pursuant to the provisions of chapter twenty-nine-a of  
27 this code, rules and regulations necessary to carry out  
28 the provisions of this article. The administration and  
29 supervision of the area vocational educational pro-  
30 grams shall be administered by the director of the  
31 division of vocational education.

32 (b) Effective the first day of July, one thousand nine  
33 hundred ninety, the West Virginia Joint Commission  
34 for Vocational-Technical-Occupational Education,  
35 hereinafter referred to as "Joint Commission," estab-  
36 lished pursuant to the provisions of article three-a,  
37 chapter eighteen-b of this code, is designated as the  
38 sole agency responsible for the administration of  
39 vocational-technical-occupational education in the  
40 state. The joint commission is designated thereafter to  
41 receive federal money for vocational-technical-  
42 occupational education in the state as of the first day

43 of July, one thousand nine hundred ninety. Effective  
44 the first day of July, one thousand nine hundred  
45 eighty-nine the joint commission shall determine  
46 which adult occupational education programs and  
47 which adult technical preparatory educational pro-  
48 grams as defined in section one-b, article three-a,  
49 chapter eighteen-b of this code, shall be under the  
50 jurisdiction of the state board of education and which  
51 said programs shall be under the jurisdiction of the  
52 board of directors. Effective the first day of July, one  
53 thousand nine hundred eighty-nine any proposed new  
54 program by the state board of education or the board  
55 of directors in the areas of adult occupational educa-  
56 tion or adult technical preparatory education as  
57 defined in section one-b, article three-a, chapter  
58 eighteen-b of this code shall be filed with the joint  
59 commission with notice of intent to plan, which such  
60 new program shall require approval by the joint  
61 commission prior to institution of such new program.  
62 The secondary and post-secondary vocational educa-  
63 tion programs of the state existing as of the effective  
64 date of this article shall remain in place until the first  
65 day of July, one thousand nine hundred ninety during  
66 which time the joint commission shall conduct a study  
67 of secondary and post-secondary vocational education  
68 in the state including definitions of same, and shall  
69 make recommendations to the Legislature respecting  
70 secondary and post-secondary vocational education in  
71 the state, including recommendations as to the defini-  
72 tions of same, on or before the first day of December,  
73 one thousand nine hundred ninety. As of the first day  
74 of July, one thousand nine hundred ninety the joint  
75 commission is authorized to implement policies to  
76 supervise and coordinate the secondary and post-  
77 secondary vocational education programs in the state.  
78 The joint commission is hereby empowered as of the  
79 first day of July, one thousand nine hundred ninety to  
80 determine the standards for the certification and  
81 awards of vocational programs in the state or to  
82 delegate said authority, based on the joint commis-  
83 sion's aforesaid study of the secondary and post-  
84 secondary vocational education in the state. The state

85 board of education shall be responsible for the admin-  
86 istration of secondary vocational education programs,  
87 as determined by the joint commission, and for  
88 supervision of the administration thereof by local  
89 educational agencies and is hereby authorized and  
90 empowered to establish, operate and maintain area  
91 vocational educational programs including the acquisi-  
92 tion by purchase, lease, gift or otherwise of necessary  
93 lands and the construction, expansion, remodeling,  
94 alteration and equipping of necessary buildings for the  
95 purpose of operating and conducting secondary educa-  
96 tional training centers. The state board of education  
97 may delegate for such period of time as it may  
98 determine its operational authority for multi-county  
99 vocational centers to an administrative council com-  
100 posed of equal representation from each of the partic-  
101 ipating county boards of education, the superintendent  
102 of schools from each participating county, and the  
103 state director of vocational education or his represen-  
104 tative. To this end, there is hereby expressly estab-  
105 lished in the state board of education a division of  
106 secondary vocational education which shall establish  
107 the area or areas in which the programs are to be  
108 conducted and shall have authority to promulgate,  
109 pursuant to the provisions of chapter twenty-nine-a of  
110 this code, rules and regulations necessary to carry out  
111 the provisions of this article. The administration and  
112 supervision of the area vocational educational pro-  
113 grams shall be administered by the director of the  
114 division of vocational education. The state board of  
115 vocational education, previously established under this  
116 article, is abolished effective the first day of July, one  
117 thousand nine hundred ninety.

118 The board of directors shall be responsible for the  
119 administration of all post-secondary vocational educa-  
120 tion in the state, as determined by the joint commis-  
121 sion, which shall be administered as a part of the state  
122 college system as defined in section two, article one,  
123 chapter eighteen-b of this code. In the development of  
124 the post-secondary education portion of any and all  
125 state plans or amendments thereto as may be required  
126 for participation in the Vocational Education Act of

127 1963, as amended, or as may be required for state  
128 participation in any federally funded post-secondary  
129 vocational-technical or occupational education pro-  
130 grams, the board of directors shall solicit recommenda-  
131 tions from the state board of education and the  
132 director of the division of vocational education for the  
133 post-secondary education provisions to be included in  
134 all such plans.

135 The joint commission shall, in any and all plans  
136 submitted for federal vocational education funds in  
137 support of vocational-technical or occupational educa-  
138 tion, provide that:

139 (a) The secondary vocational-technical-occupational  
140 education programs administered by the state board of  
141 education shall be eligible to receive vocational-  
142 technical-occupational education funds in accordance  
143 with federal guidelines;

144 (b) The comprehensive community college education  
145 service regions as established by the board of directors  
146 shall be eligible to receive post-secondary vocational-  
147 technical-occupational funds in accordance with fed-  
148 eral guidelines;

149 (c) Services, programs, equipment and facilities may  
150 be contracted between comprehensive community  
151 colleges, area vocational technical schools and county  
152 boards of education as a means of preventing unnec-  
153 essary duplication;

154 (d) Federal funds provided to the state in support of  
155 vocational-technical-occupational education shall be  
156 allocated to the state board of education and to the  
157 board of directors for use in the state system of  
158 comprehensive vocational-technical-occupational edu-  
159 cation in an amount in direct proportion as the  
160 respective vocational-technical-occupational enrol-  
161 lments of each program is to the total vocational-  
162 technical-occupational enrollment of the state.

163 (e) There shall be established an implementation  
164 team to review the work of the joint commission for  
165 vocational-technical-occupational education and to file

166 a report with the governor and the Legislature by the  
167 first day of December, one thousand nine hundred  
168 ninety and shall also file a report with the legislative  
169 oversight commission on education accountability no  
170 later than the first day of December, one thousand  
171 nine hundred eighty-nine. The implementation team  
172 shall be composed of one representative of the state  
173 department of education, one representative of the  
174 community colleges, three members of the senate  
175 education committee and three members of the house  
176 education committee all to be appointed by the gover-  
177 nor. The secretary of education and the arts shall be  
178 responsible for staffing the implementation team  
179 utilizing existing personnel, equipment and offices of  
180 the board of directors of the state college system and  
181 the state board of education.

**§18-2B-3. Area vocational education program funds.**

1 There is hereby established a fund to be known as  
2 "the area vocational education program fund for  
3 secondary education." There is hereby established a  
4 separate fund to be known as "the area vocational  
5 education program fund for post-secondary vocational  
6 education." All moneys appropriated for such purpose  
7 by the Legislature as well as any gifts or grants made  
8 to the appropriate fund by any governmental subdivi-  
9 sion of the state or by the United States government  
10 or by any individual, firm or corporation, to carry out  
11 the provisions of this article shall be expended by the  
12 state board of education or the board of directors, as  
13 the case may be.

**§18-2B-4. Expenditure of funds.**

1 The state board of education and the board of  
2 directors, as the case may be, are authorized and  
3 empowered to expend the area vocational education  
4 program funds for salaries, teachers' retirement  
5 contributions, and necessary travelling expenses of  
6 teachers, and other necessary employees, including,  
7 but not limited to, vocational guidance counselors, for  
8 purchase, rental, maintenance and repair of instruc-  
9 tional equipment, buildings and supplies, and for the  
10 necessary costs of transportation of certified students.

**§18-2B-5. Title to property.**

1 Title to any property, equipment, tools, furniture or  
2 instructional materials purchased prior to the effective  
3 date of this section out of the fund provided for area  
4 vocational education program funds previously estab-  
5 lished and existing immediately prior to the effective  
6 date of this article shall be transferred to and vested  
7 in the West Virginia board of education. After the  
8 effective date of this article, purchases from funds  
9 established in section four shall be vested in the state  
10 board of education or the board of directors as the case  
11 may be.

**ARTICLE 10H. ALBERT YANNI PROGRAMS OF EXCELLENCE IN  
VOCATIONAL - TECHNICAL EDUCATION.**

**§18-10H-1. Purpose; legislative intent.**

1 Rapid technological advances, the advent of a global  
2 economy, changing demographics and restructuring of  
3 the traditional workplace have dictated changes in  
4 educational programs designed to prepare work force  
5 entrants and incumbents. More emphasis must be  
6 placed on the transfer of technology, via the educa-  
7 tional system, to the workplace resulting in an aca-  
8 demically and technically literate work force. A  
9 structure must be established to provide incentives,  
10 high expectations and encouragement for talented  
11 vocational-technical students to pursue advanced  
12 education and training related to their technical  
13 disciplines, as well as provide a mechanism for the  
14 technical updating of vocational-technical teachers and  
15 administrators, including opportunities for the attain-  
16 ment of advanced degrees.

17 The economic future of the state of West Virginia  
18 will be greatly influenced by the ability of the educa-  
19 tional system to prepare competent individuals for a  
20 highly competitive and technological workplace. Excel-  
21 lence in terms of faculty, programs and educational  
22 opportunities for all West Virginians will greatly affect  
23 the degree of future economic prosperity within the  
24 state. With the enactment of this article, the Legisla-  
25 ture intends to address a major void in the current

26 system of vocational-technical education in West  
27 Virginia through the creation of a comprehensive  
28 program of educational incentives for talented stu-  
29 dents, teachers and administrators. The results of the  
30 programs and initiatives proposed by this article can  
31 have a significant impact toward achieving excellence  
32 in vocational-technical education within West Virginia  
33 and revitalizing the state's economy.

**§18-10H-2. Academy for talented vocational-technical  
education students.**

1 The West Virginia board of education shall establish  
2 by the first day of July, one thousand nine hundred  
3 ninety, an annual academy for talented vocational-  
4 technical education students, including a foundation  
5 for receiving private financial support. The purposes  
6 of the academy are to stimulate and reward student  
7 commitment to excellence in secondary vocational-  
8 technical education; to stimulate growth in the critical  
9 and creative thinking abilities of vocational-technical  
10 students; to assist exceptionally talented secondary  
11 vocational-technical education students to achieve  
12 their individual potentials; to bridge the gap between  
13 educational practice and the technological workplace;  
14 and to provide a medium for interaction between  
15 talented vocational-technical students and innovative  
16 leaders of business and industry and labor.

17 The state board of education may establish a coordi-  
18 nating committee to set operating guidelines for the  
19 academy and supporting foundation, including, but not  
20 limited to, selection of participants, promotion, pro-  
21 gram development, location, facilities and staffing.

22 The nonprofit academy foundation shall exist to  
23 solicit private funds and resources to enhance the  
24 operation of the academy.

**§18-10H-3. Scholarship fund for vocational-technical educa-  
tion students and educators.**

1 Beginning with the school year one thousand eighty-  
2 nine—ninety, the state board of education shall estab-  
3 lish a scholarship program for outstanding secondary

4 vocational-technical education graduates to pursue  
5 additional post-secondary college work in a related  
6 career or technical field. The board may award twenty  
7 annual scholarships, not to exceed two thousand  
8 dollars each, based on criteria to be established by the  
9 board. Additionally, the board may award fifteen  
10 annual scholarships, not to exceed one thousand  
11 dollars each, to outstanding vocational-technical  
12 teachers for the purpose of pursuing advanced degrees  
13 or technical updating of their professional competen-  
14 cies. The criteria for awarding the educator scholar-  
15 ships shall be promulgated by the board. The founda-  
16 tion provided for in section two of this article shall  
17 solicit private sector funds for these scholarships.

**§18-10H-4. Interdisciplinary doctoral program in vocational-  
technical education.**

1 The West Virginia board of regents shall establish by  
2 the first day of July, one thousand nine hundred  
3 ninety-one, a plan for a coordinate interdisciplinary  
4 doctoral program in vo-tech education utilizing exist-  
5 ing facilities and personnel of state universities,  
6 colleges, the state department of education vocational-  
7 technical staff and board of regents members.

**§18-10H-5. Vocational-technical education administrator's  
academy.**

1 The West Virginia board of education shall maintain  
2 and expand an annual vocational-technical education  
3 administrator's academy. The purposes of this acad-  
4 emy are to stimulate excellence in vocational-technical  
5 education programming statewide through the devel-  
6 opment of progressive instructional leadership, plan-  
7 ning and program development competencies of  
8 vocational-technical education administrators.

9 The board may establish a coordinating committee  
10 made up of the department of education staff, local  
11 vocational administrators and representatives of the  
12 vocational-technical education department at Marshall  
13 University to plan and administer this program. The  
14 non-profit academy foundation established in section  
15 two of this article shall exist to solicit private funds  
16 and resources to enhance the operation of the academy.



**§18-10H-6. Effective schools program in vocational-technical education.**

1 The state board of education shall establish and  
2 operate an effective schools program for vocational-  
3 technical education. The purpose of the program is to  
4 provide vocational-technical education personnel with  
5 resources and staff development for school program  
6 improvement based on application of the effective  
7 schools research, including components such as  
8 instructional leadership, school climate, high student  
9 expectations, emphasis on academic and occupational  
10 achievement, and community and parental involve-  
11 ment. The program shall be coordinated by the bureau  
12 of vocational, technical and adult education with the  
13 advisement from a committee composed of two voca-  
14 tional administrators, two vocational teachers, one  
15 vocational guidance counselor, one educator of voca-  
16 tional teachers, one county school superintendent, one  
17 comprehensive high school principal, one academic  
18 teacher, two business/industry representatives, one  
19 labor representative, and one vocational education  
20 program completer.

**§18-10H-7. Unified technology transfer program.**

1 The state board of education shall establish a unified  
2 technology transfer program for vocational-technical  
3 educators, beginning the first day of July, one thou-  
4 sand nine hundred ninety. This program shall empha-  
5 size initiatives designed to improve the transfer of  
6 technology through the vocational-technical education  
7 curriculum. Such initiatives must impact on improved  
8 staff development, curricula and instructional methods  
9 reflecting work applications of the new and emerging  
10 technologies. The vocational-technical education sys-  
11 tem must be a catalyst in bridging the gap between  
12 high technology and the workplace. Workers for the  
13 twenty-first century must know how to install, operate  
14 and maintain high technology equipment, systems and  
15 processes.

16 The unified technology transfer program shall  
17 provide innovative staff development opportunities  
18 through the following initiatives:

19 (a) A technical update program for vocational-  
20 technical education teachers to learn high technology  
21 skills needed to teach the operation, maintenance, or  
22 repair of high technology equipment, through place-  
23 ment in industry, formal technical coursework, semin-  
24 ars, teleconferences and other staff development  
25 functions.

26 (b) A "Teachers-Teach-Teachers" program to allow  
27 the most effective teachers in the state to instruct  
28 fellow teachers on how to effectively teach and  
29 incorporate high technology skills in the classroom and  
30 laboratory.

31 (c) An "Academy chair" program to allow education  
32 or business-industry persons to serve as a resident  
33 expert in the transfer of technology, including con-  
34 ducting seminars in educational institutions, telecon-  
35 ferences and in the workplace.

36 (d) A business and education exchange program to  
37 allow vocational-technical education teachers to work  
38 in a company or business, while the business person  
39 teaches in the vocational-technical education program.

40 (e) A beginning teacher internship program to allow  
41 new vocational-technical teachers to receive guidance  
42 from a mentor teacher in teaching high technology  
43 skills, including acquisition of such skills; and

44 (f) A vocational-technical completer capstone experi-  
45 ence program that allows talented students an oppor-  
46 tunity to learn high technology skills appropriate for  
47 their occupational area of study through internship  
48 placement in an appropriate business or industry  
49 setting.

50 The state board of education may formulate policies  
51 and procedures designed to implement this section.

52 The foundation provided for in section two of this  
53 article shall solicit private sector funds and encourage  
54 partnerships to implement this program.

**ARTICLE 26A. STATE AUTISM TRAINING CENTER.**

**§18-26A-1. Purpose.**

1 The purpose of the Legislature in the enactment of  
2 this article is to establish and develop an autism  
3 training center in the state of West Virginia with a  
4 highly skilled, interdisciplinary, appropriately experi-  
5 enced staff which will train teachers, parents,  
6 guardians and others important to the autistic person's  
7 education and training. The center shall be established  
8 and operated by the West Virginia board of trustees or  
9 its designees.

**§18-26A-2. Definitions.**

1 For the purposes of this article:  
2 "Board" means the West Virginia board of trustees;  
3 "Center" means the autism training center;  
4 "Client" means a person with the primary diagnosis  
5 of autism or autistic-like behavior; and  
6 "Expenses" means those reasonable and customary  
7 expenditures related to training and treatment of  
8 eligible clients as defined in the rules and regulations  
9 promulgated by the center.

**§18-26A-3. Powers and duties of board of trustees and state  
autism center.**

1 The board of trustees is authorized to operate a state  
2 autism training center, including either the acquisition  
3 by purchase, lease, gift or otherwise, of necessary  
4 lands, and the construction of necessary buildings; the  
5 expansion, remodeling, altering or equipping of neces-  
6 sary buildings; and the making of contracts by the  
7 board of trustees with any state, county or municipal  
8 agency, or nonprofit institution, providing for the  
9 equipment, expenses, compensation of personnel,  
10 operation and maintenance of any facility of such  
11 agency or institution utilized for the purposes of this  
12 article. The board or its designees may make and enter  
13 into all contracts and agreements necessary and  
14 incidental to the performance of its powers and duties

15 under this section, and may cooperate with other  
16 agencies of the state, county and federal governments.

**§18-26A-6. Advisory board.**

1 The board of trustees shall appoint a board of West  
2 Virginia citizens to advise the center director on  
3 matters of policy. The advisory board shall be com-  
4 posed of fifty percent parents or guardians of clients  
5 eligible for the center's program; forty percent persons  
6 from professional fields related to autism, such as  
7 special education, psychology, hearing and speech,  
8 neurology and pediatrics; and ten percent knowledge-  
9 able lay citizens such as legislators or other lay  
10 community leaders. The director of the center shall be  
11 an ex officio nonvoting member of the advisory board.

**ARTICLE 29. GRIEVANCE PROCEDURE.**

**§18-29-5. Education employees grievance board; hearing  
examiners.**

1 (a) There is hereby created and shall be an educa-  
2 tion employees grievance board which shall consist of  
3 three members who shall be citizens of the state  
4 appointed by the governor by and with the advice and  
5 consent of the Senate for overlapping terms of three  
6 years, except that the original appointments shall be  
7 for a period of one, two and three years, respectively,  
8 commencing on the first day of July, one thousand  
9 nine hundred eighty-five. No two members shall be  
10 from the same congressional district, and no more  
11 than two of the appointed members shall be from the  
12 same political party. No person shall be appointed to  
13 membership on the board who is a member of any  
14 political party executive committee or holds any other  
15 public office or public employment under the federal  
16 government or under the government of this state.  
17 Members shall be eligible for reappointment, and any  
18 vacancy on the board shall be filled within thirty days  
19 of the vacancy by the governor by appointment for the  
20 unexpired term.

21 A member of the board may not be removed from  
22 office except for official misconduct, incompetence,

23 neglect of duty, gross immorality or malfeasance, and  
24 then only in the manner prescribed in article six,  
25 chapter six of this code for the removal by the  
26 governor of the state elected officers.

27 The board shall hold at least two meetings yearly at  
28 such times and places as it may prescribe and may  
29 meet at such other times as may be necessary, such  
30 meetings to be agreed to in writing by at least two of  
31 the members. Members of the board shall each be paid  
32 seventy-five dollars for each calendar day devoted to  
33 the work of the board, but not more than seven  
34 hundred and fifty dollars during any one fiscal year.  
35 Each member shall be reimbursed for all reasonable  
36 and necessary expenses actually incurred in the  
37 performance of board duties, but shall submit a  
38 request therefor upon sworn itemized statement.

39 The board is hereby authorized and required to  
40 administer the grievance procedure at level four as  
41 provided for in section four of this article and shall  
42 employ at least two full-time hearing examiners on an  
43 annual basis and such clerical help as is necessary to  
44 implement the legislative intent expressed in section  
45 one of this article.

46 The board shall hire hearing examiners who reside  
47 in different regional educational service agency areas  
48 unless and until the number of hearing examiners  
49 exceeds the number of such areas, at which time two  
50 hearing examiners may be from the same such area.  
51 If a grievant previously before a hearing examiner  
52 again brings a grievance, a different hearing examiner  
53 shall be required to hear the grievance upon written  
54 request therefor by any party to the grievance. These  
55 hearing examiners shall serve at the will and pleasure  
56 of the board.

57 The board shall submit a yearly budget and shall  
58 report annually to the governor and Legislature  
59 regarding receipts and expenditures, number of level  
60 four hearings conducted, synopses of hearing outcomes  
61 and such other information as the board may deem  
62 appropriate. The board shall further evaluate on an

63 annual basis the level four grievance process and the  
64 performance of all hearing examiners and include  
65 such evaluation in the annual report to the governor  
66 and Legislature. In making such evaluation, the board  
67 shall notify all institutions, employee organizations  
68 and all grievants participating in level four grievances  
69 in the year for which evaluation is being made and  
70 shall provide for the submission of written comment  
71 and/or the hearing of testimony regarding the griev-  
72 ance process. The board shall provide suitable office  
73 space for all hearing examiners in space other than  
74 that utilized by any institution as defined in section  
75 two of this article and shall ensure that reference  
76 materials are generally available.

77 The board is authorized to promulgate rules and  
78 regulations consistent with the provisions of this  
79 article, such rules and regulations to be adopted in  
80 accordance with chapter twenty-nine-a of this code.

81 (b) Hearing examiners are hereby authorized and  
82 shall have the power to consolidate grievances, allocate  
83 costs among the parties in accordance with section  
84 eight of this article, subpoena witnesses and docu-  
85 ments in accordance with the provisions of section  
86 one, article five, chapter twenty-nine-a of this code,  
87 provide such relief as is deemed fair and equitable in  
88 accordance with the provisions of this article, and such  
89 other powers as will provide for the effective resolu-  
90 tion of grievances not inconsistent with any rules or  
91 regulations of the board or the provisions of this  
92 article.

**ARTICLE 30. WEST VIRGINIA HIGHER EDUCATION TUITION TRUST  
ACT.**

**§18-30-5. Appointment of board of directors; terms; compen-  
sation; proceedings generally.**

1 (a) The board of directors shall consist of the  
2 secretary of education and the arts, who shall be the  
3 chairman of the board, the state treasurer, and the  
4 state superintendent of schools, who shall serve as ex  
5 officio voting members of the board, and six other  
6 members with knowledge, skill and experience in an

7 academic, business or financial field, who shall be  
8 residents of the state appointed by the governor, by  
9 and with the advice and consent of the Senate. Of the  
10 six appointed members, four shall be appointed from  
11 nominations as follows: One shall be a private citizen  
12 not employed by or an officer of the state or any  
13 political subdivision thereof appointed from one or  
14 more nominees of the speaker of the House of Dele-  
15 gates; one shall be a private citizen not employed by  
16 or an officer of the state or any political subdivision  
17 thereof appointed from one or more nominees of the  
18 president of the Senate; one shall be a president of a  
19 state institution of higher education who shall be  
20 appointed from one or more nominees of the council  
21 of presidents of state colleges and universities; and one  
22 shall represent the interests of private institutions of  
23 higher education located in this state who shall be  
24 appointed from one or more nominees of the West  
25 Virginia association of private colleges. Of these six  
26 members first appointed, two shall be appointed for  
27 terms that expire on the thirty-first day of December,  
28 one thousand nine hundred eighty-nine, two shall be  
29 appointed for terms that expire on the thirty-first day  
30 of December, one thousand nine hundred ninety, and  
31 two shall be appointed for a term that expires on the  
32 thirty-first day of December, one thousand nine  
33 hundred ninety-one. Following the expiration of these  
34 fixed terms, a member shall be appointed for a term  
35 of three years. A member shall serve until a successor  
36 is appointed, and a vacancy shall be filled for the  
37 balance of the unexpired term in the same manner as  
38 the original appointment. The chancellor, treasurer,  
39 state superintendent or president of a state institution  
40 of higher education may appoint a designee to serve as  
41 a voting member of the board in such person's absence.

42 (b) Members of the board shall serve without  
43 compensation, but shall receive reimbursement for  
44 reasonable and necessary expenses actually incurred  
45 in the performance of their duties as board members  
46 unless such member is otherwise reimbursed as an  
47 employee of the state.

48 (c) A majority of the voting members appointed to  
49 the board shall constitute a quorum for the transaction  
50 of business at a meeting of the board, or the exercise  
51 of a power or function of the trust, notwithstanding  
52 the existence of one or more vacancies. Voting upon  
53 action taken by the board shall be conducted by  
54 majority vote of the members present in person at a  
55 meeting of the board, and, if authorized by the bylaws  
56 of the board and when a quorum is present in person  
57 at the meeting, by use of amplified telephonic equip-  
58 ment. The board shall meet at the call of the chairman  
59 and as may be provided in its bylaws. Meetings of the  
60 board may be held anywhere within the state.

61 (d) The board is subject to the open governmental  
62 proceedings and freedom of information provisions of  
63 article nine-a, chapter six, and chapter twenty-nine-b,  
64 respectively, of this code.

**ARTICLE 30. WEST VIRGINIA HIGHER EDUCATION TUITION TRUST  
ACT.**

**§18-30-13. Conditions precedent to administration of trust;  
disclaimer; enforcement.**

1 (a) Before the trust can enter into a tuition prepay-  
2 ment contract or tuition trust account contract with  
3 purchasers, it shall provide the Legislature with a  
4 report outlining any ruling or opinion rendered by the  
5 Internal Revenue Service regarding the federal tax  
6 consequences of any benefits or refunds received from  
7 the trust under the applicable contract. This ruling or  
8 opinion rendered by the Internal Revenue Service  
9 may be a ruling or opinion sought by the trust or a  
10 ruling or opinion that relates to similar contracts in  
11 another state.

12 (b) Before entering into a tuition prepayment  
13 contract or tuition trust account contract with pur-  
14 chasers, the state shall solicit answers to appropriate  
15 ruling requests from the federal Securities and  
16 Exchange Commission regarding the application of  
17 federal security laws to the trust. No contracts may be  
18 entered without the trust making known to the  
19 Legislature the status of the request.



20 (c) Nothing in this article or in a contract entered  
21 into pursuant to this article may be construed as a  
22 promise or guarantee by the trust or the state that a  
23 person will be admitted to a particular institution of  
24 higher education, will be allowed to continue to attend  
25 an institution of higher education after having been  
26 admitted or will be graduated from an institution of  
27 higher education.

28 (d) The board, state institutions of higher education,  
29 purchasers and qualified beneficiaries may enforce  
30 this article and any contract entered into pursuant to  
31 this article in the circuit court of Kanawha County.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 1. GOVERNANCE.**

#### **§18B-1-1. Legislative purpose; creation of governing boards.**

1 The purpose of the Legislature in the enactment of  
2 this article is to establish a governance structure for  
3 the state institutions of higher education consisting of  
4 a board to govern the University of West Virginia  
5 system, designated the "University of West Virginia  
6 Board of Trustees," and a board to govern the state  
7 college system, designated the "Board of Directors of  
8 The State College System."

9 In furtherance of this purpose, there are hereby  
10 created two governing boards to be known as the  
11 university of West Virginia board of trustees, and the  
12 board of directors of the state college system, which  
13 shall be corporations and as such may contract and be  
14 contracted with, plead and be impleaded, sue and be  
15 sued, and have and use common seals.

#### **§18B-1-2. Definitions.**

1 The following words when used in this chapter and  
2 chapter eighteen-c of this code shall have the meaning  
3 hereafter ascribed to them unless the context clearly  
4 indicates a different meaning:

5 (a) "Governing board" or "board" means the uni-  
6 versity of West Virginia board of trustees or the board  
7 of directors of the state college system, whichever is

8 applicable within the context of the institution or  
9 institutions referred to in this chapter or in other  
10 provisions of law;

11 (b) "Governing boards" or "boards" means both the  
12 board of trustees and the board of directors;

13 (c) "Community colleges" means Southern West  
14 Virginia Community College, West Virginia Northern  
15 Community College, and any institution of higher  
16 education which has been designated as a community  
17 college by the board of directors under the provisions  
18 of section four, article three of this chapter;

19 (d) "Directors" or "board of directors" mean the  
20 board of directors of the state college system created  
21 pursuant to article three of this chapter or the  
22 members thereof;

23 (e) "Higher educational institution" means any  
24 institution as defined by sections 401(f), (g), (h) of the  
25 federal higher education facilities act of 1963, as  
26 amended;

27 (f) "Post-secondary vocational education programs"  
28 means any college-level course or program beyond the  
29 high school level provided through an institution of  
30 higher education which results in or may result in the  
31 awarding of a two-year associate degree, under the  
32 jurisdiction of the board of directors;

33 (g) "Rule" or "rules" mean a regulation, standard,  
34 policy or interpretation of general application and  
35 future effect;

36 (h) "Senior administrator" means the person hired  
37 by the governing boards in accordance with section  
38 one, article four of this chapter, with such powers and  
39 duties as may be provided for in section two of said  
40 article four;

41 (i) "State college" means Bluefield State College,  
42 Concord College, Fairmont State College, Glenville  
43 State College, Shepherd College, West Liberty State  
44 College, West Virginia Institute of Technology, or West  
45 Virginia State College;

46 (j) "State college system" means the state colleges  
47 and community colleges, and also shall include post-  
48 secondary vocational education programs in the state,  
49 as those terms are defined in this section;

50 (k) "State institution of higher education" means  
51 any university, college or community college in the  
52 state university system or the state college system as  
53 those terms are defined in this section;

54 (l) "Trustees" and "board of trustees" mean the  
55 University of West Virginia board of trustees created  
56 pursuant to article two of this chapter or the members  
57 thereof;

58 (m) "University of West Virginia" and "state univer-  
59 sity system" means the multi-campus, integrated  
60 university of the state, consisting of West Virginia  
61 University including West Virginia University at  
62 Parkersburg, Potomac State College of West Virginia  
63 University and the West Virginia University School of  
64 Medicine; Marshall University including the Marshall  
65 University School of Medicine; the University of West  
66 Virginia College of Graduate Studies; and the West  
67 Virginia School of Osteopathic Medicine;

68 (n) "University" means the multi-campus, inte-  
69 grated university of the state, consisting of West  
70 Virginia University including West Virginia University  
71 at Parkersburg, Potomac State College of West Vir-  
72 ginia University and the West Virginia University  
73 School of Medicine; Marshall University including the  
74 Marshall University School of Medicine; the Univer-  
75 sity of West Virginia College of Graduate Studies; or  
76 the West Virginia School of Osteopathic Medicine.

**§18B-1-3. Transfer of powers, duties, property, obligations,  
etc., of prior governing boards to the board of  
trustees and board of directors.**

1 (a) All powers, duties and authorities transferred to  
2 the board of regents pursuant to former provisions of  
3 chapter eighteen of this code are hereby transferred to  
4 the governing boards created in this chapter and shall  
5 be exercised and performed by the governing boards

6 as such powers, duties and authorities may apply to  
7 each governing board and to institutions under its  
8 jurisdiction.

9 (b) Title to all property previously transferred to or  
10 vested in the board of regents formerly existing under  
11 the provisions of chapter eighteen of this code are  
12 hereby transferred to such governing board as those  
13 titles may apply to property which is appropriately  
14 under the jurisdiction of that governing board. Prop-  
15 erty transferred to or vested in the board of regents  
16 shall include (1) all property vested in the board of  
17 governors of West Virginia University and transferred  
18 to and vested in the West Virginia board of regents; (2)  
19 all property acquired in the name of the state board of  
20 control or the West Virginia board of education and  
21 used by or for the state colleges and universities and  
22 transferred to and vested in the West Virginia board of  
23 regents; and (3) all property acquired in the name of  
24 the state commission on higher education and trans-  
25 ferred to and vested in the West Virginia board of  
26 regents.

27 (c) Each valid agreement and obligation previously  
28 transferred to or vested in the board of regents  
29 formerly existing under the provisions of chapter  
30 eighteen of this code is hereby transferred to the  
31 governing boards as those agreements and obligations  
32 may apply to each governing board and to institutions  
33 under its jurisdiction. Valid agreements and obliga-  
34 tions transferred to the board of regents shall include  
35 (1) each valid agreement and obligation of the board of  
36 governors of West Virginia University transferred to  
37 and deemed the agreement and obligation of the West  
38 Virginia board of regents; (2) each valid agreement  
39 and obligation of the state board of education with  
40 respect to the state colleges and universities trans-  
41 ferred to and deemed the agreement and obligation of  
42 the West Virginia board of regents; and (3) each valid  
43 agreement and obligation of the state commission on  
44 higher education transferred to and deemed the  
45 agreement and obligation of the West Virginia board of  
46 regents.

47 (d) All orders, resolutions and rules adopted or  
48 promulgated by the board of regents and in effect  
49 immediately prior to the first day of July, one thou-  
50 sand nine hundred eighty-nine, are hereby transferred  
51 to the governing boards as those orders, resolutions  
52 and rules may apply to each governing board and to  
53 institutions under its jurisdiction and shall continue in  
54 effect and shall be deemed the orders, resolutions and  
55 rules of the respecting governing boards until res-  
56 cinded, revised, altered or amended by the appropriate  
57 governing board in the manner and to the extent  
58 authorized and permitted by law. Such orders, resolu-  
59 tions and rules shall include (1) those adopted or  
60 promulgated by the board of governors of West Vir-  
61 ginia University and in effect immediately prior to the  
62 first day of July, one thousand nine hundred sixty-  
63 nine, unless and until rescinded, revised, altered or  
64 amended by the board of regents in the manner and  
65 to the extent authorized and permitted by law; (2)  
66 those respecting state colleges and universities adopted  
67 or promulgated by the West Virginia board of educa-  
68 tion and in effect immediately prior to the first day of  
69 July, one thousand nine hundred sixty-nine, unless  
70 and until rescinded, revised, altered or amended by  
71 the board of regents in the manner and to the extent  
72 authorized and permitted by law; and (3) those  
73 adopted or promulgated by the state commission on  
74 higher education and in effect immediately prior to  
75 the first day of July, one thousand nine hundred sixty-  
76 nine, unless and until rescinded, revised, altered or  
77 amended by the board of regents in the manner and  
78 to the extent authorized and permitted by law.

79 (e) As to any title, agreement, obligation, order,  
80 resolution, rule or any other matter about which there  
81 is some uncertainty, misunderstanding or question  
82 regarding the applicability to one or both of the  
83 governing boards, the matter shall be summarized in  
84 writing and sent to the secretary of education and the  
85 arts, who shall make a determination regarding such  
86 matter within thirty days of receipt thereof.

87 (f) Rules or provisions of law which refer to other

88 provisions of law which were repealed, rendered  
89 inoperative, or superseded by the provisions of this  
90 section shall remain in full force and effect to such  
91 extent as may still be applicable to higher education  
92 and may be so interpreted. Such references include,  
93 but are not limited to, references to sections and prior  
94 enactments of article twenty-six, chapter eighteen of  
95 this code and code provisions relating to retirement,  
96 health insurance, grievance procedures, purchasing,  
97 student loans and savings plans. Any determination  
98 which needs to be made regarding applicability of any  
99 provision of law shall first be made by the secretary of  
100 education and the arts.

**§18B-1-4. Prior transfer of powers, etc., to board of regents;  
board of regents abolished.**

1 (a) All the powers, duties and authorities which the  
2 board of governors of West Virginia University,  
3 previously established by article eleven of chapter  
4 eighteen of the code or by any other provisions of law,  
5 may have had immediately prior to the first day of  
6 July, one thousand nine hundred sixty-nine, shall be  
7 the powers, duties and authorities of the West Virginia  
8 board of regents until the first day of July, one  
9 thousand nine hundred eighty-nine. Until such date,  
10 all of the policies and affairs of West Virginia Univer-  
11 sity shall be determined, controlled, supervised and  
12 managed by the West Virginia board of regents, who  
13 shall exercise and perform all such powers, duties and  
14 authorities.

15 All powers, duties and authorities which the West  
16 Virginia board of education may have had with  
17 respect to state colleges and universities immediately  
18 prior to the first day of July, one thousand nine  
19 hundred sixty-nine, shall be the powers, duties and  
20 authorities of the West Virginia board of regents until  
21 the first day of July, one thousand nine hundred  
22 eighty-nine. Until such date, all of the policies and  
23 affairs of the state colleges and universities shall be  
24 determined, controlled, supervised and managed by  
25 the West Virginia board of regents, who shall exercise  
26 and perform all such powers, duties and authorities:

27 *Provided*, That the standards for education of teachers  
28 and teacher preparation programs at the state colleges  
29 and universities shall continue to be under the general  
30 direction and control of the West Virginia board of  
31 education, and the West Virginia board of education  
32 shall have sole authority to continue, as authorized by  
33 section six, article two, chapter eighteen of this code,  
34 to enter into agreements with county boards of  
35 education for the use of the public schools to give  
36 prospective teachers teaching experience.

37 All powers, duties and authorities vested in the state  
38 commission on higher education by previous provi-  
39 sions of chapter eighteen of this code or by any other  
40 provisions of law shall be the powers, duties and  
41 authorities of the West Virginia board of regents until  
42 the first day of July, one thousand nine hundred  
43 eighty-nine. Until such date, all of the powers, duties,  
44 and authorities of the state commission on higher  
45 education shall be exercised and performed by the  
46 West Virginia board of regents.

47 (b) The board of regents shall be abolished on the  
48 first day of July, one thousand nine hundred eighty-  
49 nine.

**§18B-1-5. Board of trustees and board of directors under  
department of education and the arts.**

1 (a) The university of West Virginia board of trustees  
2 and the board of directors of the state college system,  
3 created in articles two and three of this chapter, are  
4 under the jurisdiction of the department of education  
5 and the arts created in article one, chapter five-f of  
6 this code, and are subject to the supervision of the  
7 secretary of education and the arts. Rules adopted by  
8 the governing boards shall be subject to approval by  
9 the secretary of education and the arts. The budget  
10 submitted by each board pursuant to the provisions of  
11 section eight of this article shall be subject to approval  
12 of the secretary of the department of education and  
13 the arts, all pursuant to the provisions of article two,  
14 chapter five-f of this code.

15 (b) The secretary of education and the arts is

16 responsible for the coordination of policies and pur-  
17 poses of the state university system and the state  
18 college system and shall provide for and facilitate  
19 sufficient interaction between the governing boards,  
20 and between the governing boards and the state board  
21 of education, to assure appropriate mission and pro-  
22 gram coordination and cooperation among (1) the state  
23 university system, (2) the state college system, exclu-  
24 sive of the community colleges, (3) the community  
25 colleges and community college components of four-  
26 year institutions, if any, and (4) the vocational-  
27 technical centers in the state, recognizing the inherent  
28 differences in the missions and capabilities of these  
29 four categories of institutions.

30 (c) The secretary of education and the arts shall  
31 conduct a special study of the West Virginia University  
32 at Parkersburg, Potomac State College of West Vir-  
33 ginia University and the University of West Virginia  
34 College of Graduate Studies to determine the role and  
35 mission of said institutions in the reorganized system  
36 of higher education in the state and shall submit a  
37 report on the study to the Legislature on or before the  
38 first day of January, one thousand nine hundred  
39 ninety.

**§18B-1-6. Rule-making.**

1 The university of West Virginia board of trustees  
2 and the board of directors of the state college system  
3 are hereby empowered to promulgate, adopt, amend  
4 or repeal rules, subject to the approval of the secretary  
5 of education and the arts, in accordance with the  
6 provisions of article three-a, chapter twenty-nine-a of  
7 this code, as they may deem necessary and convenient  
8 to ensure the full implementation of their powers and  
9 duties. Each governing board shall file a copy of any  
10 rule it proposes to promulgate, adopt, amend or repeal  
11 under the authority of this article with the legislative  
12 oversight commission on education accountability  
13 created in said article three-a, chapter twenty-nine-a  
14 of this code.

15 Nothing in this section shall be construed to apply to



16 any rule promulgated or adopted by a state institution  
17 of higher education.

**§18B-1-7. Supervision by governing boards; delegation to president.**

1 On and after the first day of July, one thousand nine  
2 hundred eighty-nine, the governing boards shall  
3 determine, control, supervise and manage all of the  
4 policies and affairs of the state institutions of higher  
5 education under their jurisdiction and shall exercise  
6 and perform all such powers, duties and authorities  
7 respecting those institutions as were previously exer-  
8 cised and performed by the West Virginia board of  
9 regents.

10 The governing boards have the general determina-  
11 tion, control, supervision and management of the  
12 financial, business, and educational policies and affairs  
13 of all state institutions of higher education under their  
14 jurisdiction. The board of trustees and the board of  
15 directors shall seek the approval of the West Virginia  
16 Legislature before either governing board takes action  
17 that would result in the creation or closing of a state  
18 institution of higher education.

19 Except as otherwise provided by law, each board's  
20 responsibilities shall include, but shall not be limited  
21 to, the making of studies and recommendations  
22 respecting higher education in West Virginia; allocat-  
23 ing among the state institutions of higher education  
24 under their jurisdiction specific functions and respon-  
25 sibilities; submitting budget requests for such institu-  
26 tions; and equitably allocating available state approp-  
27 riated funds among such institutions.

28 Each board shall delegate, as far as is lawful,  
29 efficient and fiscally responsible and within prescribed  
30 standards and limitations, such part of its power and  
31 control over financial, educational and administrative  
32 affairs of each state institution of higher education to  
33 the president or other administrative head of those  
34 institutions. This shall not be interpreted to include  
35 the classification of employees, lawful appeals made by  
36 students in accordance with board policy, lawful

37 appeals made by faculty or staff, or final review of  
38 new or established academic or other programs.

39 To promote the missions and achieve the goals and  
40 objectives of the institutions and systems under their  
41 jurisdiction and to provide information and guidance  
42 for the allocation of funding among institutions in the  
43 separate systems in an equitable manner in relation to  
44 their missions, goals and objectives, the board of  
45 trustees and the board of directors shall each develop  
46 comparison information including such factors as peer  
47 institution information, enrollment information, data  
48 on institutional program scope and diversity, and  
49 measures of institutional quality and performance, and  
50 shall annually present such information to the secre-  
51 tary of education and the arts and the Legislature  
52 along with the resulting allocation decisions made by  
53 the respective governing boards. This system shall be  
54 implemented by the first day of July, one thousand  
55 nine hundred ninety-one. Until the new system is  
56 implemented, the current resource allocation model,  
57 updated for enrollment and in accordance with other  
58 provisions of this code, shall be in effect.

**§18B-1-8. Powers and duties of governing boards generally.**

1 (a) Each governing board shall separately have the  
2 power and duty to:

3 (1) Determine, control, supervise and manage the  
4 financial, business and educational policies and affairs  
5 of the state institutions of higher education under its  
6 jurisdiction;

7 (2) Prepare a master plan for the state institutions of  
8 higher education under its jurisdiction, setting forth  
9 the goals, missions, degree offerings, resource require-  
10 ments, physical plant needs, state personnel needs,  
11 enrollment levels and other planning determinates  
12 and projections necessary in such a plan: *Provided*,  
13 That the master plan for post-secondary vocational  
14 education is subject to approval by the joint commis-  
15 sion for post-secondary occupational education. The  
16 plan shall also address the roles and missions of  
17 private post-secondary education providers in the

18 state. Each board shall involve the executive and  
19 legislative branches of state government and the  
20 general public in the development of all segments of  
21 the plan for post-secondary education in the state. The  
22 plan shall be established for periods of not less than  
23 five nor more than ten years and shall be periodically  
24 revised as necessary, including the addition or deletion  
25 of degree programs as in the discretion of the boards  
26 may be necessary. Whenever a state institution of  
27 higher education desires to establish a new degree  
28 program, such program proposal shall not be imple-  
29 mented until the same is filed with both governing  
30 boards. Upon objection thereto within sixty days by  
31 either governing board, such program proposal shall  
32 be filed with the secretary of education and the arts,  
33 who shall approve or disapprove such proposal within  
34 one year of the filing of said program proposal;

35 (3) Prescribe and allocate among the state institu-  
36 tions of higher education under its jurisdiction, in  
37 accordance with its master plan, specific functions and  
38 responsibilities to meet the higher education needs of  
39 the state and to avoid unnecessary duplication;

40 (4) Consult with the executive branch and the  
41 Legislature in the establishment of funding paramet-  
42 ters, priorities and goals;

43 (5) Establish guidelines for and direct the prepara-  
44 tion of budget requests for each of the state institu-  
45 tions of higher education under its jurisdiction, such  
46 requests to relate directly to missions, goals and  
47 projections in its state master plan;

48 (6) Consider, revise and submit to the appropriate  
49 agencies of the executive and legislative branches of  
50 state government separate budget requests on behalf  
51 of the state institutions of higher education under its  
52 jurisdiction or a single budget for the state institutions  
53 of higher education under its jurisdiction: *Provided,*  
54 That when a single budget is submitted, that budget  
55 shall be accompanied by a tentative schedule of  
56 proposed allocations of funds to the separate state  
57 institutions of higher education under its jurisdiction;

58 (7) Prepare and submit to the speaker of the House  
59 of Delegates and the president of the Senate, no later  
60 than the first day of each regular session of the  
61 Legislature, and to any member of the Legislature  
62 upon request, an analysis of the budget request  
63 submitted under subdivision (6) of this subsection. The  
64 analysis shall summarize all amounts and sources of  
65 funds outside of the general revenue fund anticipated  
66 to be received by each state institution of higher  
67 education under its jurisdiction and the effect of such  
68 funds on the budget request;

69 (8) Prepare and submit to the legislative auditor, no  
70 later than the first day of July of each year, the  
71 approved operating budgets of each state institution of  
72 higher education under its jurisdiction for the fiscal  
73 year beginning on that date and, no later than the first  
74 day of August, a summary of federal and other  
75 external funds received at each such institution during  
76 the previous fiscal year;

77 (9) Establish a system of information and data  
78 management that can be effectively utilized in the  
79 development and management of higher education  
80 policy, mission and goals;

81 (10) Review, at least every five years, all academic  
82 programs offered at the state institutions of higher  
83 education under its jurisdiction. The review shall  
84 address the viability, adequacy and necessity of the  
85 programs in relation to its master plan;

86 (11) Utilize faculty, students, and classified staff in  
87 institutional level planning and decision-making when  
88 those groups are affected;

89 (12) Administer a uniform system of personnel  
90 classification and compensation for all employees other  
91 than faculty and policy level administrators;

92 (13) Establish a uniform system for the hearing of  
93 employee grievances and appeals therefrom, so that  
94 aggrieved parties may be assured of timely and  
95 objective review;

96 (14) Solicit and utilize or expend voluntary support,

97 including financial contributions and support services,  
98 for the state institutions of higher education;

99 (15) Appoint a president or other administrative  
100 head for each institution of higher education from  
101 candidates submitted by the search and screening  
102 committees of the institutional boards of advisors  
103 pursuant to section one, article six of this chapter;

104 (16) Conduct performance evaluations of each insti-  
105 tution's president in every fourth year of employment  
106 as president, recognizing unique characteristics of the  
107 institution and utilizing institutional personnel, insti-  
108 tutional boards of advisors, staff of the appropriate  
109 governing board and persons knowledgeable in higher  
110 education matters who are not otherwise employed by  
111 a governing board;

112 (17) Submit to the joint committee on government  
113 and finance, no later than the first day of December  
114 of each year, an annual report of the performance of  
115 the system of higher education under its jurisdiction  
116 during the previous fiscal year as compared to stated  
117 goals in its master plan and budget appropriations for  
118 that fiscal year.

119 (b) The power herein given to each governing board  
120 to prescribe and allocate among the state institutions  
121 of higher education under its jurisdiction specific  
122 functions and responsibilities to meet the higher  
123 educational needs of the state and avoid unnecessary  
124 duplication shall not be restricted by any provision of  
125 law assigning specified functions and responsibilities to  
126 designated state institutions of higher education, and  
127 such power shall supersede any such provision of law:  
128 *Provided*, That each governing board may delegate,  
129 with prescribed standards and limitations, such part of  
130 its power and control over the business affairs of a  
131 particular state institution of higher education to the  
132 president or other administrative head of such state  
133 institution of higher education in any case where it  
134 deems such delegation necessary and prudent in order  
135 to enable such institution to function in a proper and  
136 expeditious manner: *Provided, however*, That such

137 delegation shall not be interpreted to include classifi-  
138 cation of employees, lawful appeals made by students  
139 in accordance with the appropriate governing board's  
140 policy, lawful appeals made by faculty or staff, or final  
141 review of new or established academic or other  
142 programs. Any such delegation of power and control  
143 may be rescinded by the appropriate governing board  
144 at any time, in whole or in part.

**§18B-1-9. Powers and duties of institutional presidents.**

1 Except as is otherwise provided by law or rule, the  
2 president or other administrative head of each state  
3 institution of higher education shall exercise all the  
4 duties and powers conferred by law in the government  
5 of the institution under such person's management  
6 and control and, subject to review by the appropriate  
7 governing board, shall have the authority and respon-  
8 sibility for overseeing the routine matters of the  
9 institution, which include, but are not limited to,  
10 travel approval, sabbaticals, budget oversight and  
11 special student fees. The president or other adminis-  
12 trative head shall assist the chancellors in developing  
13 or evaluating policy options for the governing boards,  
14 but not both developing and evaluating for the same  
15 policy, and may propose policy options for consider-  
16 ation by their governing board. The president or other  
17 administrative head of each state institution of higher  
18 education shall also be responsible for seeking commu-  
19 nity advice on academic or other programs.

**§18B-1-10. Task force on faculty salaries and resource allocation.**

1 Not later than the first day of July, one thousand  
2 nine hundred eighty-nine, there shall be established a  
3 task force on faculty salaries and resource allocation  
4 which shall meet, study and make recommendations  
5 as herein provided.

6 The task force shall be composed of two members of  
7 the Senate appointed by the President, two members  
8 of the House of Delegates appointed by the Speaker,  
9 one member of the faculty advisory council to the  
10 board of trustees chosen by said council, one member

11 of the faculty advisory council to the board of directors  
12 chosen by said council, one member of the board of  
13 trustees chosen by said board, one member of the  
14 board of directors chosen by said board, one institu-  
15 tional president chosen by the presidents under the  
16 board of trustees, one institutional president chosen by  
17 the presidents under the board of supervisors and  
18 three members appointed by the governor to repre-  
19 sent the public interest.

20 The task force shall conduct studies on faculty  
21 salaries, faculty salary schedules, faculty compensation  
22 and specifically on resource allocation models. The  
23 task force shall develop a faculty salary program with  
24 the overall goal that compares average faculty salaries  
25 with similar groups of disciplines at comparable peer  
26 institutions. The task force shall make such recom-  
27 mendations as it deems appropriate to address needs  
28 identified in the studies and shall specifically make  
29 recommendations on the resource allocation model  
30 and the faculty salary schedules to the board of  
31 trustees and the board of supervisors.

32 Additionally, the task force shall file a report with  
33 the Legislature and the governor on or before the first  
34 day of December, one thousand nine hundred and  
35 eighty-nine.

36 The secretary of the department of education and  
37 the arts shall be responsible for staffing the task force  
38 utilizing existing personnel, equipment and offices of  
39 the board of trustees and the board of directors.

40 In the case of the board of trustees, the task force  
41 shall recommend, that the board adopt a faculty salary  
42 schedule with an overall goal that compares average  
43 faculty salaries with similar groups of disciplines at  
44 comparable peer institutions (Doctoral I at West  
45 Virginia University; Doctoral III at Marshall Univer-  
46 sity, and appropriate and comparable levels at the  
47 University of West Virginia College of Graduate  
48 Studies, and the West Virginia School of Osteopathic  
49 Medicine, Potomac State College of West Virginia  
50 University and West Virginia University at  
51 Parkersburg.)

52 The salary program shall incorporate a minimum  
53 salary schedule, approved by the Legislature, for West  
54 Virginia University, Marshall University, the Univer-  
55 sity of West Virginia College of Graduate Studies and  
56 the West Virginia School of Osteopathic Medicine and  
57 a minimum salary schedule for Potomac State College  
58 of West Virginia University and West Virginia Univer-  
59 sity at Parkersburg. It shall be the goal that these  
60 minimum salary schedules shall be fully in effect  
61 within three years after the effective implementation  
62 of those schedules.

63 Salary funds shall be distributed to all of the  
64 respective institutions based upon legislative intent to  
65 achieve basic improvements in compensation for all  
66 employees with any additional funds being distributed  
67 to the respective institutions based on the proportion  
68 needed to move to parity in relation to the overall goal  
69 described above. If needed, no less than fifty percent  
70 of new salary funds at each institution shall be used to  
71 assure that the appropriate minimum schedule is so  
72 implemented.

**ARTICLE 2. UNIVERSITY OF WEST VIRGINIA BOARD OF TRUSTEES.**

**§18B-2-1. Composition of board; terms and qualifications of members; vacancies; eligibility for reappointment; oath of office; removal from office.**

1 (a) The board of trustees shall consist of seventeen  
2 persons, of whom one shall be the chancellor of the  
3 board of directors of the state college system, ex  
4 officio, who shall not be entitled to vote; one shall be  
5 the state superintendent of schools, ex officio, who  
6 shall not be entitled to vote; one shall be the chairman  
7 of the advisory council of students, ex officio, who  
8 shall be entitled to vote; one shall be the chairman of  
9 the advisory council of faculty, ex officio, who shall be  
10 entitled to vote; and one shall be the chairman of the  
11 advisory council of classified employees, ex officio,  
12 who shall be entitled to vote. The other twelve  
13 trustees shall be citizens of the state, appointed by the  
14 governor, by and with the advice and consent of the  
15 Senate.



16 Each of the trustees appointed to the board by the  
17 governor shall represent the public interest and shall  
18 be especially qualified in the field of higher education  
19 by virtue of the person's knowledge, learning, experi-  
20 ence or interest in the field.

21 Except for the ex officio trustees, no person shall be  
22 eligible for appointment to membership on the board  
23 of trustees who is an officer, employee or member of  
24 an advisory board of any state college or university, an  
25 officer or member of any political party executive  
26 committee, the holder of any other public office or  
27 public employment under the federal government or  
28 under the government of this state or any of its  
29 political subdivisions, or an appointee or employee of  
30 the board of trustees or the board of directors. Of the  
31 twelve trustees appointed by the governor from the  
32 public at large, not more than six thereof shall belong  
33 to the same political party and at least two trustees  
34 shall be appointed from each congressional district.

35 Except as provided in this section, no other person  
36 may be appointed to the board.

37 (b) The governor shall appoint twelve trustees as  
38 soon after the first day of July, one thousand nine  
39 hundred eighty-nine, as is practicable, and the original  
40 terms of all trustees shall commence on that date.

41 The terms of the trustees appointed by the governor  
42 shall be for overlapping terms of six years, except, of  
43 the original appointments, four shall be appointed to  
44 terms of two years, four shall be appointed to terms of  
45 four years, and four shall be appointed to terms of six  
46 years. Each subsequent appointment which is not for  
47 the purpose of filling a vacancy in an unexpired term  
48 shall be for a term of six years.

49 The governor shall appoint a trustee to fill any  
50 vacancy among the twelve trustees appointed by the  
51 governor, by and with the advice and consent of the  
52 Senate, which trustee appointed to fill such vacancy  
53 shall serve for the unexpired term of the vacating  
54 trustee. The governor shall fill the vacancy within  
55 sixty days of the occurrence of the vacancy.

56 All trustees appointed by the governor shall be  
57 eligible for reappointment: *Provided*, That a person  
58 who has served as a trustee or director during all or  
59 any part of two consecutive terms shall be ineligible to  
60 serve as a trustee or director for a period of three  
61 years immediately following the second of the two  
62 consecutive terms.

63 The chairman of the advisory council of students, ex  
64 officio; the chairman of the advisory council of faculty,  
65 ex officio; and the chairman of the advisory council of  
66 classified employees, ex officio, shall serve the terms  
67 for which they were elected by their respective  
68 advisory councils. These members shall be eligible to  
69 succeed themselves.

70 (c) Before exercising any authority or performing  
71 any duties as a trustee, each trustee shall qualify as  
72 such by taking and subscribing to the oath of office  
73 prescribed by section five, article four of the constitu-  
74 tion of West Virginia, and the certificate thereof shall  
75 be filed with the secretary of state.

76 (d) No trustee appointed by the governor shall be  
77 removed from office by the governor except for  
78 official misconduct, incompetence, neglect of duty or  
79 gross immorality, and then only in the manner pres-  
80 cribed by law for the removal of the state elective  
81 officers by the governor.

**§18B-2-2. Meetings and compensation.**

1 (a) The board of trustees shall hold at least ten  
2 meetings in every fiscal year, including an annual  
3 meeting each June: *Provided*, That an annual meeting  
4 for the purpose of selecting the first chairman shall be  
5 held during July, one thousand nine hundred eighty-  
6 nine. Except for the annual meeting, which may be  
7 held at a location anywhere in the state, the said  
8 meetings shall be held on different campuses of  
9 institutions in the university system on a rotating basis  
10 or at the central office. The board of trustees may set  
11 aside time at the meetings at the campuses to afford  
12 administrators, faculty, students and classified staff at  
13 the institution an opportunity to discuss issues affect-

14 ing these groups. The board of trustees shall hold at  
15 least one meeting each year with the advisory council  
16 of faculty, the advisory council of students, and the  
17 advisory council of classified employees, each of these  
18 bodies to be met with separately. Except as otherwise  
19 provided in this section, meetings shall be held on  
20 such dates and at such places as the trustees may  
21 prescribe. In addition to the statutorily required  
22 meetings, the trustees may meet at such other times  
23 as may be necessary, such meetings to be held upon its  
24 own resolution or at the written request of at least  
25 three appointed trustees.

26 Of the fifteen voting members of the board of  
27 trustees, eight shall constitute a quorum, and a  
28 majority vote of the quorum shall be necessary to pass  
29 upon matters before the trustees.

30 (b) The trustees shall be reimbursed for actual and  
31 necessary expenses incident to the performance of  
32 such duties upon presentation of an itemized sworn  
33 statement thereof. The foregoing reimbursement for  
34 actual and necessary expenses shall be paid from  
35 appropriations made by the Legislature to the trustees.

**§18B-2-3. Additional duties of board of trustees.**

1 (a) The trustees shall govern the University of West  
2 Virginia. The trustees shall develop a master educa-  
3 tional plan for the university system in the state,  
4 establish research policies for the several institutions  
5 within the university system and shall oversee gradu-  
6 ate, professional and medical education at the appro-  
7 priate institutions of higher education under their  
8 jurisdiction to the end of avoiding duplication in  
9 advanced study, specialty institutes and research.

10 (b) The board of trustees shall adopt a faculty salary  
11 program with an overall goal that compares average  
12 faculty salaries with similar groups of disciplines at  
13 comparable peer institutions (Doctoral I at West  
14 Virginia University; Doctoral III at Marshall Univer-  
15 sity; and appropriate levels at the University of West  
16 Virginia College of Graduate Studies, Potomac State  
17 College of West Virginia University, West Virginia

18 University at Parkersburg and the School of Osteo-  
19 pathic Medicine as determined by the Board of Trus-  
20 tees). Salary funds shall be distributed to the respec-  
21 tive institutions based on the proportion needed to  
22 move to parity in relation to the overall goal described  
23 above. The salary program shall incorporate a mini-  
24 mum salary schedule which shall be fully in effect  
25 within three years after the effective date of this  
26 section. If needed, up to fifty percent of new salary  
27 funds at each institution shall be used to assure that  
28 the minimum schedule is so implemented. The exist-  
29 ing minimum salary schedule as set forth within the  
30 provisions of article eight of this chapter shall remain  
31 in effect until the board of trustees adopts the salary  
32 program mandated herein and is then repealed.

**§18B-2-4. Establishment and operation of graduate college;  
transfer of programs, etc., of Kanawha Val-  
ley Graduate Center of West Virginia  
University.**

1 The power of the board of regents, effective July  
2 one, one thousand nine hundred seventy-two, to  
3 establish, name, maintain and operate a graduate  
4 college whose major administrative offices are located  
5 in Kanawha county shall be transferred to the board  
6 of trustees effective July one, one thousand nine  
7 hundred eighty-nine, and shall be known as the  
8 "University of West Virginia College of Graduate  
9 Studies". The board of trustees shall employ a presi-  
10 dent and such staff and faculty as determined appro-  
11 priate for the school, appoint an advisory board  
12 consistent with section one, article six of this chapter  
13 and shall exercise general determination, control,  
14 supervision and management of the financial, business  
15 and educational policies and affairs of the graduate  
16 college. The college shall be authorized to offer, in  
17 their entirety or in cooperation with other institutions,  
18 such curricula, programs, courses and services and  
19 confer such graduate degrees as may be approved by  
20 the board of trustees. The trustees shall fix tuition and  
21 establish and set other fees to be charged students as  
22 it deems appropriate, including the establishment of

23 special fees for specific purposes. Special fees shall be  
24 paid into special funds and used only for the purposes  
25 for which collected. The board of trustees may allocate  
26 from the appropriations for the state university system  
27 for the operation and capital improvement of the  
28 graduate college.

29 All programs, activities, operations, accounts, and  
30 resources of the Kanawha Valley Graduate Center of  
31 West Virginia University which were transferred to  
32 the graduate college, and the title to all property of the  
33 Kanawha Valley Graduate Center of West Virginia  
34 University which was transferred to or later vested in  
35 the graduate college, shall be transferred to and  
36 remain vested in the trustees. The trustees are auth-  
37 orized to enter into contracts on behalf of the graduate  
38 college with public and private educational institu-  
39 tions, agencies and boards; with governmental agen-  
40 cies; and with corporations, partnerships and individ-  
41 uals for the use of physical facilities, equipment and  
42 for the performance of instructional or other services.

**§18B-2-5. Establishment and operation of a state school of  
osteopathic medicine; authority and duty to  
purchase property, expend appropriations  
and conduct programs of the West Virginia  
School of Osteopathic Medicine.**

1 The board of trustees shall operate and maintain the  
2 state school of osteopathy, known as the "West Vir-  
3 ginia School of Osteopathic Medicine" and located in  
4 Lewisburg, Greenbrier County as previously estab-  
5 lished by the board of regents, as a part of the  
6 University of West Virginia as defined in section two,  
7 article one of this chapter. The title to all the real  
8 property and all facilities and equipment of the West  
9 Virginia School of Osteopathic Medicine and the  
10 previously existing Greenbrier College of Osteopathic  
11 Medicine, located at Lewisburg, Greenbrier County,  
12 shall be and remain vested in the board of trustees.  
13 The title to any such property originally acquired by  
14 or vested in the name of the board of regents is hereby  
15 transferred to and shall remain vested in the board of  
16 trustees.

17 The board of trustees shall employ a president and  
18 such staff and faculty as determined appropriate for  
19 the school, appoint an advisory board consistent with  
20 section one, article six of this chapter and exercise  
21 general determination, control, supervision and man-  
22 agement of the financial, business and educational  
23 policies and affairs of the school of osteopathic  
24 medicine.

25 The school shall be authorized to offer such curric-  
26 ula, programs, courses and services and confer such  
27 degrees as may be approved by the board of trustees.  
28 The board of trustees shall fix tuition and establish  
29 and set other fees to be charged students as it deems  
30 appropriate, including the establishment of special fees  
31 for specific purposes. Special fees shall be paid into  
32 special funds and be used only for the purposes for  
33 which said fees were collected.

34 The board of trustees shall expend from the appro-  
35 priations allocated for the West Virginia School of  
36 Osteopathic Medicine such funds as are necessary for  
37 the operation and conduct of programs, the acquisition  
38 of clear title to the property of the Greenbrier College  
39 of Osteopathic Medicine, and for necessary capital  
40 improvements. The title to all property purchased for  
41 the use of the West Virginia School of Osteopathic  
42 Medicine shall be vested in the board of trustees.

43 The board of trustees is authorized to enter into  
44 contracts on behalf of the West Virginia School of  
45 Osteopathic Medicine with public and private educa-  
46 tional institutions, agencies and boards, with govern-  
47 mental agencies and with corporations, partnerships,  
48 and individuals for the performance of instructional or  
49 other services.

50 The board of trustees is hereby specifically autho-  
51 rized to contract with the West Virginia anatomical  
52 board and the West Virginia anatomical board is  
53 hereby specifically authorized to contract with the  
54 board of trustees on behalf of the West Virginia School  
55 of Osteopathic Medicine for the requisition, use,  
56 disposition and control of any body as may come under

57 the authority of the anatomical board: *Provided*, That  
58 such body be used exclusively for educational purposes  
59 of the West Virginia School of Osteopathic Medicine.

60 The board of trustees is further authorized to  
61 contract with any other person, corporation or entity  
62 for the purchase of cadavers for educational purposes  
63 at the West Virginia School of Osteopathic Medicine,  
64 notwithstanding any provision of law to the contrary.

**ARTICLE 3. BOARD OF DIRECTORS OF THE STATE COLLEGE  
SYSTEM.**

**§18B-3-1. Composition of board; terms and qualifications of  
members; vacancies; eligibility for reappoint-  
ment; oath of office; removal from office.**

1 (a) The board of directors of the state college system  
2 shall consist of seventeen persons, of whom one shall  
3 be the chancellor of the university of West Virginia, ex  
4 officio, who shall not be entitled to vote; one shall be  
5 the state superintendent of schools, ex officio, who  
6 shall not be entitled to vote; one shall be the chairman  
7 of the advisory council of students, ex officio, who  
8 shall be entitled to vote; one shall be the chairman of  
9 the advisory council of faculty, ex officio, who shall be  
10 entitled to vote; and one shall be the chairman of the  
11 advisory council of classified employees, ex officio,  
12 who shall be entitled to vote. The other twelve  
13 directors shall be citizens of the state, appointed by the  
14 governor, by and with the advice and consent of the  
15 Senate.

16 Each of the directors appointed to the board by the  
17 governor shall represent the public interest and shall  
18 be especially qualified in the field of higher education  
19 by virtue of the person's knowledge, learning, experi-  
20 ence or interest in the field.

21 Except for the ex officio directors, no person shall be  
22 eligible for appointment to membership on the board  
23 of directors who is an officer, employee or member of  
24 an advisory board of any state college or university, an  
25 officer or member of any political party executive  
26 committee, the holder of any other public office or

27 public employment under the federal government or  
28 under the government of this state or any of its  
29 political subdivisions, or an appointee or employee of  
30 the board of trustees or board of directors. Of the  
31 twelve directors appointed by the governor from the  
32 public at large, not more than six thereof shall belong  
33 to the same political party and at least two directors of  
34 the board shall be appointed from each congressional  
35 district.

36 Except as provided in this section, no other person  
37 may be appointed to the board.

38 (b) The governor shall appoint twelve directors as  
39 soon after July one, one thousand nine hundred  
40 eighty-nine, as is practicable, and the original terms of  
41 all directors shall commence on that date. The terms  
42 of the directors appointed by the governor shall be for  
43 overlapping terms of six years, except, of the original  
44 appointments, four shall be appointed to terms of two  
45 years, four shall be appointed to terms of four years,  
46 and four shall be appointed to terms of six years. Each  
47 subsequent appointment which is not for the purpose  
48 of filling a vacancy in an unexpired term shall be  
49 appointed to a term of six years.

50 The governor shall appoint a director to fill any  
51 vacancy among the twelve directors appointed by the  
52 governor, by and with the advice and consent of the  
53 Senate, which director appointed to fill such vacancy  
54 shall serve for the unexpired term of the vacating  
55 director. The governor shall fill the vacancy within  
56 sixty days of the occurrence of the vacancy.

57 All directors appointed by the governor shall be  
58 eligible for reappointment: *Provided*, That a person  
59 who has served as a director or trustee during all or  
60 any part of two consecutive terms shall be ineligible to  
61 serve as a director for a period of three years imme-  
62 diately following the second of the two consecutive  
63 terms.

64 The chairman of the advisory council of students, ex  
65 officio; the chairman of the advisory council of faculty,  
66 ex officio; and the chairman of the advisory council of



67 classified employees, ex officio, shall serve the terms  
68 for which they were elected by their respective  
69 advisory councils. These members shall be eligible to  
70 succeed themselves.

71 (c) Before exercising any authority or performing  
72 any duties as a director, each director shall qualify as  
73 such by taking and subscribing to the oath of office  
74 prescribed by section five, article four of the constitu-  
75 tion of West Virginia, and the certificate thereof shall  
76 be filed with the secretary of state.

77 (d) No director appointed by the governor shall be  
78 removed from office by the governor except for  
79 official misconduct, incompetence, neglect of duty or  
80 gross immorality, and then only in the manner pres-  
81 cribed by law for the removal by the governor of the  
82 state elective officers.

**§18B-3-2. Meetings and compensation.**

1 (a) The board of directors shall hold at least ten  
2 meetings in every fiscal year, including an annual  
3 meeting each June: *Provided*, That an annual meeting  
4 for the purpose of selecting the first chairman shall be  
5 held during July, one thousand nine hundred eighty-  
6 nine. Except for the annual meeting, which may be  
7 held at a location anywhere in the state, the said  
8 meetings shall be held on different campuses of  
9 institutions in the state college system on a rotating  
10 basis or at the central office. The directors may set  
11 aside time at these meetings held at the campuses to  
12 afford administrators, faculty, students and classified  
13 staff at these institutions an opportunity to discuss  
14 issues affecting these groups. The directors shall hold  
15 at least one meeting each year with the advisory  
16 council of faculty, the advisory council of students and  
17 the advisory council of classified employees, each of  
18 these bodies to be met with separately. Except as  
19 otherwise provided in this section, meetings shall be  
20 held on such dates and at such places as the directors  
21 may prescribe. In addition to the statutorily required  
22 meetings, the directors may meet at such other times  
23 as may be necessary, such meetings to be held upon its

24 own resolution or at the written request of at least five  
25 appointed directors.

26 Of the fifteen voting members of the board of  
27 directors, eight shall constitute a quorum, and a  
28 majority vote of the quorum shall be necessary to pass  
29 upon matters before the directors.

30 (b) The directors shall be reimbursed for actual and  
31 necessary expenses incident to the performance of  
32 such duties, upon presentation of an itemized sworn  
33 statement thereof. The foregoing reimbursement for  
34 actual and necessary expenses shall be paid from  
35 appropriations made by the Legislature to the directors.

**§18B-3-3. Additional duties of board of directors.**

1 (a) The board of directors shall determine programs  
2 to be offered by state institutions of higher education  
3 under its jurisdiction.

4 (b) The directors shall govern community colleges  
5 and shall organize eight community college service  
6 areas in accordance with section four of this article.

7 (c) The board of directors of the state college system  
8 shall govern the state college system. The directors  
9 shall develop by the first day of January, one thousand  
10 nine hundred ninety, a proposed classification plan  
11 and salary plan for full-time faculty based upon the  
12 level of program being taught by said full-time faculty  
13 member, whether baccalaureate programs or associate  
14 level programs. The classification plan and salary plan  
15 shall be submitted to the secretary of education and  
16 the arts for approval.

**§18B-3-4. Community colleges.**

1 (a) Effective the first day of July, one thousand nine  
2 hundred eighty-nine, the following institutions are  
3 hereby established or continued as freestanding com-  
4 munity colleges: Southern West Virginia Community  
5 College and West Virginia Northern Community  
6 College. On or before the first day of July, one  
7 thousand nine hundred ninety, the board of directors  
8 may designate other facilities, centers, locations and

9 schools as freestanding community colleges. Such  
10 freestanding community colleges shall not be operated  
11 as branches or off-campus locations of any other state  
12 institution of higher education.

13 (b) The directors, in accordance with article two-b,  
14 chapter eighteen of this code, shall cooperate with the  
15 state board of vocational education, the state council of  
16 vocational-technical education, and the joint commis-  
17 sion for post-secondary occupational education to  
18 develop a network of post-secondary vocational, job  
19 training and other educational centers, utilizing  
20 existing community colleges and programs, other  
21 existing facilities, and existing training needs within  
22 the service area. The community colleges shall be  
23 organized into eight community college service areas  
24 which shall have the same boundaries as the regional  
25 educational service agencies established by the state  
26 board of education pursuant to section twenty-six,  
27 article two, chapter eighteen of this code: *Provided*,  
28 That any community college and the branches thereof  
29 existing on the effective date of this section may be  
30 located in more than one community college service  
31 area created pursuant to this section and shall not be  
32 affected by such service area boundary.

33 (c) A separate division of community colleges shall  
34 be established under the board of directors and  
35 supervised by the vice chancellor for community  
36 colleges. The community colleges shall be responsible  
37 directly to and subject to the governance of the vice  
38 chancellor for community colleges, who shall regularly  
39 convene the presidents or other administrative heads  
40 of the community colleges as a community college  
41 council.

42 The vice chancellor for community colleges shall  
43 consider (1) existing branch colleges, community  
44 college components, off-campus locations, and, through  
45 agreements with the state board of vocational educa-  
46 tion, vocational technical centers included within the  
47 boundaries of the eight community college service  
48 areas and (2) the needs of each such region in deter-  
49 mining the enrollment, programs and functions of all

50 community colleges, and the names and locations of  
51 newly designated community colleges: *Provided*, That  
52 programs at community colleges shall be two years or  
53 less in duration.

54 (d) The board of directors may fix tuition and  
55 establish and set such other fees to be charged stu-  
56 dents as it deems appropriate, and shall pay such  
57 tuition and fees collected into a revolving fund for the  
58 partial or full support, including the making of capital  
59 improvements, of any community college established,  
60 continued or designated hereunder. Funds collected at  
61 any such community college may be used only for the  
62 benefit of that community college. The board of  
63 directors may also establish special fees for such  
64 purposes as, including, but not limited to, health  
65 services, student activities, student recreation, athlet-  
66 ics or any other extracurricular purposes. Such special  
67 fees shall be paid into special funds and used only for  
68 the purposes for which collected.

69 Moneys collected at a branch college or off-campus  
70 location of a state institution of higher education  
71 which is subsequently designated as a community  
72 college shall be transferred to and vested in the  
73 successor community college.

74 (e) The board of directors may allocate funds from  
75 the appropriations for the state college system for the  
76 operation and capital improvement of any community  
77 college continued, established or designated under  
78 authority of this section and may accept federal grants  
79 and funds from county boards of education, other local  
80 governmental bodies, corporations or persons. The  
81 directors may enter into memoranda of agreements  
82 with such governmental bodies, corporations or per-  
83 sons for the use or acceptance of local facilities and/or  
84 the acceptance of grants or contributions toward the  
85 cost of the acquisition or construction of such facilities.  
86 Such local governmental bodies may convey capital  
87 improvements, or lease the same without monetary  
88 consideration, to the board of directors for the use by  
89 the community college, and the board of directors may  
90 accept such facilities, or the use or lease thereof, and

91 grants or contributions for such purposes from such  
92 governmental bodies, the federal government or any  
93 corporation or person.

**§18B-3-5. Permits required for correspondence, business, occupational and trade schools; surety bonds and fees; issuance, renewal and revocation of permit; reports; rules and regulations; penalty and enforcement.**

1 It shall be unlawful for any person representing a  
2 correspondence, business, occupational or trade school  
3 inside or outside this state to solicit, sell or offer to sell  
4 courses of instruction to any resident of this state for  
5 consideration or remuneration unless the school first  
6 obtains a permit from the West Virginia board of  
7 directors in the manner and on the terms herein  
8 prescribed.

9 The application for a permit shall be made on forms  
10 to be furnished by the board, and a ten dollar fee shall  
11 be required. The application shall be accompanied by  
12 a surety bond in the penal sum of thirty-five thousand  
13 dollars for any school which has its physical facilities  
14 located in this state and which has operated in this  
15 state for at least ten years. For any other school a  
16 surety bond in the penal sum of not less than thirty-  
17 five thousand dollars, but not more than one hundred  
18 thousand dollars, shall be required, such amount to be  
19 determined in accordance with the rules of the board  
20 of directors. Schools with more than one campus  
21 within the state shall be required to provide a bond for  
22 each of its campuses in an amount equal to the bond  
23 required for its oldest established campus in this state.  
24 The bond may be continuous and shall be conditioned  
25 to provide indemnification to any student suffering  
26 loss as a result of any fraud or misrepresentation used  
27 in procuring the student's enrollment or failure of the  
28 school to meet contractual obligations. The bond shall  
29 be given by the school itself as a blanket bond covering  
30 all of its representatives. The surety on any such bond  
31 may cancel the same upon giving thirty days' notice in  
32 writing to the principal on said bond and to the state  
33 board of directors and thereafter shall be relieved of

34 liability for any breach of condition occurring after the  
35 effective date of said cancellation. The ten dollar fee  
36 will entitle a school to register up to two individual  
37 solicitors. Additional solicitors may be registered by  
38 paying a five dollar fee for each registration submitted.

39 A permit shall be valid for one year corresponding  
40 to the effective date of the bond and, upon application,  
41 accompanied by the required fee and the surety bond  
42 as herein required, may be renewed. All fees collected  
43 for the issuance or renewal of such permit shall be  
44 deposited in the state treasury to the credit of the  
45 board of directors.

46 The board may refuse a permit to any school if the  
47 board finds that the school engages in practices which  
48 are inconsistent with this section or with rules and  
49 regulations issued pursuant thereto. A permit issued  
50 hereunder, upon fifteen days' notice and after a  
51 hearing, if a hearing is requested by the school, may  
52 be suspended or revoked by the board of directors for  
53 fraud or misrepresentation in soliciting or enrolling  
54 students, for failure of the school to fulfill its contract  
55 with one or more students who are residents of West  
56 Virginia, or for violation of or failure to comply with  
57 any provision of this section or with any regulation of  
58 the state board of directors pertinent thereto. Prior to  
59 the board taking any adverse action, including refusal,  
60 suspension or revocation of a permit, the school shall  
61 be given reasonable opportunity to take corrective  
62 measures. Any refusal, suspension or revocation of a  
63 permit, or any other adverse action against a school,  
64 shall comply with all constitutional provisions, includ-  
65 ing due process, relating to the protection of property  
66 rights.

67 All correspondence, business, occupational or trade  
68 schools which have been issued a permit shall make  
69 annual reports to the board of directors on forms  
70 furnished by the board and shall provide such appro-  
71 priate information as the board reasonably may  
72 require. All correspondence, business, occupational or  
73 trade schools which have been issued a permit shall  
74 furnish to the board of directors a list of its official

75 representatives. Each school shall be issued a certifi-  
76 cate of identification by the board of directors for each  
77 of its official representatives.

78 The issuance of a permit pursuant to this section  
79 does not constitute approval or accreditation of any  
80 course or school. No school nor any representative of  
81 a school shall make any representation stating, assert-  
82 ing or implying that a permit issued pursuant to this  
83 section constitutes approval or accreditation by the  
84 state of West Virginia, state board of directors or any  
85 other department or agency of the state.

86 The board of directors is hereby authorized to adopt  
87 rules and conduct on-site reviews to evaluate academic  
88 standards maintained by schools for the awarding of  
89 certificates, diplomas and specialized associate degrees,  
90 which standards may include curriculum, personnel,  
91 facilities, materials and equipment: *Provided*, That in  
92 the case of accredited correspondence, business,  
93 occupational and trade schools under permit on the  
94 effective date of this section, having their physical  
95 facilities located in this state, and which are accredited  
96 by the appropriate nationally recognized accrediting  
97 agency or association approved by the United States  
98 department of education, the accrediting agency's  
99 standards, procedures and criteria shall be accepted as  
100 meeting applicable laws, standards, rules and regula-  
101 tions of the board of directors: *Provided, however*,  
102 That the board of directors may authorize an investi-  
103 gation of written student complaints alleging a viola-  
104 tion of this section, or board's rules or accreditation  
105 standards and may take appropriate action based on  
106 the findings of such an investigation.

107 The board of directors is hereby authorized to adopt  
108 rules for the awarding of any specialized associate  
109 degree by accredited proprietary institutions: *Pro-*  
110 *vided*, That nothing contained herein shall infringe  
111 upon the rights of accredited West Virginia propri-  
112 etary schools operating in West Virginia to confer  
113 specialized associate degrees, diplomas or certificates  
114 based on credit or clock hours in accordance with  
115 standards of the appropriate nationally recognized

116 accrediting agency or association that is approved by  
117 the United States department of education. For the  
118 purposes of this section, proprietary schools that award  
119 specialized associate degrees shall be defined as  
120 institutions of higher education, and specialized associ-  
121 ate degrees shall mean degrees awarded by such  
122 institutions pursuant to a program of not less than two  
123 academic years: *Provided, however,* That nothing  
124 herein shall be construed to qualify the said propri-  
125 etary schools for additional state monies not otherwise  
126 qualified for under other provisions of the code.

127 In regard to private, proprietary educational institu-  
128 tions operating under this section of the code, accre-  
129 dited by a national or regional accrediting agency or  
130 association recognized by the United States Depart-  
131 ment of Education and which provide training at a  
132 campus located in this state:

133 (a) Any rule or standard which is authorized by this  
134 or any section of the code or other law, and which is  
135 now in effect or promulgated hereafter by the board  
136 of directors (or other agency with jurisdiction) shall be  
137 clearly, specifically, and expressly authorized by  
138 narrowly construed enabling law and shall be unen-  
139 forceable and without legal effect unless authorized by  
140 an act of the Legislature under the provisions of  
141 article three-a, chapter twenty-nine-a of the code;

142 (b) Notwithstanding any other provision of this  
143 section or other law to the contrary, the institution's  
144 accrediting agency standards, procedures, and criteria  
145 shall be accepted as the standards and rules of the  
146 board of directors (or other agency with jurisdiction),  
147 and as meeting other law or legal requirements  
148 relating to the operation of proprietary institutions  
149 which such board or other agency has the legal  
150 authority to enforce under any section of the code or  
151 other law: *Provided,* That nothing in this section shall  
152 be construed to deny students the use of remedies that  
153 would otherwise be available under state or federal  
154 consumer laws or federal law relating to federal  
155 college financial assistance programs.



156 (c) Accredited institutions operating hereunder are  
157 hereby recognized as post-secondary. Academic pro-  
158 gress shall be measured and reported in credit hours  
159 and all reports/documents filed on a credit hour basis.

160 A representative of any school violating any provi-  
161 sion of this section shall be guilty of a misdemeanor,  
162 and, upon conviction thereof, shall be fined not more  
163 than two hundred dollars per day of violation, not to  
164 exceed a maximum of two thousand dollars per  
165 violation, or imprisoned in the county jail not more  
166 than sixty days, or both fined and imprisoned. No  
167 correspondence, business, occupational or trade school  
168 shall maintain an action in any court of this state to  
169 recover for services rendered pursuant to a contract  
170 solicited by the school if the school did not hold a valid  
171 permit at the time the contract was signed by any of  
172 the parties thereto. The attorney general or any  
173 county prosecuting attorney, at the request of the  
174 board of directors or upon his or her own motion, may  
175 bring any appropriate action or proceeding in any  
176 court of competent jurisdiction for the enforcement of  
177 the provisions of this section relating to permits, bonds  
178 and sureties.

**ARTICLE 3A. WEST VIRGINIA JOINT COMMISSION FOR  
VOCATIONAL-TECHNICAL-OCCUPATIONAL  
EDUCATION.**

**§18B-3A-1. Commission established.**

1 The West Virginia Joint Commission for Vocational-  
2 Technical-Occupational Education, hereinafter  
3 referred to in this article as the joint commission, is  
4 hereby created, consisting of thirteen members  
5 appointed by the governor, with the advice and  
6 consent of the Senate, who shall be individuals broadly  
7 representative of citizens and organizations within the  
8 state having an interest in vocational education.

**§18B-3A-1a. Department of education and the arts.**

1 The joint commission herein established shall be  
2 subject to the jurisdiction of the department of  
3 education and the arts pursuant to the provisions of

4 article one, chapter five-f of this code, and the com-  
5 mission shall be subject to the supervision of the  
6 secretary of the department of education and the arts.

**§18B-3A-1b. Definitions.**

1 As used in this article:

2 (a) "Secondary vocational education" shall mean  
3 any high school level course or program which results  
4 or may result in a high school diploma or its equiva-  
5 lent, under the jurisdiction of the state board of  
6 education.

7 (b) "Post-secondary vocational education" shall  
8 mean any college-level course or program beyond the  
9 high school level provided through an institution of  
10 higher education which results in or may result in the  
11 awarding of a two-year associate degree, under the  
12 jurisdiction of the board of directors.

13 (c) "Adult basic education" shall mean adult basic  
14 skills education designed to satisfy the basic literacy  
15 needs of adults; to improve and/or upgrade informa-  
16 tion processing skills, communication skills, and  
17 computational skills leading to a high school equival-  
18 ency diploma, under the jurisdiction of the state board  
19 of education.

20 (d) "Adult occupational education" shall mean adult  
21 skill training beyond the high school level not leading  
22 to a certificate or college credit, under the jurisdiction  
23 of the joint commission for vocational-technical-  
24 occupational education.

25 (e) "Adult technical preparatory education" shall  
26 mean adult skill training beyond the high school level,  
27 but less than the associate degree, leading to a certif-  
28 icate and/or articulated with post-secondary vocational  
29 education, under the jurisdiction of the joint commis-  
30 sion for vocational-technical-occupational education.

**§18B-3A-2. Composition of commission; terms of members;  
qualifications of members.**

1 The members appointed by the governor shall  
2 include all of the following:

3 (a) Seven individuals who shall be representatives  
4 from business, industry, and agriculture, including one  
5 member representing small business concerns, one  
6 member of whom shall represent the governor's office  
7 of community and industrial development, one mem-  
8 ber of whom shall represent proprietary schools and  
9 one member of whom shall represent labor organiza-  
10 tions. In selecting private sector individuals under this  
11 subdivision, the governor shall give due consideration  
12 to the appointment of individuals who serve on a  
13 private industry council or other appropriate state  
14 agencies.

15 (b) Six individuals, three of whom shall be represen-  
16 tatives of secondary vocational education appointed by  
17 the state superintendent of schools and three of whom  
18 shall be representatives of post-secondary vocational  
19 education appointed by the chancellor of the board of  
20 directors.

21 In addition to the members appointed by the gover-  
22 nor the state superintendent of schools and the vice  
23 chancellor of the board of directors shall serve as ex  
24 officio members.

25 Members of the commission shall serve for overlap-  
26 ping terms of four years, except that the original  
27 appointments to the commission shall be for staggered  
28 terms allocated in the following manner: One member  
29 appointed by the chancellor, one member appointed  
30 by the state superintendent of schools and two  
31 members appointed by the governor for terms of two  
32 years; one member appointed by the chancellor, one  
33 member appointed by the state superintendent of  
34 schools and two members appointed by the governor  
35 for terms of three years; and one member appointed  
36 by the state superintendent of schools, one member  
37 appointed by the chancellor and three members  
38 appointed by the governor for terms of four years.

**§18B-3A-3. Meeting; compensation of members.**

1 The joint commission shall meet quarterly and may  
2 meet at the request of the president, a majority of the  
3 board or at the call of the secretary of education and

4 the arts. One such meeting of the joint commission  
5 shall be a public forum for the discussion of the goals  
6 and standards for vocational education in the state.  
7 The members shall elect a president who shall serve  
8 a term of one year.

9 Members of the council shall serve without compen-  
10 sation. Members of the council appointed by the  
11 governor shall receive their actual necessary expenses  
12 incurred in the performance of their duties.

**§18B-3A-4. Duties and responsibilities.**

1 The joint commission shall have the duties and  
2 responsibilities set forth in the provisions of section  
3 two, article two-b, chapter eighteen of this code, and in  
4 addition shall:

5 (a) Meet with the state board of education and the  
6 board of directors, or their representatives, to advise  
7 them on state plans for vocational education; and

8 (b) Advise the state board of education and the  
9 board of directors, and report to the Legislature by the  
10 first day of December, one thousand nine hundred  
11 eighty-nine and annually thereafter regarding all of  
12 the following:

13 (1) Policies the state should pursue to strengthen  
14 vocational education with special emphasis on pro-  
15 grams for the handicapped.

16 (2) Programs and methods through which the pri-  
17 vate sector could undertake to assist in the moderni-  
18 zation of vocational education programs.

19 (c) Effective July one, one thousand nine hundred  
20 ninety, supervise the governance of all secondary and  
21 post-secondary vocational education programs in the  
22 state, including the programs assisted under the  
23 federal Vocational Education Act and the Job Training  
24 Partnership Act, and shall implement policies to both  
25 coordinate programs of the state board of education  
26 and the board of directors and to eliminate duplicative  
27 programs of same.

28 (d) Coordinate the delivery of vocational-technical-

29 occupational education in a manner designed to  
30 provide the greatest yet most reasonable level of  
31 accessibility to students in consideration of the most  
32 efficient use of available public funds.

33 (e) Encourage through articulation the most efficient  
34 utilization of available resources, both public and  
35 private, to meet the needs of vocational-technical-  
36 occupational education students.

37 (f) Analyze and report to the governor and the  
38 Legislature on the distribution of spending for voca-  
39 tional education in the state and on the availability of  
40 vocational education activities and services within the  
41 state.

42 (g) Consult with the state board of education and the  
43 board of directors on evaluation criteria for vocational  
44 education programs in the state.

45 (h) Recommend to the state board of education and  
46 the board of directors on the delivery of vocational  
47 education programs in the state which emphasize the  
48 involvement of business and labor organizations.

49 (i) Assess and report to the governor and Legislature  
50 on the distribution of federal vocational education  
51 funding provided under Public Law 98-524, with an  
52 emphasis on the distribution of financial assistance  
53 among secondary and post-secondary vocational educa-  
54 tion programs.

55 (j) Recommend procedures to the state board of  
56 education and the board of directors to ensure and  
57 enhance public participation in the provision of  
58 vocational education at the local level, with an empha-  
59 sis on programs which involve the participation of  
60 local employers and labor organizations.

61 (k) Report to the state board of education, the board  
62 of directors, and the Legislature on the extent to  
63 which equal access to quality vocational education  
64 programs is provided to handicapped and disadvan-  
65 taged individuals, adults who are in need of training  
66 and retraining, individuals who are single parents or  
67 homemakers, individuals participating in programs

68 designed to eliminate sexual bias and stereotyping in  
69 vocational education, and criminal offenders serving in  
70 correctional institutions.

71 (l) Evaluate at least once every two years:

72 (1) The adequacy and effectiveness of the vocational  
73 educational systems assisted under the federal Voca-  
74 tional Education Act and the Job Training Partnership  
75 Act in achieving the objectives defined in those acts.

76 (2) Develop uniform guidelines for the transferabil-  
77 ity of credits among institutions in the state and  
78 transferability of credits between and among the  
79 systems of higher education and the state board of  
80 education.

81 (m) Designate lead institutions and do a region by  
82 region study of existing programs, define peculiar  
83 needs of each region and devise a statewide plan for  
84 secondary and post-secondary vocational education.

85 (n) The secretary of the department of education  
86 and the arts shall be responsible for staffing the joint  
87 commission, utilizing existing personnel, equipment  
88 and offices of the state board of education and the  
89 board of directors.

#### ARTICLE 4. GENERAL ADMINISTRATION.

##### §18B-4-1. Officers of governing boards; employment of chancellors and senior administrator; offices.

1 (a) At its annual meeting in June of each year, each  
2 governing board shall elect from its members  
3 appointed by the governor a president and such other  
4 officers as it may deem necessary or desirable: *Pro-*  
5 *vided*, That the initial annual meeting shall be held  
6 during July, one thousand nine hundred eighty-nine.  
7 The president and such other officers shall be elected  
8 for a one-year term commencing on the first day of  
9 July following the annual meeting and ending on the  
10 thirtieth day of June of the following year. The  
11 president of the board shall serve no more than two  
12 consecutive terms.

13 (b) Each governing board shall employ a chancellor

14 who shall shall serve at the will and pleasure of the  
15 employing board and shall assist the governing board  
16 in the performance of its duties and responsibilities.  
17 No chancellor may hold or retain any other adminis-  
18 trative position within the system of higher education  
19 while employed as chancellor. Each chancellor is  
20 responsible for carrying out the directives of the  
21 governing board by which employed and shall work  
22 with such board in developing policy options. For the  
23 purpose of developing or evaluating policy options, the  
24 chancellors may request the assistance of the presi-  
25 dents of the institutions under their jurisdiction and  
26 their staffs. The respective chancellors shall jointly  
27 agree to, and shall hire, one senior administrator who  
28 shall serve at their will and pleasure in accordance  
29 with section two of this article.

30 (c) The director of health shall serve as the vice  
31 chancellor for health affairs, who shall coordinate the  
32 West Virginia University School of Medicine, the  
33 Marshall University School of Medicine, and the West  
34 Virginia School of Osteopathic Medicine. The vice  
35 chancellor for health affairs shall conduct a special  
36 study of the West Virginia University school of med-  
37 icine, the Marshall University school of medicine and  
38 the West Virginia school of osteopathic medicine to  
39 determine the role and mission of said institutions in  
40 the reorganized system of higher education in the  
41 state. The special study shall include, but is not limited  
42 to, coordinating medical education, training and  
43 delivery of health services in the state; preparing  
44 nurse midwives, nurse practitioners, medical technol-  
45 ogists and other members of the allied health profes-  
46 sions; and providing for rural health care. The vice  
47 chancellor shall submit a report on said study to the  
48 governor and to the Legislature by the first day of  
49 December, one thousand nine hundred eighty-nine.

50 (d) The board of directors of the state college system  
51 shall employ a vice chancellor for community colleges  
52 to coordinate the community colleges.

53 (e) Suitable offices for the senior administrator and  
54 other staff shall be provided in Charleston.

**§18B-4-2. Senior administrator's powers and duties generally.**

1 (a) The senior administrator has a ministerial duty,  
2 in consultation with and under direction of the  
3 chancellors, to perform such functions, tasks and  
4 duties as may be necessary to carry out the policy  
5 directives of the governing boards and such other  
6 duties as may be prescribed by law.

7 (b) The senior administrator may employ and dis-  
8 charge, and shall supervise, such professional, admin-  
9 istrative, clerical and other employees as may be  
10 necessary to these duties and shall delineate staff  
11 responsibilities as deemed desirable and appropriate.  
12 The senior administrator shall fix the compensation  
13 and emoluments of such employees: *Provided*, That  
14 effective the first day of July, one thousand nine  
15 hundred ninety, those employees whose job duties  
16 meet criteria listed in the system of job classifications  
17 as stated in article nine of this chapter shall be  
18 accorded the job title, compensation and rights estab-  
19 lished in said article as well as all other rights and  
20 privileges accorded classified employees by the provi-  
21 sions of this code.

22 (c) The senior administrator shall follow state and  
23 national educational trends and gather data on higher  
24 educational needs.

25 (d) The senior administrator, in accordance with  
26 established guidelines and in consultation with and  
27 under the direction of the chancellors, shall adminis-  
28 ter, oversee or monitor all state and federal student  
29 assistance and support programs administered on the  
30 state level, including those provided for in chapter  
31 eighteen-c of this code.

32 (e) The senior administrator has a fiduciary respon-  
33 sibility to administer the tuition and registration fee  
34 capital improvement revenue bond accounts of the  
35 governing boards.

36 (f) The senior administrator shall administer the  
37 purchasing system or systems of the governing boards.



38 (g) The senior administrator shall be responsible for  
39 the management of the West Virginia network for  
40 educational telecomputing (WVNET). The senior  
41 administrator shall establish a computer policy board,  
42 which shall be representative of both the university  
43 system and the college system. It shall be the respon-  
44 sibility of the computer policy board to recommend to  
45 the secretary of the department of education and the  
46 arts policies for a statewide shared computer system.

47 (h) Any program or service currently administered  
48 by the board of regents and not specifically assigned to  
49 the board of trustees or the board of directors may be  
50 administered by the senior administrator. Such pro-  
51 gram or service may include, but shall not be limited  
52 to, telecommunications activities and other programs  
53 and services provided for under grants and contracts  
54 from federal and other external funding sources.

**§18B-4-3. Authority to participate in reciprocal regional and interstate higher educational agreements.**

1 In order to provide higher educational opportunities  
2 at minimum cost to students and the state, the govern-  
3 ing boards, on behalf of the state of West Virginia, are  
4 authorized and empowered to participate in the  
5 Southern Regional Education Board interstate agree-  
6 ment, namely the Academic Common Market, and in  
7 such other regional and interstate agreements deter-  
8 mined to be mutually beneficial to the citizens of the  
9 participating states and which provide an opportunity  
10 for qualified nonresident students to enroll in selected  
11 programs and curricula on a resident tuition and fee  
12 charge basis. Each governing board is specifically  
13 authorized to waive the collection of nonresident  
14 tuition and fee charges for students from other states  
15 enrolled in programs and curricula under the jurisdic-  
16 tion of and approved by the governing board as a part  
17 of a regional or interstate agreement.

**§18B-4-4. State agency for participation in federal and private grants to higher education; related powers and duties.**

1 The governing boards, on behalf of the state of West

2 Virginia, are authorized and empowered to apply for,  
3 to accept and administer and expend for the purpose  
4 or purposes designated, any funds which now are, or  
5 may be made, available to the governing boards or to  
6 any institution under their jurisdiction from federal or  
7 private grants, appropriations, allocations and  
8 programs.

9 The governing boards have the power:

10 (1) To receive and disburse funds appropriated by  
11 the federal government for the construction, equip-  
12 ment, and improvement of academic facilities of  
13 institutions of higher education as required by the  
14 federal Higher Education Facilities Act of 1963, and  
15 any and all subsequent acts of Congress relating to the  
16 same subject;

17 (2) To apply for, receive, and administer, subject to  
18 any applicable regulations or laws of the federal  
19 government or any agency thereof, any federal grants,  
20 appropriations, allocations, and programs for the  
21 development of academic facilities on behalf of the  
22 state of West Virginia, or any institution of higher  
23 education, public or private, within the state;

24 (3) To develop, alter, amend, and submit to the  
25 federal government state plans for participation in  
26 federal grants, appropriations, allocations, and pro-  
27 grams for the development of academic facilities and  
28 to formulate rules, criteria, methods, forms, proce-  
29 dures, and to do all other things which may be  
30 necessary to make possible the participation of the  
31 state in such federal grants, appropriations, allocations,  
32 and programs for the development of academic  
33 facilities;

34 (4) To hold hearings, and render decisions as to the  
35 priority assigned to any project, or as to any other  
36 matter or determination affecting any applicant for  
37 federal grants, appropriations, allocations and pro-  
38 grams for the development of academic facilities;

39 (5) To hire personnel, purchase materials, make  
40 studies and reports, enter into contracts, and do all

41 other things necessary to accomplish the duties as set  
42 forth in this section within the limits of the funds  
43 available.

**§18B-4-5. Security officers; appointment; qualifications;  
authority; compensation and removal.**

1 The governing boards are hereby authorized to  
2 appoint bona fide residents of this state to act as  
3 security officers upon any premises owned or leased  
4 by the state of West Virginia and under the jurisdic-  
5 tion of the governing boards, subject to the conditions  
6 and restrictions hereinafter imposed. Before perform-  
7 ing duties as a security officer in any county, each  
8 person so appointed shall qualify therefor in the same  
9 manner as is required of county officers by the taking  
10 and filing an oath of office as required by article one,  
11 chapter six of this code and by posting an official bond  
12 as required by article two, chapter six of this code. No  
13 security officer shall have authority to carry a gun or  
14 any other dangerous weapon until a license therefor  
15 has been obtained in the manner prescribed by section  
16 two, article seven, chapter sixty-one of this code.

17 It shall be the duty of any person so appointed and  
18 qualified to preserve law and order on any premises  
19 under the jurisdiction of the governing boards and on  
20 any other street, road or thoroughfare, except con-  
21 trolled access and open country highways, adjacent to  
22 or passing through such premises, to which the person  
23 may be assigned by the president or other administra-  
24 tive head of the state institution of higher education.  
25 For this purpose the security officer shall, as to  
26 offenses committed within any area so assigned, have  
27 and may exercise all the powers and authority and  
28 shall be subject to all the responsibilities of a law-  
29 enforcement officer as defined in section one, article  
30 twenty-nine, chapter thirty of this code and shall be  
31 eligible for law-enforcement training at an approved  
32 academy under said article, notwithstanding provi-  
33 sions to the contrary therein. The assignment of  
34 security officers to the duties authorized by this  
35 section shall not be deemed to supersede in any way  
36 the authority or duty of other peace officers to

37 preserve law and order on such premises. In addition,  
38 the security officers appointed under provisions of this  
39 section shall have authority to assist local peace  
40 officers on public highways in the control of traffic in  
41 and around premises owned by the state of West  
42 Virginia whenever such traffic is generated as a result  
43 of athletic or other activities conducted or sponsored  
44 by a state institution of higher education and when  
45 such assistance has been requested by the local peace  
46 officers.

47 The salary of all such security officers shall be paid  
48 by the appropriate governing board. Each state institu-  
49 tion may furnish each such security officer with an  
50 official uniform to be worn while on duty and shall  
51 furnish and require each such officer while on duty to  
52 wear a shield with an appropriate inscription and to  
53 carry credentials certifying to the person's identity  
54 and authority as a security officer.

55 The governing boards may at their pleasure revoke  
56 the authority of any security officer. The president or  
57 other administrative head of the state institution of  
58 higher education shall report the termination of  
59 employment of a security officer by filing a notice to  
60 that effect in the office of the clerk of each county in  
61 which the security officer's oath of office was filed,  
62 and in the case of a security officer licensed to carry  
63 a gun or other dangerous weapon, by notifying the  
64 clerk of the circuit court of the county in which the  
65 license therefor was granted.

**§18B-4-6. Acquisition, operation and regulation of parking  
areas and facilities at state institutions of  
higher education; regulation of parking,  
speed and flow of traffic on campus roads  
and driveways; civil and criminal penalties;  
disposition of revenue.**

1 (a) The governing boards are hereby authorized to  
2 construct, maintain and operate automobile parking  
3 facilities or areas upon any premises owned or leased  
4 at any state institution of higher education under their  
5 jurisdiction for use by students, faculty, staff and

6 visitors. The governing boards may charge fees for use  
7 of the parking facilities or areas under their control.  
8 All moneys collected for the use of the parking  
9 facilities or areas shall be paid to the credit of the state  
10 institution of higher education at which the fees were  
11 charged into a special fund which is hereby created in  
12 the state treasury. The moneys in the fund shall be  
13 used first to pay the cost of maintaining and operating  
14 the parking facilities or areas, but any excess not  
15 needed for this purpose may be used for the acquisi-  
16 tion of property by lease or purchase and the construc-  
17 tion thereon of additional parking facilities or areas.  
18 Any money in the fund not needed immediately for  
19 the acquisition, construction, maintenance or opera-  
20 tion of the parking facilities or areas may be temporar-  
21 ily invested by the governing boards with the state  
22 board of investments to the credit of the state institu-  
23 tion of higher education at which the fees were  
24 charged.

25 (b) Notwithstanding any other motor vehicle or  
26 traffic law or regulation to the contrary, the governing  
27 boards are hereby authorized to regulate and control  
28 at any state institution of higher education under their  
29 jurisdiction the speed, flow and parking of vehicles on  
30 campus roads, driveways and parking facilities or  
31 areas. Rules for this purpose shall be promulgated by  
32 the governing boards in the manner prescribed in  
33 chapter twenty-nine-a of this code and when so  
34 promulgated shall have the force and effect of law. In  
35 each parking facility or area a summary of the rules  
36 governing the use of the facility or area including, but  
37 not limited to, the availability of temporary parking  
38 permits and where same may be obtained, and of the  
39 penalties which may be imposed for violations of the  
40 rules and shall be conspicuously posted. Along each  
41 campus road and driveway, notice signs pertaining to  
42 the speed of vehicles, spaces available for parking,  
43 directional flow of traffic and penalties which may be  
44 imposed for violations of the rules shall be conspicu-  
45 ously posted.

46 (c) Any person parking any vehicle or operating any

47 vehicle in violation of the rules shall be issued a  
48 citation describing the offense charged and ordering  
49 an appearance within ten days, excluding Saturdays,  
50 Sundays and holidays observed by the college or  
51 university, before a designated official of the state  
52 institution of higher education and, if the person cited  
53 fails to appear within said ten days, ordering an  
54 appearance before a magistrate located in the county  
55 in which the state institution of higher education is  
56 located or before the judge of the municipal court, if  
57 the state institution of higher education is located  
58 within a municipality having such an official.

59 The designated official of the state institution of  
60 higher education shall have exclusive jurisdiction of  
61 the offense during the ten-day period. Any person so  
62 cited may plead no contest to the offense and, by so  
63 pleading, shall be subject to a civil penalty to be  
64 determined uniformly by the designated official and  
65 commensurate with the severity of the offense in an  
66 amount not more than ten dollars for each offense as  
67 partial reimbursement to the state institution of  
68 higher education for the cost of regulating traffic and  
69 parking. Moneys derived from civil penalties imposed  
70 herein shall be deposited in the special fund in the  
71 state treasury created by this section and credited to  
72 the state institution of higher education at which the  
73 penalty was paid.

74 Upon the expiration of the ten days, or upon a  
75 pleading of not guilty before the designated official of  
76 the state institution of higher education within the ten  
77 days, the magistrate or judge of the municipal court  
78 shall have jurisdiction of the offense, and any person  
79 cited under the provisions of this section, upon a  
80 finding of guilty by the magistrate or municipal judge,  
81 shall be subject to a fine of not less than ten dollars  
82 nor more than twenty dollars for each offense, the  
83 amount to be commensurate with the severity of the  
84 offense.

85 Each designated official of the state institution of  
86 higher education presiding over a case under the  
87 provisions of this section shall keep or cause to be kept

88 a record of every citation which alleges a violation of  
89 such provisions, or the rules promulgated in accor-  
90 dance therewith, and shall keep a record of every  
91 official action in reference thereto including, but not  
92 limited to, a record of every plea of no contest,  
93 conviction or acquittal of the offense charged and the  
94 amount of the fine or of the civil penalty resulting  
95 from each citation.

96 (d) Whenever a vehicle is parked on any state  
97 institution of higher education campus road, driveway  
98 or parking facility or area in a manner which violates  
99 posted rules and substantially impedes the flow of  
100 traffic or endangers the health and safety, the institu-  
101 tion may, in addition to the issuing of a citation and  
102 subsequent procedures set forth herein, remove the  
103 vehicle, by towing or otherwise, to an area owned by  
104 the institution or areas designated for this purpose.  
105 The vehicle, having been towed to the designated area  
106 or areas, may be rendered immovable by use of  
107 locking wheel blocks or other device not damaging to  
108 the vehicle. The state institution of higher education  
109 shall maintain any vehicle so towed in the same  
110 condition as it was immediately prior to being towed,  
111 but shall not be liable for any damage to a vehicle  
112 towed to, or kept in, a designated area pursuant to the  
113 provisions of this section. The state institution of  
114 higher education shall pay for the cost of removing the  
115 vehicle and shall have a right to reimbursement from  
116 the owner for this cost and for the reasonable cost of  
117 keeping the vehicle in the designated area. Until  
118 payment of these costs, the state institution of higher  
119 education may retain possession of the vehicle, and the  
120 institution shall have a lien on the vehicle for the  
121 amount due. The state institution of higher education  
122 may enforce this lien in the manner provided in  
123 section fourteen, article eleven, chapter thirty-eight of  
124 this code for the enforcement of other liens.

**§18B-4-7. Accreditation of institutions of higher education;  
standards for degrees.**

1 The appropriate governing board shall make rules  
2 for the accreditation of institutions of higher education

3 in this state under its jurisdiction and shall determine  
4 the minimum standards for the conferring of degrees.  
5 No institution of higher education may confer any  
6 degree on any basis of work or merit below the  
7 minimum standards prescribed by the appropriate  
8 governing board. Nothing contained herein shall  
9 infringe upon the rights, including rights to award  
10 degrees, granted to any institution by charter given  
11 according to law, or by actions of the governing boards  
12 or their predecessors, prior to the adoption of this  
13 section.

14 No charter or other instrument containing the right  
15 to confer degrees of higher educational status shall be  
16 granted by the state of West Virginia to any institu-  
17 tion, association or organization within the state, nor  
18 shall any such degree be awarded, until the condition  
19 of conferring such degree has first been approved in  
20 writing by the appropriate governing board.

**ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.**

**§18B-5-1. Budget appropriations.**

*See* 1 ~~(a)~~ The budget appropriations for the state system of  
2 higher education under this chapter and other provi-  
3 sions of law shall consist of three major areas of  
4 appropriation consisting of (1) an appropriation for the  
5 higher education governing boards which shall be for  
6 the operation of the governing boards, the central  
7 office, the senior administrator and the staff of the  
8 senior administrator, (2) separate control accounts or  
9 institutional control accounts, or some combination of  
10 such accounts, for appropriations to the board of  
11 trustees to be allocated to the institutions under the  
12 state university system and to the board of directors to  
13 be allocated to the state college system, and (3) such  
14 special tuition and registration fee special capital  
15 improvement funds and revenue bond funds as may  
16 be necessary for the disposition of tuition and registra-  
17 tion fee collections to protect the interests of all  
18 holders of obligations for which such fees were  
19 pledged by the board of regents and shall remain  
20 pledged under the governing boards.



21 The appropriations for the state university system  
22 and the state college system until the first day of July,  
23 one thousand nine hundred ninety-one shall be in the  
24 same percentages of the total of the appropriations to  
25 such accounts as the percentages of the combined  
26 institutions under such systems received in allocations  
27 in the fiscal year one thousand nine hundred eighty-  
28 eight — eighty-nine.

**§18B-5-2. Allocation of appropriations.**

1 From appropriations for the higher education  
2 governing boards, the governing boards shall jointly  
3 allocate funds for the operation of the central office  
4 under the senior administrator and shall share equally  
5 the cost of suitable offices for the senior administrator  
6 and other staff in Charleston.

7 Any tuition and registration fee collections paid into  
8 tuition and registration fee special capital improve-  
9 ment funds and special revenue bond funds which  
10 accrue in excess of the amounts necessary to protect  
11 the interests of all holders of obligations for which  
12 such fees were pledged by the board of regents and  
13 shall remain pledged under the governing boards,  
14 shall be allocated to each governing board in propor-  
15 tion to the amounts of such fees collected through the  
16 institutions under its jurisdiction and shall be depos-  
17 ited in special capital improvement funds in the state  
18 treasury under the name of the governing board for  
19 expenditure for capital improvements at the institu-  
20 tions under the appropriate board's jurisdiction.

**§18B-5-3. Authority to contract for programs, services and facilities.**

1 The governing boards are authorized and empo-  
2 wered to enter into contracts and expend funds for  
3 programs, services and facilities provided by public  
4 and private educational institutions, associations,  
5 boards, agencies, consortia, corporations, partnerships,  
6 individuals and local, state and federal governmental  
7 bodies within and outside of West Virginia in order  
8 that maximum higher educational opportunities of  
9 high quality may be provided to the citizens of the

10 state in the most economical manner: *Provided*, That  
11 in no event shall a contract for such services and  
12 facilities be entered into unless the governing boards  
13 have determined that such services and facilities are  
14 necessary and that such services and facilities would  
15 be at a savings to the state.

16 Notwithstanding the provisions of this section,  
17 nothing herein contained shall supersede the responsi-  
18 bility and respective duties of the commissioner of  
19 finance and administration, the director of the pur-  
20 chasing division of such department and the attorney  
21 general for the execution and approval of the contracts  
22 entered into under this article and such contracts shall  
23 be in complete conformity with the provisions of  
24 articles three and five, chapter five-a of this code.

**§18B-5-4. Purchase or acquisition of materials, supplies,  
equipment and printing.**

1 (a) Each governing board, through the senior admin-  
2 istrator, shall purchase or acquire all materials,  
3 supplies, equipment and printing required for that  
4 board, and the state institutions of higher education  
5 under its jurisdiction. The governing boards shall  
6 adopt rules governing and controlling acquisitions and  
7 purchases in accordance with the provisions of this  
8 section. Such rules shall assure that the governing  
9 board: (1) Shall not preclude any person from partic-  
10 ipating and making sales thereof to the board except as  
11 otherwise provided in section five of this article; (2)  
12 shall establish and prescribe specifications, in all  
13 proper cases, for materials, supplies, equipment and  
14 printing to be purchased; (3) shall adopt and prescribe  
15 such purchase order, requisition or other forms as  
16 may be required; (4) shall negotiate for and make  
17 purchases and acquisitions in such quantities, at such  
18 times and under contract, in the open market or  
19 through other accepted methods of governmental  
20 purchasing as may be practicable in accordance with  
21 general law; (5) shall advertise for bids on all pur-  
22 chases exceeding five thousand dollars, to purchase by  
23 means of sealed bids and competitive bidding or to  
24 effect advantageous purchases through other accepted

25 governmental methods and practices; and (6) shall post  
26 in a public place in the central office of the governing  
27 boards, in the purchasing office of the specific institu-  
28 tion involved in the purchase and in the office of the  
29 department of purchases, available to the public  
30 during all business hours, notices of all acquisitions  
31 and purchases for which competitive bids are being  
32 solicited, at least two weeks prior to making such  
33 purchases.

34 The governing boards shall further adopt rules  
35 relating to purchasing in the open market pursuant to  
36 section thirteen, article three, chapter five-a of this  
37 code, and shall further make provision for vendor  
38 notification of bid solicitation and emergency  
39 purchasing.

40 Any or all bids may be rejected. However, all  
41 purchases based on advertised bid requests shall be  
42 awarded to the lowest responsible bidder taking into  
43 consideration the qualities of the articles to be supp-  
44 lied, their conformity with specifications, their suita-  
45 bility to the requirements of the governing boards and  
46 delivery terms: *Provided*, That the preference for  
47 resident vendors as provided in section forty-four,  
48 article three of said chapter five-a shall apply to the  
49 competitive bids made pursuant to this section.

50 The governing boards shall maintain a purchase file,  
51 which shall be a public record and open for public  
52 inspection. After the award of the order or contract,  
53 the governing boards shall indicate upon the successful  
54 bid that it was the successful bid, and shall further  
55 indicate why bids are rejected and, if the mathemat-  
56 ical low vendor is not awarded the order or contract,  
57 the reason therefor. No records in the purchase file  
58 shall be destroyed without the written consent of the  
59 legislative auditor.

60 (b) The governing boards shall also adopt rules to  
61 prescribe qualifications to be met by any person who,  
62 on and after the effective date of this section, is to be  
63 employed as a buyer pursuant to this section. Such  
64 rules shall provide that no person shall be employed as

65 a buyer unless such person, at the time of employ-  
66 ment, either is (1) a graduate of an accredited college  
67 or university or (2) has at least four years' experience  
68 in purchasing for any unit of government or for any  
69 business, commercial or industrial enterprise. Any  
70 person making purchases and acquisitions pursuant to  
71 this section shall execute a bond in the penalty of fifty  
72 thousand dollars, payable to the state of West Virginia,  
73 with a corporate bonding or surety company autho-  
74 rized to do business in this state as surety thereon, in  
75 form prescribed by the attorney general and condi-  
76 tioned upon the faithful performance of all duties in  
77 accordance with sections four through seven of this  
78 article and the rules of the governing boards. In lieu  
79 of separate bonds for such buyers, a blanket surety  
80 bond may be obtained. Any such bond or bonds shall  
81 be filed with the secretary of state. The cost of any  
82 such bond or bonds shall be paid from funds approp-  
83 riated to the applicable governing board.

84 (c) All purchases and acquisitions shall be made in  
85 consideration and within limits of available appropri-  
86 ations and funds and in accordance with applicable  
87 provisions of article two, chapter five-a of this code,  
88 relating to expenditure schedules and quarterly allot-  
89 ments of funds and in accordance with section sixteen,  
90 article three of said chapter.

91 The governing boards may make requisitions upon  
92 the auditor for a sum to be known as an advance  
93 allowance account, in no case to exceed five percent of  
94 the total of the appropriations for the board, and the  
95 auditor shall draw a warrant upon the treasurer for  
96 such accounts; and all such advance allowance  
97 accounts shall be accounted for by the applicable  
98 governing board once every thirty days or more often  
99 if required by the state auditor. Such authority shall  
100 not be delegated to any state institution under the  
101 control and supervision of the board.

102 Contracts entered into pursuant to this section shall  
103 be signed by the applicable governing board in the  
104 name of the state and shall be approved as to form by  
105 the attorney general. A contract that requires more

106 than six months for its fulfillment shall be filed with  
107 the state auditor. The governing board shall prescribe  
108 the amount of deposit or bond to be submitted with a  
109 bid or contract, if any, and the amount of deposit or  
110 bond to be given for the faithful performance of a  
111 contract. If the governing board purchases or contracts  
112 for materials, supplies, equipment and printing con-  
113 trary to the provisions of sections four through seven  
114 of this article or the rules pursuant thereto, such  
115 purchase or contract shall be void and of no effect.

116 Either governing board may request the director of  
117 purchases to make available, from time to time, the  
118 facilities and services of that department to the board  
119 in the purchase and acquisition of materials, supplies,  
120 equipment and printing, and the director of purchases  
121 shall cooperate with that governing board in all such  
122 purchases and acquisitions upon such request.

123 Each governing board shall permit private institu-  
124 tions of higher education to join as purchasers on  
125 purchase contracts for materials, supplies and equip-  
126 ment entered into by that governing board. Any  
127 private school desiring to join as purchasers on such  
128 purchase contracts shall file with that governing board  
129 an affidavit signed by the president of the institution  
130 of higher education or a designee requesting that it be  
131 authorized to join as purchaser on purchase contracts  
132 of that governing board and agreeing that it will be  
133 bound by such terms and conditions as that governing  
134 board may prescribe, and that it will be responsible for  
135 payment directly to the vendor under each purchase  
136 contract.

**§18B-5-5. Prequalification disclosure by vendors; register of vendors; exceptions; suspension of vendors.**

1 (a) Every person, firm or corporation selling or  
2 offering to sell to the governing boards, upon compet-  
3 itive bids or otherwise, any materials, equipment,  
4 supplies or printing shall comply with all of the  
5 provisions of section fourteen-a, article three, chapter  
6 five-a of this code and shall file with the director of  
7 the purchasing division of the state of West Virginia  
8 the affidavit required herein: *Provided*, That every

9 such person, firm or corporation who is presently in  
10 compliance with said section shall not be required to  
11 requalify thereunder to be able to transact business  
12 with the governing boards.

13 (b) Any person, firm or corporation failing or  
14 refusing to comply with said statute as herein required  
15 shall be ineligible to sell or offer to sell commodities or  
16 printing to the governing boards as hereinafter set  
17 forth: *Provided*, That any person suspended under the  
18 provisions of section thirty-nine of said article three  
19 shall not be eligible to sell or offer to sell commodities  
20 or printing to the governing boards: *Provided, how-*  
21 *ever*, That the governing boards shall have the power  
22 and authority to suspend, for a period not to exceed  
23 one year, the right and privilege of a person to bid on  
24 purchases of the governing boards when there is  
25 reason to believe that such person has violated any of  
26 the provisions in sections four through seven of this  
27 article or the rules of the governing boards pursuant  
28 thereto. Every person whose right to bid has been so  
29 suspended shall be notified thereof by a letter posted  
30 by registered mail containing the reason for such  
31 suspension and shall have the right to have the  
32 appropriate governing board's action reviewed in  
33 accordance with section forty, article three, chapter  
34 five-a of this code.

**§18B-5-6. Other code provisions relating to purchasing not  
controlling; exceptions; criminal provisions  
and penalties; financial interest of governing  
boards, etc.; receiving anything of value from  
interested party and penalties therefor;  
application of bribery statute.**

1 The provisions of article three, chapter five-a of this  
2 code shall not control or govern the purchase, acqui-  
3 sition or other disposition of any equipment, materials,  
4 supplies or printing by the governing boards, except as  
5 provided in sections four through seven of this article:  
6 *Provided*, That sections thirty-six, thirty-seven and  
7 thirty-eight, article three of said chapter five-a shall  
8 apply to all purchasing activities of the governing  
9 boards.

10 Neither the governing boards, nor any employee of  
11 the governing boards, shall be financially interested,  
12 or have any beneficial personal interest, directly or  
13 indirectly, in the purchase of any equipment, mate-  
14 rials, supplies or printing, nor in any firm, partner-  
15 ship, corporation or association furnishing them.  
16 Neither the governing boards nor any employee of  
17 said boards shall accept or receive directly or indi-  
18 rectly from any person, firm or corporation, known by  
19 the governing boards or such employee to be inter-  
20 ested in any bid, contract or purchase, by rebate, gift  
21 or otherwise, any money or other thing of value  
22 whatsoever, or any promise, obligation or contract for  
23 future reward, or compensation.

24 A person who violates any of the provisions of this  
25 section shall be guilty of a misdemeanor and, upon  
26 conviction thereof, shall be imprisoned in jail not less  
27 than three months nor more than one year, or fined  
28 not less than fifty nor more than one thousand dollars,  
29 or both imprisoned and fined, in the discretion of the  
30 court: *Provided*, That any person who violates any of  
31 such provisions by receiving money or other thing of  
32 value under circumstances constituting the crime of  
33 bribery under the provisions of section three, article  
34 five-a, chapter sixty-one of this code, shall, upon  
35 conviction of bribery, be punished as provided in  
36 section nine of said article five-a.

**§18B-5-7. Disposition of obsolete and unusable equipment,  
surplus supplies and other unneeded mate-  
rials; inventories.**

1 The governing boards shall dispose of obsolete and  
2 unusable equipment, surplus supplies and other  
3 unneeded materials, either by transfer to other gov-  
4 ernmental agencies or institutions, by exchange or  
5 trade, or by sale as junk or otherwise. The governing  
6 boards shall adopt rules governing and controlling the  
7 disposition of all such equipment, supplies and mate-  
8 rials. At least ten days prior to the disposition, the  
9 governing boards shall advertise, by newspaper publi-  
10 cation as a Class II legal advertisement in compliance  
11 with the provisions of article three, chapter fifty-nine

12 of this code, in the county in which the equipment,  
13 supplies and materials are located the availability or  
14 sales of such disposable equipment, supplies and  
15 materials and may sell same, in whole or in part, at  
16 public auction, or may transfer, exchange or trade  
17 same to other governmental agencies or institutions (if  
18 by exchange or trade, then without advertising), in  
19 whole or in part, as sound business practices may  
20 warrant under existing circumstances and conditions.  
21 The governing boards shall inventory all such dispo-  
22 sable equipment, supplies and materials from time to  
23 time as quantity and stocks may warrant, and shall  
24 make a complete annual inventory thereof as of the  
25 thirty-first day of March of each year. The governing  
26 boards may report such inventories to the director of  
27 purchases whose services and facilities shall be avail-  
28 able to the governing boards in making advantageous  
29 disposition of any part or all of such disposable  
30 equipment, supplies and materials. Such inventories  
31 shall briefly describe the disposable items, the date of  
32 purchase thereof, the vendor to the applicable govern-  
33 ing board, the purchase price paid therefor and the  
34 governing board's order number authorizing disposi-  
35 tion thereof and shall indicate briefly the reason said  
36 items are no longer needed or can no longer be used  
37 by the governing board. All such inventories shall be  
38 kept as public records open to public inspection at one  
39 or more of the institutions under the jurisdiction of  
40 the governing boards for a period of five years and  
41 may thereafter be destroyed: *Provided*, That under no  
42 circumstances shall any of the property described in  
43 this section be sold, transferred or conveyed to any  
44 private person, firm or corporation other than by  
45 public auction or as provided in article eight, chapter  
46 five-a of this code.

#### ARTICLE 6. OTHER BOARDS AND ADVISORY COUNCILS.

##### §18B-6-1. Institutional boards of advisors.

- 1 (a) There shall be established at each state institu-  
2 tion of higher education, hereinafter referred to as the  
3 "institution," excluding centers and branches thereof,  
4 an institutional board of advisors. The board of



5 advisors shall consist of eleven members, including an  
6 administrative officer of the institution appointed by  
7 the president of the institution; a full-time member of  
8 the faculty with the rank of instructor or above duly  
9 elected by the faculty; a member of the student body  
10 in good academic standing, enrolled for college credit  
11 work and duly elected by the student body; a member  
12 of the institutional classified staff duly elected by the  
13 classified staff; and, appointed by the appropriate  
14 governing board, seven lay citizens of the state who  
15 have demonstrated a sincere interest in and concern  
16 for the welfare of that institution and who are repre-  
17 sentative of its population and fields of study, includ-  
18 ing at least two alumni of the institution. Of the seven  
19 lay citizen members, no more than four may be of the  
20 same political party.

21 The administrative officer, faculty member, student  
22 member and classified staff member shall serve for a  
23 term of one year, and the seven lay citizen members  
24 shall serve terms of four years each. All members  
25 shall be eligible to succeed themselves for no more  
26 than one additional term. A vacancy in an unexpired  
27 term of a member shall be filled within sixty days of  
28 the occurrence thereof in the same manner as the  
29 original appointment or election. Except in the case of  
30 a vacancy, all elections shall be held and all appoint-  
31 ments shall be made no later than the thirtieth day of  
32 April preceding the commencement of the term.

33 Each board of advisors shall hold a regular meeting  
34 at least quarterly, commencing in July of each year.  
35 Additional meetings may be held upon the call of the  
36 chairman, president of the institution, or upon the  
37 written request of at least four members. A majority  
38 of the members shall constitute a quorum for conduct-  
39 ing the business of the board of advisors.

40 (b) One of the seven lay citizen members shall be  
41 elected as chairman by the board of advisors in July  
42 of each year: *Provided*, That no member shall serve as  
43 chairman for more than two consecutive years at a  
44 time.

45 The president of the institution shall make available  
46 resources of the institution for conducting the business  
47 of the board of advisors. The members of the board of  
48 advisors shall be reimbursed for all reasonable and  
49 necessary expenses actually incurred in the perfor-  
50 mance of their official duties under this section upon  
51 presentation of an itemized sworn statement thereof.  
52 All expenses incurred by the board of advisors and the  
53 institution under this section shall be paid from funds  
54 allocated to the institution for such purpose.

55 (c) The board of advisors shall review, prior to the  
56 submission by the president to its governing board, all  
57 proposals of the institution in the areas of mission,  
58 academic programs, budget, capital facilities and such  
59 other matters as requested by the president of the  
60 institution or its governing board or otherwise  
61 assigned to it by law. The board of advisors shall  
62 comment on each such proposal in writing, with such  
63 recommendations for concurrence therein or revision  
64 or rejection thereof as it deems proper. Such written  
65 comments and recommendations shall accompany the  
66 proposal to the governing board, and the governing  
67 board shall include such comments and recommenda-  
68 tions in its consideration of and action on the proposal.  
69 The governing board shall promptly acknowledge  
70 receipt of the comments and recommendations and  
71 shall notify the board of advisors in writing of any  
72 action taken thereon.

73 (d) Upon request therefor in writing by the presi-  
74 dent of the institution, the board of advisors may  
75 authorize transfers between items of allocation or  
76 appropriation in accordance with the provisions of  
77 section nineteen-a, article two, chapter five-a of this  
78 code.

79 (e) The board of advisors shall review, prior to their  
80 implementation by the president, all proposals regard-  
81 ing institution-wide personnel policies. The board of  
82 advisors may comment on such proposals in writing.

83 (f) Upon the occurrence of a vacancy in the office of  
84 president of the institution, the board of advisors shall

85 serve as a search and screening committee for candi-  
86 dates to fill the vacancy under guidelines established  
87 by its governing board. When serving as a search and  
88 screening committee, the board of advisors and its  
89 governing board are each authorized to appoint up to  
90 three additional persons to serve on the committee as  
91 long as the search and screening process is in effect.  
92 The three additional appointees of the board of  
93 advisors shall be faculty members of the institution.  
94 Only for the purposes of the search and screening  
95 process, such additional members shall possess the  
96 same powers and rights as the regular members of the  
97 board of advisors, including reimbursement for all  
98 reasonable and necessary expenses actually incurred.  
99 Following the search and screening process, the  
100 committee shall submit the names of at least three  
101 candidates to the governing board for consideration  
102 and appointment. If the governing board rejects all  
103 candidates so submitted, the committee shall submit  
104 the names of at least three additional candidates, and  
105 this process shall be repeated until the governing  
106 board appoints one of the candidates so submitted. The  
107 governing board shall provide all necessary staff  
108 assistance to the board of advisors in its role as a  
109 search and screening committee.

**§18B-6-2. Advisory councils of faculty.**

1 Effective the first day of July, one thousand nine  
2 hundred eighty-nine, each governing board shall be  
3 assisted by an advisory council of faculty.

4 During the month of April of each year, each  
5 president or other administrative head of a state  
6 institution of higher education, including Potomac  
7 state college of West Virginia University and West  
8 Virginia University at Parkersburg, at the direction of  
9 the councils and in accordance with procedures estab-  
10 lished by the councils, shall convene a meeting or  
11 otherwise institute a balloting process to elect one  
12 faculty to serve on the appropriate governing board's  
13 advisory council of faculty, which shall consist of one  
14 faculty, so elected, from each such institution under  
15 the appropriate governing board. Terms of the

16 members of each council shall be for one year and  
17 shall begin on the first day of May of each year, and  
18 members of each advisory council shall be eligible to  
19 succeed themselves.

20 The advisory councils of faculty shall meet at least  
21 once each quarter. One of the quarterly meetings shall  
22 be during the month of June, at which meeting each  
23 council shall elect a chairman, who shall be by virtue  
24 of the office a voting member of the appropriate  
25 governing board. No member may vote by proxy at  
26 such election. In the event of a tie in the last vote  
27 taken for such election, a member authorized by the  
28 council shall select the chairman by lot from the  
29 names of those persons tied. Immediately following  
30 the election of a chairman, each council shall elect, in  
31 the manner prescribed by this section for the election  
32 of a chairman, a member of that council to preside  
33 over meetings of the council in the chairman's  
34 absence. Should the chairman vacate the position, the  
35 council shall meet and elect a new chairman to fill the  
36 unexpired term within thirty days following such  
37 vacancy.

38 Each advisory council of faculty, through its chair-  
39 man and in any other appropriate manner, shall  
40 consult and advise its governing board in matters of  
41 higher education in which the faculty members may  
42 have an interest.

43 Members of each advisory council shall serve with-  
44 out compensation, but shall be entitled to reimburse-  
45 ment for actual and necessary expenses incurred in  
46 the performance of their official duties from funds  
47 allocated to the state institution of higher education  
48 served.

49 Each governing board shall furnish secretarial  
50 services to its advisory council of faculty, and each  
51 advisory council shall cause to be prepared minutes of  
52 its meetings, which minutes shall be available, upon  
53 request, to any faculty member of a state institution of  
54 higher education represented on the council. Such  
55 minutes shall be forwarded to the advisory council of  
56 faculty serving the other governing board.

**§18B-6-3. Advisory councils of students.**

1 Effective the first day of July, one thousand nine  
2 hundred eighty-nine, each governing board shall be  
3 assisted by an advisory council of students.

4 The student government organization at each state  
5 institution of higher education shall elect a student,  
6 who may be the elected head or president of such  
7 organization, to serve on the appropriate governing  
8 board's advisory council of students, which are hereby  
9 created, consisting of the elected representatives of  
10 each institution under the appropriate governing  
11 board: *Provided*, That the student government organi-  
12 zation at each institution in the university system,  
13 including Potomac State College of West Virginia  
14 University and West Virginia University at Parkers-  
15 burg, shall elect one student per three thousand  
16 students enrolled at each institution with a minimum  
17 of one representative from each institution. The  
18 student government of each institution shall deter-  
19 mine how its representatives shall be elected. Terms  
20 of the members of such council shall be for one year  
21 and shall begin on the first day of May of each year,  
22 and members of the advisory councils shall be eligible  
23 to succeed themselves.

24 Each institution shall have only one vote in all  
25 matters. The advisory councils of students shall meet  
26 at least once each quarter, and shall meet during each  
27 month of June, at which meeting, each council shall  
28 elect a chairman, who prior to such elections must be  
29 entitled to vote in the state of West Virginia. By virtue  
30 of the office, the chairman shall be a voting member  
31 of the appropriate governing board. No member may  
32 vote by proxy at such election. In the event of a tie in  
33 the last vote taken for such election, a member  
34 authorized by the council shall select the chairman by  
35 lot from the names of those persons tied. Immediately  
36 following the election of a chairman, each council shall  
37 elect, in the manner prescribed by this section for the  
38 election of a chairman, a member of that council to  
39 preside over meetings of the council in the chairman's  
40 absence. Should the chairman vacate the position, the

41 council shall meet and elect a new chairman to fill the  
42 unexpired term within thirty days following such  
43 vacancy.

44 Each advisory council of students, through its  
45 chairman and in any other appropriate manner, shall  
46 consult and advise its governing board in matters of  
47 higher education in which the students may have an  
48 interest.

49 Members of each advisory council shall serve with-  
50 out compensation, but shall be entitled to reimburse-  
51 ment for actual and necessary expenses incurred in  
52 the performance of their official duties from funds  
53 allocated to the state institution of higher education  
54 served.

55 Each governing board shall furnish secretarial  
56 services to its advisory council of students, and each  
57 advisory council shall cause to be prepared minutes of  
58 its meetings, which minutes shall be available, upon  
59 request, to any student of a state institution of higher  
60 education represented on the council. Such minutes  
61 shall be forwarded to the advisory council of students  
62 serving the other governing board.

**§18B-6-4. Advisory councils of classified employees.**

1 Effective the first day of July, one thousand nine  
2 hundred eighty-nine, each governing board shall be  
3 assisted by an advisory council of classified employees.

4 During the month of April of each year, each  
5 president or other administrative head of a state  
6 institution of higher education, including Potomac  
7 state college of West Virginia University and West  
8 Virginia University at Parkersburg, at the direction of  
9 the councils and in accordance with procedures estab-  
10 lished by the councils, shall convene a meeting or  
11 otherwise institute a balloting process to elect one  
12 classified employee to serve on the appropriate  
13 governing board's advisory council of classified  
14 employees, which shall consist of one classified  
15 employee, so elected, from each such institution under  
16 the appropriate governing board. Terms of the

17 members of such councils shall be for one year and  
18 shall begin on the first day of May of each year, and  
19 members of the advisory councils shall be eligible to  
20 succeed themselves. For the purpose of this section the  
21 term "institution of higher education" includes the  
22 facilities and staff supervised by the senior administra-  
23 tor employed by the governing boards, who shall be  
24 deemed a part of the state college system, and the  
25 West Virginia network for telecomputing, who shall be  
26 deemed a part of the state university system.

27 Each advisory council of classified employees shall  
28 meet at least once each quarter. One of the quarterly  
29 meetings shall be during the month of June, at which  
30 meeting each council shall elect a chairman, who shall  
31 be by virtue of the office a voting member of the  
32 appropriate governing board: *Provided*, That the board  
33 of directors' advisory council for classified employees'  
34 chairman shall not be a member of the staff super-  
35 vised by the central administrative official. No mem-  
36 ber may vote by proxy at such election. In the event  
37 of a tie in the last vote taken for such election, a  
38 member authorized by the council shall select the  
39 chairman by lot from the names of those persons tied.  
40 Immediately following the election of a chairman,  
41 each council shall elect, in the manner prescribed by  
42 this section for the election of a chairman, a member  
43 of the council to preside over meetings of the council  
44 in the chairman's absence. Should the chairman  
45 vacate the position, the council shall meet and elect a  
46 new chairman to fill the unexpired term within thirty  
47 days following such vacancy.

48 Each advisory council of classified employees,  
49 through its chairman and in any other appropriate  
50 manner, shall consult and advise its governing board  
51 in matters of higher education in which the classified  
52 employees may have an interest.

53 Members of each advisory council shall serve with-  
54 out compensation, but shall be entitled to reimburse-  
55 ment for actual and necessary expenses incurred in  
56 the performance of their official duties from funds  
57 allocated to the state institution of higher education  
58 served.

59 Each governing board shall furnish secretarial  
60 services to its advisory council of classified employees,  
61 and each advisory council shall cause to be prepared  
62 minutes of its meetings, which minutes shall be  
63 available, upon request, to any classified employee of  
64 a state institutions of higher education represented on  
65 the council. Such minutes shall be forwarded to the  
66 advisory council of classified employees serving the  
67 other governing board.

**§18B-6-5. Creation of advisory council on federal resources;  
appointment, terms and qualifications of  
members; vacancies; compensation and  
expenses; meetings; quorum.**

1 There is hereby created an advisory council to be  
2 known as the higher education advisory council on  
3 federal resources. The council shall review the state  
4 plan for administration of the federal Higher Educa-  
5 tion Facilities Act of 1963 and Titles I and VI of the  
6 federal Higher Education Act of 1965, as amended. The  
7 council shall also evaluate proposals pertaining to the  
8 aforementioned federal acts and shall submit such  
9 recommendations as it deems appropriate to the  
10 secretary of education and the arts. The council shall  
11 be involved in every significant function of the office  
12 of the secretary, including governing boards under the  
13 jurisdiction of the secretary, pertaining to said federal  
14 acts.

15 The advisory council shall consist of twelve  
16 members to be appointed as follows: One member of  
17 the board of trustees appointed by the president of the  
18 board of trustees, one member of the board of direc-  
19 tors appointed by the president of the board of  
20 directors, two members appointed by the board of  
21 trustees to represent the public at large, two members  
22 appointed by the board of directors to represent the  
23 public at large, two members appointed by each  
24 governing board to represent the state institutions of  
25 higher education under its control, and one member  
26 appointed by each governing board to represent  
27 private institutions of higher education under its  
28 jurisdiction: *Provided*, That the two members repres-



29 enting private institutions of higher education shall be  
30 presidents of a private institution, and, of the four  
31 members representing public institutions of higher  
32 education, one appointed by each governing board  
33 shall be a president of a state institution of higher  
34 education. The secretary of education and the arts  
35 shall appoint a chairman of the advisory council who  
36 shall be selected from the representatives of the public  
37 at large.

38 The members shall serve for a term of six years,  
39 except that the original appointments shall be as  
40 follows: four members to serve two years, Four  
41 members to serve four years, and four members to  
42 serve six years. Such appointments shall be made no  
43 later than the first day of September, one thousand  
44 nine hundred eighty-nine. The secretary of education  
45 shall appoint a member to fill any vacancy, which  
46 member shall serve for the unexpired term of the  
47 vacating member. All shall be eligible for  
48 reappointment.

49 The members of the advisory council shall serve  
50 without compensation, but shall be reimbursed for  
51 their necessary expenses actually incurred in the  
52 performance of their official duties not to exceed  
53 twenty-five dollars per day plus an allowance of  
54 twenty cents per mile actually traveled to and from  
55 such meetings.

56 A meeting of the advisory council shall be held on  
57 or before the first day of November, one thousand  
58 nine hundred eighty-nine, and thereafter the advisory  
59 council shall meet at least annually and at such other  
60 times as necessary upon the call of the chairman. Five  
61 members of the advisory council shall constitute a  
62 quorum, and a majority vote of the quorum shall be  
63 necessary to pass upon matters before the council.

**§18B-6-6. Powers and duties relating to anatomical gifts;  
requisition of bodies; autopsies; transportation  
of bodies; expenses of preservation; bond  
required; offenses and penalties.**

1 (a) The board of trustees may appoint one dean of a  
2 school of medicine, one dean of a school of dentistry  
3 and two chairmen of departments of anatomy of  
4 schools of medicine, all of whom shall constitute a  
5 board for the purpose of performing the duties of the  
6 board, which is hereby abolished, formerly known as  
7 the "West Virginia Anatomical Board." This new  
8 board shall be known as the "University of West  
9 Virginia Anatomical Board," and shall hereinafter be  
10 referred to as the "board" for the purposes of this  
11 section. No more than one member of this board shall  
12 be from the same school.

13 The board shall have authority to appoint such  
14 officers, employees and agents as may be necessary to  
15 carry out the purposes for which the board is organ-  
16 ized. It shall keep a full and complete record of its  
17 transactions, showing, among other things, every dead  
18 human body coming under its authority, giving name,  
19 sex, age, date of death, place from which received, and  
20 when and from whom received, which record shall be  
21 open at all times to the inspection of the attorney  
22 general and any prosecuting attorney in the state.

23 If the board of trustees does not appoint a "univer-  
24 sity of West Virginia anatomical board" as herein  
25 authorized, then the board of trustees itself shall  
26 perform the duties of the anatomical board as set forth  
27 herein.

28 (b) The board shall be responsible for making  
29 requisition for, receiving, and making disposition of  
30 the dead human bodies for the scientific uses and  
31 purposes of reputable educational institutions, within  
32 the state and elsewhere, having medical, osteopathy,  
33 dentistry or nursing schools. The board shall have full  
34 power to establish rules for its own government and  
35 for the requisition, use, disposition and control of such  
36 bodies as may come under its authority by way of gift,  
37 pursuant to this section or pursuant to section four,  
38 article nineteen, chapter sixteen of this code.

39 (c) All dead human bodies which may come under  
40 the charge or control of any mortician, any officer or

41 agent of the department of welfare or of any county  
42 commission or municipality, or any superintendent,  
43 officer or agent having the supervision of any prison,  
44 morgue, hospital, or other public institution in this  
45 state, and which may be required to be buried at  
46 public expense, shall be subject to the requisition of  
47 the board as provided in this section. No such body  
48 shall be delivered to the board if any person related to  
49 the deceased by blood or marriage shall make a  
50 statement in writing to that effect, and shall claim  
51 such body for burial, or shall make affidavit that the  
52 relative is unable to bear the expense of burial and  
53 desires that the deceased be buried at public expense.  
54 This statement and affidavit may be filed by any such  
55 relative with the person having charge and control of  
56 the body of the person so claimed, either before or  
57 after the death of such person.

58 No autopsy shall be performed on any unclaimed  
59 body without the written permission of the board,  
60 except upon the proper order of a duly authorized  
61 law-enforcement officer.

62 (d) It shall be the duty of any person who has charge  
63 or control of any unclaimed body, subject to requisition  
64 by the board, to give notice to the board of that  
65 fact by telephone or telegraph within twenty-four  
66 hours after such body comes under that person's  
67 control. Thereafter, such person shall hold the body  
68 subject to the order of the board for at least twenty-  
69 four hours after the sending of such notice. If the  
70 board makes requisition for the body within the  
71 twenty-four hour period, it shall be delivered, pursuant  
72 to the order of the board, to the board or its  
73 authorized agent for transportation to any educational  
74 institution which the board deems to be in bona fide  
75 need thereof and able to adequately control, use and  
76 dispose of the body. The board shall make suitable  
77 arrangements for the transportation of any body, or  
78 part or parts thereof, which may come under its  
79 authority to such educational institution. All expenses  
80 incurred in connection with the preservation, delivery  
81 and transportation of any such body delivered pursu-

82 ant to the order of the board shall be paid by the  
83 educational institution receiving the body.

84 (e) No dead body shall be received or requisitioned  
85 by the board until the members of the board have  
86 filed a bond with the clerk of the circuit court of  
87 Kanawha County in a penalty of one thousand dollars,  
88 with good security, signed by a responsible person or  
89 persons, or by some surety company authorized to do  
90 business in this state, or have proved to such clerk that  
91 they are covered by a suitable bond in at least that  
92 amount, conditioned for the faithful performance of  
93 their duties.

94 (f) Any person who shall neglect, refuse or fail to  
95 perform any duty required by this section relating to  
96 the board shall be guilty of a misdemeanor, and, upon  
97 conviction thereof, shall be punished by a fine of not  
98 more than one hundred dollars or by imprisonment in  
99 the county jail for not more than ten days, or by both  
100 such fine and imprisonment. Any person who fails to  
101 give the required notice that that person has charge of  
102 an unclaimed body subject to requisition by the board  
103 shall also be personally liable for all burial expenses,  
104 if such body was buried at public expense, to the  
105 public agency that paid for the burial.

**ARTICLE 7. PERSONNEL GENERALLY.**

**§18B-7-1. Seniority for full-time classified personnel;  
seniority to be observed in reducing work  
force; preferred recall list; renewal of listing;  
notice of vacancies.**

1 (a) All decisions by the appropriate governing board  
2 or their agents at state institutions of higher education  
3 concerning reductions in work force of full-time  
4 classified personnel, whether by temporary furlough  
5 or permanent termination, shall be made in accor-  
6 dance with this section. Definitions for terms used in  
7 this section shall be in accordance with those provided  
8 in section two, article nine of this chapter except that  
9 the provisions of this section shall apply only to  
10 classified employees whose employment, if continued,  
11 shall accumulate to a minimum total of one thousand

12 forty hours during a calendar year and extend over at  
13 least nine months of a calendar year.

14 (b) For layoffs by classification for reason of lack of  
15 funds or work, or abolition of position or material  
16 changes in duties or organization and for recall of  
17 employees so laid off, consideration shall be given to  
18 an employee's seniority as measured by permanent  
19 employment in the service of the state system of  
20 higher education. In the event that the institution  
21 wishes to lay off a more senior employee, the institu-  
22 tion must demonstrate that the senior employee  
23 cannot perform any other job duties held by less  
24 senior employees of that institution in the same job  
25 class, or any other equivalent or lower job class for  
26 which the senior employee is qualified: *Provided*, That  
27 if an employee refuses to accept a position in a lower  
28 job class, such employee shall retain all rights of recall  
29 hereinafter provided. If two or more employees  
30 accumulate identical seniority, the priority shall be  
31 determined by a random selection system established  
32 by the employees and approved by the institution.

33 (c) Any employee laid off during a furlough or  
34 reduction in work force shall be placed upon a pre-  
35 ferred recall list and shall be recalled to employment  
36 by the institution on the basis of seniority. An  
37 employee's listing with an institution shall remain  
38 active for a period of one calendar year from the date  
39 of termination or furlough, or from the date of the  
40 most recent renewal. If an employee fails to renew the  
41 listing with the institution, the employee's name may  
42 be removed from the list. An employee placed upon  
43 the preferred list shall be recalled to any position  
44 opening by the institution within the classification(s)  
45 in which the employee had previously been employed  
46 or to any lateral position for which the employee is  
47 qualified. An employee on the preferred recall list  
48 shall not forfeit the right to recall by the institution if  
49 compelling reasons require such employee to refuse an  
50 offer of reemployment by the institution.

51 The institution shall be required to notify all  
52 employees maintaining active listings on the preferred

53 recall list of all position openings that from time to  
54 time exist. Such notice shall be sent by certified mail  
55 to the last known address of the employee. It shall be  
56 the duty of each employee listed to notify the institu-  
57 tion of any change in address and to timely renew the  
58 listing with the institution. No position openings shall  
59 be filled by the institution, whether temporary or  
60 permanent, until all employees on the preferred recall  
61 list have been properly notified of existing vacancies  
62 and have been given an opportunity to accept  
63 reemployment.

**§18B-7-2. Authority to grant sabbatical leaves.**

1 The appropriate governing board shall have author-  
2 ity to grant sabbatical leaves to faculty members at  
3 state institutions of higher education for the purpose  
4 of permitting them to engage in graduate study,  
5 research or other activities calculated to improve their  
6 teaching ability. Such leaves shall be granted only in  
7 accordance with a uniform plan adopted by each  
8 governing board and shall be subject to such reason-  
9 able rules as each governing board may prescribe. Any  
10 plan adopted by a governing board shall not provide  
11 for the granting of sabbatical leave to any faculty  
12 member who has served fewer than six years at the  
13 institution where presently employed, nor shall such  
14 leave be for more than one half the contract period at  
15 full pay or a full contract period at half pay. Any  
16 faculty member receiving a sabbatical leave shall be  
17 required to return and serve for at least one year at  
18 the institution from which the leave was granted or to  
19 repay to the institution the compensation received  
20 during such leave. Any faculty member returning  
21 from leave shall be reinstated at the academic rank  
22 held prior to such sabbatical unless promoted to a  
23 higher rank and shall be entitled to such salary and  
24 any increases thereto appropriate to the rank and  
25 years of experience of such faculty member. Compen-  
26 sation to a faculty member on sabbatical leave shall be  
27 paid from the regular personal services appropriations  
28 of the institution where employed.

**§18B-7-3. Effect of leave of absence on academic tenure, rank, etc.**

1 Any other provision of law to the contrary notwith-  
2 standing any tenured professional at any state institu-  
3 tion of higher education who shall, with the consent of  
4 the president or other administrative head of the state  
5 institution by which the professional is employed, be  
6 absent from duties at such institution to accept  
7 employment in any nonelected governmental capacity  
8 shall be afforded such benefits of academic tenure,  
9 rank and position as if such person had remained  
10 continuously in the position retained and held at such  
11 institutions of higher education immediately preceding  
12 any such absence: *Provided*, That such leave of  
13 absence shall not exceed two years: *Provided, how-*  
14 *ever*, That tenure and rank may be retained during an  
15 absence of more than two years if the president of the  
16 institution from which such person is on leave of  
17 absence submits in writing during each of such years  
18 a request for such retention to the appropriate govern-  
19 ing board, and such board approves the request for  
20 each such year: *Provided further*, That any individual  
21 who remains in governmental employment with leave  
22 granted in accordance with this section shall forfeit all  
23 rights to academic tenure, rank and position formerly  
24 held at such institution after the eighth year of such  
25 employment.

**§18B-7-4. Notice to probationary faculty members of retention or nonretention; hearing.**

1 (a) The president or other administrative head of  
2 each state institution of higher education shall give  
3 written notice to probationary faculty members con-  
4 cerning their retention or nonretention for the ensu-  
5 ing academic year (1) not later than the first day of  
6 March for those probationary faculty members who  
7 are in their first academic year of service; (2) not later  
8 than the fifteenth day of December for those proba-  
9 tionary faculty members who are in their second  
10 academic year of service; and (3) at least one year  
11 before the expiration of an appointment for those  
12 probationary faculty members who have been

13 employed two or more years with the institution. Such  
14 notice to those probationary faculty members not  
15 being retained shall be by certified mail, return  
16 receipt requested.

17 (b) Upon request of the probationary faculty mem-  
18 ber not retained, the president or other administrative  
19 head of the institution shall within ten days, and by  
20 certified mail, inform the probationary faculty mem-  
21 ber of the reasons for nonretention. Any probationary  
22 faculty member who desires to appeal the decision  
23 may request a hearing from the appropriate governing  
24 board within ten days after receiving the statement of  
25 reasons. The appropriate governing board shall publish  
26 appropriate rules to govern the conduct of the appeal  
27 herein allowed. Such board shall, by its rules, pre-  
28 scribe either an unbiased committee of that board or  
29 appoint a hearing examiner to hear such appeals. Such  
30 hearing shall be held at the employing institution and  
31 within thirty days of the request. The rules of evi-  
32 dence shall not strictly apply. The faculty member  
33 shall be accorded substantive and procedural due  
34 process, including the right to produce evidence and  
35 witnesses and to cross-examine witnesses, and to be  
36 represented by counsel or other representative of that  
37 faculty member's choice. If the committee of the  
38 board or the hearing examiner shall conclude that the  
39 reasons for nonretention are arbitrary or capricious or  
40 without a factual basis, the faculty member shall be  
41 retained for the ensuing academic year. The decision  
42 shall be rendered within thirty days after conclusion  
43 of the hearing.

44 (c) The term "probationary faculty member" shall  
45 be defined according to rules promulgated by the  
46 governing boards. The rights herein provided to  
47 probationary faculty members are in addition to, and  
48 not in lieu of, other rights afforded them by other  
49 rules and other provisions of law.

**§18B-7-5. Faculty and classified employee continuing  
education and development program.**

1 Each state institution of higher education shall have



2 the authority to establish and operate a faculty and  
3 classified employee continuing education and develop-  
4 ment program under rules adopted by the appropriate  
5 governing board. Funds allocated or made available  
6 may be used to compensate and pay expenses for  
7 faculty or classified employees who are pursuing  
8 additional academic study or training to better equip  
9 themselves for their duties at the state institutions of  
10 higher education.

11 Rules for this activity may include reasonable  
12 provisions for the continuation or return of any  
13 faculty or classified employee receiving the benefits of  
14 such education or training, or for reimbursement by  
15 the state for expenditures incurred on behalf of such  
16 faculty or classified employee.

**ARTICLE 8. HIGHER EDUCATION FULL-TIME FACULTY SALARIES.**

**§18B-8-1. Definitions.**

1 As used in this article:

2 (a) "Schedule" or "salary schedule" means the grid  
3 of minimum salary figures listed in section two of this  
4 article;

5 (b) "Academic rank" means the position held by a  
6 faculty member as determined by the president,  
7 consistent with policy established by the governing  
8 board, and includes the positions of professor, associate  
9 professor, assistant professor and instructor; all other  
10 ranks are excluded from the provisions of this article;

11 (c) "Years of experience" means the actual number  
12 of years a person has been a full-time faculty member  
13 at an institution of higher education within this state.  
14 Employment for nine months shall equal one year of  
15 experience, but no faculty member may accrue more  
16 than one year of experience during any given aca-  
17 demic year. Employment for less than full-time, or  
18 less than nine months during any fiscal year, shall be  
19 prorated. In accordance with rules established by the  
20 governing boards, a faculty member may be granted  
21 additional years of experience for actual years of work  
22 or teaching experience at institutions other than  
23 institutions of higher education within this state;

24 (d) "Doctoral institutions" means West Virginia  
25 University and Marshall University at Huntington.  
26 Doctoral programs at Marshall University shall be  
27 selective and non-duplicative of West Virginia Univer-  
28 sity unless an exception is recommended by both  
29 institutions and approved by the board of trustees.  
30 "Master's II institutions" means West Virginia School  
31 of Osteopathic Medicine and the University of West  
32 Virginia College of Graduate Studies; "baccalaureate  
33 and two-year institutions" means Bluefield State  
34 College, Concord College, Fairmont State College,  
35 Glenville State College, Shepherd College, West  
36 Liberty State College, West Virginia Institute of  
37 Technology, West Virginia State College, West Virginia  
38 University at Parkersburg, Southern West Virginia  
39 Community College, West Virginia Northern Commu-  
40 nity College and Potomac State College of West  
41 Virginia University and such other institutions as are  
42 designated community colleges by the board of  
43 directors;

44 (e) "Salary" means the total nine-month or ten-  
45 month salary paid from state funds to a full-time  
46 faculty member, or if other than nine or ten months,  
47 adjusted to a nine-month base salary;

48 (f) "Full-time faculty" means any faculty member  
49 designated as such by the president, consistent with  
50 approved policy of the appropriate governing board,  
51 and those persons with faculty rank who have  
52 research or administrative responsibilities;

53 (g) "Fiscal year" means twelve calendar months and  
54 begins on the first day of July and ends on the  
55 thirtieth day of June; and

56 (h) "Merit increases and salary adjustments" means  
57 the amount of additional salary increase allowed on a  
58 merit basis or to rectify salary inequities or accommo-  
59 date competitive market conditions, in accordance  
60 with policy established by the appropriate governing  
61 board.

**§18B-8-2. Higher education minimum salary schedule.**

1 There is hereby established a state minimum salary  
2 schedule for full-time faculty employed by a governing  
3 board consisting of a minimum salary for each aca-  
4 demic rank in accordance with years of experience:  
5 *Provided*, That it is the intention of the Legislature to  
6 create a schedule of minimum salary goals in higher  
7 education subject to the availability of funds; and with  
8 the exception of the placement of all full-time faculty  
9 members included under the provisions of this article  
10 on the schedule at zero years of experience, nothing in  
11 this article shall be construed to guarantee payment to  
12 any faculty member of the salary indicated on the  
13 appropriate schedule at the actual years of experience.

**MINIMUM SALARY SCHEDULE  
FOR FULL-TIME FACULTY AT  
BACCALAUREATE AND  
TWO-YEAR INSTITUTIONS**

	<b>Years of Experience</b>	<b>Instructor</b>	<b>Assistant Professor</b>	<b>Associate Professor</b>	<b>Professor</b>
14	0	14,719	18,042	20,416	24,310
15	1	15,087	18,493	20,926	24,918
16	2	15,464	18,955	21,449	25,541
17	3	15,851	19,429	21,985	26,180
18	4	16,247	19,915	22,535	26,835
19	5	16,653	20,413	23,098	27,506
20	6	17,069	20,923	23,675	28,194
21	7	17,496	21,446	24,267	28,899
22	8	17,933	21,982	24,874	29,621
23	9	18,381	22,532	25,496	30,362
24	10	18,841	23,095	26,133	31,121
25	11		23,672	26,786	31,899
26	12		24,264	27,456	32,696
27	13		24,871	28,142	33,513

28	14	25,493	28,846	34,351
29	15	26,130	29,567	35,210
30	16		30,306	36,090
31	17		31,064	36,992
32	18		31,841	37,917
33	19		32,637	38,865
34	20		33,453	39,837

**MINIMUM SALARY SCHEDULE FOR FULL-TIME  
FACULTY AT MASTER'S II INSTITUTIONS  
(WEST VIRGINIA SCHOOL OF  
OSTEOPATHIC MEDICINE  
AND THE WEST VIRGINIA COLLEGE  
OF GRADUATE STUDIES)**

	<b>Years of Experience</b>	<b>Instructor</b>	<b>Assistant Professor</b>	<b>Associate Professor</b>	<b>Professor</b>
35	0	14,719	18,517	23,815	26,203
36	1	15,087	18,980	24,410	26,858
37	2	15,464	19,455	25,020	27,529
38	3	15,851	19,941	25,646	28,217
39	4	16,247	20,440	26,287	28,922
40	5	16,653	20,951	26,944	29,645
41	6	17,069	21,475	27,618	30,386
42	7	17,496	22,012	28,308	31,146
43	8	17,933	22,562	29,016	31,925
44	9	18,381	23,126	29,741	32,723
45	10	18,841	23,704	30,485	33,541
46	11		24,297	31,247	34,380
47	12		24,904	32,028	35,240
48	13		25,527	32,829	36,121
49	14		26,165	33,650	37,024

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50	15	26,819	34,491	37,950
51	16		35,353	38,899
52	17		36,237	39,871
53	18		37,143	40,868
54	19		38,072	41,890
55	20		39,024	42,937

**MINIMUM SALARY SCHEDULE FOR  
FULL-TIME FACULTY AT  
DOCTORAL INSTITUTIONS  
(WEST VIRGINIA UNIVERSITY AND  
MARSHALL UNIVERSITY)**

	<b>Years of Experience</b>	<b>Instructor</b>	<b>Assistant Professor</b>	<b>Associate Professor</b>	<b>Professor</b>
56	0	17,092	19,466	25,458	28,285
57	1	17,519	19,953	26,094	28,992
58	2	17,957	20,452	26,746	29,717
59	3	18,406	20,963	27,415	30,460
60	4	18,866	21,487	28,100	31,222
61	5	19,338	22,024	28,803	32,003
62	6	19,821	22,575	29,523	32,803
63	7	20,317	23,139	30,261	33,623
64	8	20,825	23,717	31,018	34,464
65	9	21,346	24,310	31,793	35,326
66	10	21,880	24,918	32,588	36,209
67	11		25,541	33,403	37,114
68	12		26,180	34,238	38,042
69	13		26,835	35,094	38,993
70	14		27,506	35,971	39,968
71	15		28,194	36,870	40,967
72	16			37,792	41,991

73	17	38,737	43,041
74	18	39,705	44,117
75	19	40,698	45,220
76	20	41,715	46,351

**§18B-8-3. Assignment to salary schedule; actual salary.**

1 (a) On or before the first day of July of each year,  
 2 each faculty member then employed shall be given  
 3 notice by the appropriate governing board of the  
 4 placement on the minimum salary schedule which is  
 5 appropriate to such faculty member's years of experi-  
 6 ence and to which such individual has been assigned,  
 7 notwithstanding the actual salary paid under the  
 8 provisions of this article.

9 (b) Each full-time faculty member employed as of  
 10 the effective date of this section shall receive for full-  
 11 time employment at the same academic rank during  
 12 the academic year one thousand nine hundred eighty-  
 13 nine — ninety, and thereafter, a salary which is no  
 14 less than the salary being paid such faculty member  
 15 for the academic year one thousand nine hundred  
 16 eighty-eight — eighty-nine. No full-time faculty  
 17 member shall receive a salary which is less than the  
 18 salary for zero years of experience for the appropriate  
 19 academic rank as set forth in section two of this  
 20 article.

21 (c) Effective the first day of January, one thousand  
 22 nine hundred ninety, an amount equal to five percent  
 23 of one half the amount appropriated and distributed in  
 24 the fiscal year beginning on the first day of July, one  
 25 thousand nine hundred eighty-nine, for salaries for  
 26 full-time faculty members shall be distributed in the  
 27 following manner: Such amount as may be necessary  
 28 shall be distributed to each faculty member who is  
 29 employed on the first day of January, one thousand  
 30 nine hundred ninety, so that each such employee shall  
 31 receive for the same employment at the same aca-  
 32 demic rank a salary which is at least equal to the  
 33 salary being paid such faculty member during the  
 34 fiscal year one thousand nine hundred eighty-eight —

35 eighty-nine, and a salary increase equal to two and  
36 one half percent of such salary. The Legislature may  
37 by general appropriation, or the secretary of the  
38 department of education and the arts may allocate  
39 through authority set forth under the provisions of  
40 chapter five-f of this code, funds to be distributed for  
41 the purpose of accommodating market and equity  
42 conditions within the system. Any remaining funds  
43 shall be applied in accordance with the provisions of  
44 subsection (d) of this section.

45 (d) Funds remaining after meeting the salary of  
46 each full-time faculty member in accordance with  
47 subsections (b) and (c) of this section shall be used to  
48 pay that amount that is the difference between such  
49 salary and the appropriate salary for each full-time  
50 faculty member's appropriate placement on the sched-  
51 ular: *Provided*, That such amount may be reduced  
52 proportionately based upon the amount of funds  
53 available for such purpose: *Provided, however*, That in  
54 the case of Marshall University, the difference  
55 between the salary paid a full-time faculty member  
56 and the appropriate salary for the faculty member's  
57 appropriate placement on the salary schedule shall, for  
58 fiscal year one thousand nine hundred eighty-nine —  
59 ninety, be calculated using the minimum salary  
60 schedule for full-time faculty at master's II institu-  
61 tions set forth in section two of this article.

62 (e) The salary of any full-time faculty member shall  
63 not be reduced by the provisions of this article.

64 (f) Upon promotion in rank, placement on the  
65 minimum salary schedule shall be such as to provide  
66 a salary increase of at least ten percent, and shall be  
67 at least the amount prescribed for the appropriate  
68 academic rank to which promoted at zero years of  
69 experience.

**§18B-8-4. Hirings after July 1, 1989.**

1 Any person hired as a full-time faculty member  
2 after the effective date of this section shall be assigned  
3 a placement on the minimum salary schedule which is  
4 appropriate to such person's academic rank and years

5 of experience, and such person shall have a salary of  
6 at least zero years of experience at the appropriate  
7 academic rank, and such proportionate increases as  
8 are or may be made from funds available for such  
9 purpose in accordance with the provisions of this  
10 article.

**§18B-8-5. Merit increases and salary adjustment.**

1 Nothing in this article shall be construed to prohibit  
2 merit increases or salary adjustments that rectify  
3 inequities or accommodate competitive market condi-  
4 tions in specific areas of specialty, including inequities  
5 within the rank of full professors at doctoral and  
6 master's level institutions: *Provided*, That funds for  
7 such increases and/or adjustments shall be distributed  
8 in accordance with rules of the appropriate governing  
9 board and shall be available to all state institutions of  
10 higher education on an equitable basis.

**§18B-8-6. Additional employment by mutual agreement.**

1 Any employment for greater than a nine-month  
2 period, or any responsibilities in excess of full-time  
3 duties, shall be only by mutual agreement of the  
4 employee and the institutional president or other  
5 administrative head, or the designated representative,  
6 in accordance with rules of the appropriate governing  
7 board. The terms and conditions of any such agree-  
8 ment shall be in writing, signed by both parties, and  
9 shall state the maximum number of additional  
10 employment days or credit hours or their equivalent  
11 to be worked and the amount of compensation to be  
12 paid.

**ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND  
CLASSIFICATION SYSTEM.**

**§18B-9-1. Legislative purpose.**

1 The purpose of the Legislature in the enactment of  
2 this article is to require the governing boards to  
3 establish, control, supervise and manage a complete,  
4 uniform system of personnel classification in accor-  
5 dance with the provisions of this article for all  
6 employees other than faculty and nonclassified  
7 employees at state institutions of higher education.



**§18B-9-2. Definitions.**

1 As used in this article:

2 (a) "Classified employee or employee" means any  
3 regular full-time or regular part-time employee of a  
4 governing board, including all employees of the West  
5 Virginia network for educational telecomputing and  
6 beginning the first day of July, one thousand nine  
7 hundred ninety includes employees at the central  
8 office of the governing boards, who hold a position that  
9 is assigned a particular job title and pay grade in  
10 accordance with the personnel classification system  
11 established by the appropriate governing board and  
12 shall include all employees of the West Virginia  
13 network for educational telecomputing;

14 (b) "Nonclassified employee" means an individual  
15 who is responsible for policy formation at the institu-  
16 tional level or reports directly to the president:  
17 *Provided*, That the percentage of personnel placed in  
18 the category of "nonclassified" at any given institution  
19 shall not exceed four percent of the total number of  
20 employees of that institution who are eligible for  
21 membership in any state retirement system of the  
22 state of West Virginia or other retirement plan auth-  
23 orized by the state. Final approval of such placement  
24 shall be with the appropriate governing board;

25 (c) "Job description" means the specific listing of  
26 duties and responsibilities as determined by the  
27 appropriate governing board and associated with a  
28 particular job title;

29 (d) "Job title" means the name of the position or job  
30 as defined by the appropriate governing board;

31 (e) "Job classification" means a grouping of job titles  
32 with the same name without regard to their numerical  
33 designations, or any job title for which there is no  
34 related title of the same name;

35 (f) "Grade of classification" means a job title or  
36 position with its numerical designation which distin-  
37 guishes it from other titles in the same classification;

38 (g) "Merit increases and salary adjustments" means  
39 the amount of additional salary increase allowed on a  
40 merit basis or to rectify salary inequities or accommo-  
41 date competitive market conditions in accordance with  
42 rules established by the appropriate governing board;

43 (h) "Pay grade" means the letter grade assigned by  
44 the appropriate governing board to a particular job  
45 title and refers to the horizontal column heading of  
46 the salary schedule established in section three of this  
47 article;

48 (i) "Personnel classification system" means the  
49 process of job categorization adopted by the appropri-  
50 ate governing board by which job title, job description,  
51 pay grade and placement on the salary schedule are  
52 determined;

53 (j) "Salary" means the amount of compensation paid  
54 through the state treasury per month to a classified  
55 employee;

56 (k) "Schedule" or "salary schedule" means the grid  
57 of monthly salary figures established in section three  
58 of this article; and

59 (l) "Years of experience" means the number of  
60 years a person has been an employee of the state of  
61 West Virginia and refers to the vertical column  
62 heading of the salary schedule established in section  
63 three of this article. For the purpose of placement on  
64 the salary schedule pursuant to said section three,  
65 employment for nine months or more shall equal one  
66 year of experience, but no classified employee may  
67 accrue more than one year of experience during any  
68 given fiscal year. Employment for less than full-time  
69 or less than nine months during any fiscal year shall  
70 be prorated. For the purpose of determining the  
71 amount of annual salary increase pursuant to subsec-  
72 tion (b) of section five of this article, employment for  
73 less than twelve months during any fiscal year shall be  
74 prorated. In accordance with rules established by the  
75 appropriate governing board, a classified employee  
76 may be granted additional years of experience not to  
77 exceed the actual number of years of prior, relevant

78 work or experience at accredited institutions of higher  
79 education other than state institutions of higher  
80 education.

**§18B-9-3. Higher education classified employee monthly salary schedule.**

1 There is hereby established a state monthly salary  
2 schedule for classified employees consisting of a  
3 minimum monthly salary for each pay grade in  
4 accordance with years of experience: *Provided*, That  
5 payment of the minimum salary shall be subject to the  
6 availability of funds, and nothing in this article shall  
7 be construed to guarantee payment to any classified  
8 employee of the salary indicated on the schedule at  
9 the actual years of experience. The minimum salary  
10 herein indicated shall be prorated for regular part-  
11 time classified employees.

**HIGHER EDUCATION  
CLASSIFIED EMPLOYEE MONTHLY SALARY  
SCHEDULE  
PAY GRADE**

	Years Of Experience	A	B	C	D	E	F	G	H	I
12	0	861	921	985	1,054	1,127	1,206	1,294	1,393	1,504
13	1	881	941	1,005	1,074	1,147	1,226	1,334	1,433	1,544
14	2	901	961	1,025	1,094	1,167	1,246	1,374	1,473	1,584
15	3	921	981	1,045	1,114	1,187	1,266	1,414	1,513	1,624
16	4	941	1,001	1,065	1,134	1,207	1,286	1,454	1,553	1,664
17	5	961	1,021	1,085	1,154	1,227	1,306	1,494	1,593	1,704
18	6	981	1,041	1,105	1,174	1,247	1,326	1,534	1,633	1,744
19	7	1,001	1,061	1,125	1,194	1,267	1,346	1,574	1,673	1,784
20	8	1,021	1,081	1,145	1,214	1,287	1,366	1,614	1,713	1,824
21	9	1,041	1,101	1,165	1,234	1,307	1,386	1,654	1,753	1,864
22	10	1,066	1,126	1,190	1,259	1,332	1,411	1,704	1,803	1,914

23	11	1,091	1,151	1,215	1,284	1,357	1,436	1,754	1,853	1,964
24	12	1,116	1,176	1,240	1,309	1,382	1,461	1,804	1,903	2,014
25	13	1,141	1,201	1,265	1,334	1,407	1,486	1,854	1,953	2,064
26	14	1,166	1,226	1,290	1,359	1,432	1,511	1,904	2,003	2,114
27	15	1,191	1,251	1,315	1,384	1,457	1,536	1,954	2,053	2,164
28	16	1,216	1,276	1,340	1,409	1,482	1,561	2,004	2,103	2,214
29	17	1,241	1,301	1,365	1,434	1,507	1,586	2,054	2,153	2,264
30	18	1,266	1,326	1,390	1,459	1,532	1,611	2,104	2,203	2,314
31	19	1,291	1,351	1,415	1,484	1,557	1,636	2,154	2,253	2,364
32	20	1,316	1,376	1,440	1,509	1,582	1,661	2,204	2,303	2,414

**HIGHER EDUCATION  
CLASSIFIED EMPLOYEE  
MONTHLY SALARY SCHEDULE  
PAY GRADE**

Years Of Experience		J	K	L	M	N	O	P	Q	R
33	0	1,629	1,770	1,929	2,109	2,312	2,543	2,805	3,103	3,443
34	1	1,669	1,810	1,969	2,169	2,372	2,603	2,865	3,163	3,503
35	2	1,709	1,850	2,009	2,229	2,432	2,663	2,925	3,223	3,563
36	3	1,749	1,890	2,049	2,289	2,492	2,723	2,985	3,283	3,623
37	4	1,789	1,930	2,089	2,349	2,552	2,783	3,045	3,343	3,683
38	5	1,829	1,970	2,129	2,409	2,612	2,843	3,105	3,403	3,743
39	6	1,869	2,010	2,169	2,469	2,672	2,903	3,165	3,463	3,803
40	7	1,909	2,050	2,209	2,529	2,732	2,963	3,225	3,523	3,863
41	8	1,949	2,090	2,249	2,589	2,792	3,023	3,285	3,583	3,923
42	9	1,989	2,130	2,289	2,649	2,852	3,083	3,345	3,643	3,983
43	10	2,039	2,180	2,339	2,724	2,927	3,155	3,420	3,718	4,058
44	11	2,089	2,230	2,389	2,799	3,002	3,233	3,495	3,793	4,133
45	12	2,139	2,280	2,439	2,874	3,077	3,308	3,570	3,868	4,208

46	13	2,189	2,330	2,489	2,949	3,152	3,383	3,645	3,943	4,283
47	14	2,239	2,380	2,539	3,024	3,227	3,458	3,720	4,018	4,358
48	15	2,289	2,430	2,589	3,099	3,302	3,533	3,795	4,093	4,433
49	16	2,339	2,480	2,639	3,174	3,377	3,608	3,870	4,168	4,508
50	17	2,389	2,530	2,689	3,249	3,452	3,683	3,945	4,243	4,583
51	18	2,439	2,580	2,739	3,324	3,527	3,758	4,020	4,318	4,658
52	19	2,489	2,630	2,789	3,399	3,602	3,833	4,095	4,393	4,733
53	20	2,539	2,680	2,839	3,474	3,677	3,908	4,170	4,468	4,808

**§18B-9-4. Establishment of personnel classification system; assignment to classification and to salary schedule.**

1 Before the first day of July, one thousand nine  
2 hundred ninety, the governing boards shall establish  
3 by rule and implement an equitable system of job  
4 classifications, each classification to consist of related  
5 job titles and corresponding job descriptions for each  
6 position within a classification, together with the  
7 designation of an appropriate pay grade for each job  
8 title, which system shall be the same for correspond-  
9 ing positions in institutions under both boards. The  
10 system of job classifications shall be submitted to the  
11 secretary of education and the arts for review and  
12 approval prior to implementation on said date.

13 By such date and with consideration to recommen-  
14 dations of the institutions, the appropriate governing  
15 board shall furnish each classified employee written  
16 confirmation of the assignment to the appropriate  
17 classification, job title and pay grade and of the proper  
18 placement on the salary schedule pursuant to section  
19 three of this article notwithstanding the actual salary  
20 paid. Such assignment may be appealed in accordance  
21 with article twenty-nine of chapter eighteen of this  
22 code: *Provided*, That nothing herein shall nullify or  
23 void any personnel classification system in effect  
24 immediately prior to the first day of July, one thou-  
25 sand nine hundred eighty-nine.

**§18B-9-5. Classified employee salary.**

1 (a) Each classified employee who is employed by a  
2 governing board on the first day of July, one thousand  
3 nine hundred eighty-nine, shall receive for the same  
4 employment at the same pay grade during the fiscal  
5 year commencing on such date and thereafter, a  
6 monthly salary which is at least equal to the final  
7 monthly salary paid such classified employee for the  
8 fiscal year commencing on the first day of July, one  
9 thousand nine hundred eighty-eight, to be paid in  
10 equal installments within the regular pay periods.

11 (b) Commencing with the fiscal year beginning on  
12 the first day of July, one thousand nine hundred  
13 eighty-nine, and each fiscal year thereafter, each  
14 classified employee with three or more years of  
15 experience shall receive an annual salary increase  
16 equal to thirty-six dollars times the employee's years  
17 of experience, less any incremental salary increase  
18 granted in a prior fiscal year and actually incorporated  
19 into and becoming an integral part of base salary prior  
20 to fiscal year one thousand nine hundred ninety:  
21 *Provided*, That such annual salary increase shall not  
22 exceed the amount granted for the maximum of  
23 twenty years of experience. These incremental  
24 increases shall be in lieu of any salary increase  
25 received pursuant to section two, article five, chapter  
26 five of this code; shall be in addition to any across-the-  
27 board, cost-of-living or percentage salary increases  
28 which may be granted in any fiscal year by the  
29 Legislature; and shall be paid in equal installments  
30 within the regular pay periods.

31 (c) Each classified employee whose monthly salary  
32 under subsections (a) and (b) of this section is less than  
33 the minimum monthly salary for zero years of expe-  
34 rience for the appropriate pay grade as set forth in  
35 section three of this article shall receive additional  
36 compensation such that the monthly salary is at least  
37 the minimum amount prescribed for the appropriate  
38 pay grade at zero years of experience: *Provided*, That  
39 such amounts may be reduced proportionately based  
40 upon the amount of funds available for such purpose.

41 (d) Any funds remaining after increasing the

42 monthly salary of each classified employee to at least  
43 the minimum amount prescribed for the appropriate  
44 pay grade at zero years of experience shall be used to  
45 place classified employees on the salary schedule at  
46 their appropriate years of experience: *Provided*, That  
47 such amount may be reduced proportionately based  
48 upon the amount of funds available for such purpose.

49 (e) Any classified employee may receive merit  
50 increases and/or salary adjustments in accordance  
51 with policies established by the board: *Provided*, That  
52 funds for such increases and/or adjustments shall be  
53 distributed in accordance with rules of the appropriate  
54 governing board and shall be available to all state  
55 institutions of higher education on an equitable basis.

56 (f) The current monthly salary of any classified  
57 employee may not be reduced by the provisions of this  
58 article nor by any other action inconsistent with the  
59 provisions of this article, and nothing in this article  
60 shall be construed to prohibit promotion of any  
61 classified employee to a job title carrying a higher pay  
62 grade if such promotion is in accordance with the  
63 provisions of this article and the personnel classifica-  
64 tion system established by the appropriate governing  
65 board.

66 (g) Effective the first day of January, one thousand  
67 nine hundred ninety, an amount equal to five percent  
68 of one half the amount appropriated and distributed in  
69 the fiscal year beginning on the first day of July, one  
70 thousand nine hundred eighty-nine, for salaries for  
71 full-time classified employees shall be distributed in  
72 the following manner: Such amount as may be neces-  
73 sary shall be distributed to each classified employee  
74 who is employed on the first day of January, one  
75 thousand nine hundred ninety, so that each such  
76 employee shall receive for the same employment at  
77 the same pay grade a monthly salary which is at least  
78 equal to the final monthly salary paid such classified  
79 employee for the last month of such employee's  
80 employment during the fiscal year one thousand nine  
81 hundred eighty-eight — eighty-nine, and a salary  
82 increase equal to two and one half percent of such

83 final monthly salary. Any remaining funds shall be  
84 applied in accordance with the provisions of this  
85 section.

**§18B-9-6. Annual review of classifications and classification system; notice and reports required.**

1 Each institution shall review annually each job  
2 description in relationship to the assigned duties and  
3 responsibilities, current job title and pay grade of each  
4 classified employee of that institution. Based upon the  
5 data collected through such review, each institution  
6 shall determine which, if any, of its classified  
7 employees should be recommended for a change in job  
8 title in order to conform to the personnel classification  
9 system of its governing board: *Provided*, That any  
10 classified employee filling a position or carrying out  
11 the duties and responsibilities of a position normally  
12 assigned a higher pay grade in accordance with the  
13 personnel classification system established by the  
14 appropriate governing board shall be recommended  
15 for a change in job title or shall be returned immedi-  
16 ately to the duties and responsibilities outlined in the  
17 appropriate job description.

18 Each institution shall submit to the appropriate  
19 governing board by the first day of September, one  
20 thousand nine hundred eighty-nine, and each year  
21 thereafter, a report which shall include the steps being  
22 taken to ensure proper employee classification in  
23 accordance with the appropriate job titles and pay  
24 grades as established by its governing board, any  
25 recommended changes in job title, the justification for  
26 such recommendations, the effect of such changes on  
27 existing personnel, and the fiscal impact thereof.

28 Each institution also may submit, as a part of its  
29 annual report to its governing board, recommendation  
30 for alterations in job descriptions or classifications,  
31 changes in corresponding pay grades, or creation of  
32 new job titles or classifications. Such changes, if  
33 approved by its governing board, shall be made a part  
34 of the personnel classification system of the governing  
35 board and shall be applied uniformly at all institutions:



36 *Provided*, That, when necessary, the governing board  
37 may order changes in classifications or changes in job  
38 titles upon its own authority and shall notify the  
39 institutions of such changes within thirty days.

40 Each governing board, upon receipt and review of  
41 the annual report submitted by each institution under  
42 its control, shall notify the reporting institution by the  
43 first day of December, one thousand nine hundred  
44 eighty-nine, and each year thereafter, of any action  
45 taken in response to recommendations made by the  
46 institution. Immediately upon receipt of notification of  
47 any changes in the personnel classification system by  
48 its governing board, the institution shall post copies of  
49 such notice in prominent campus locations. Changes in  
50 classification or changes in job title, as approved by  
51 the appropriate governing board, shall be effective no  
52 later than the first day of July of each year. When  
53 such changes affect currently employed personnel,  
54 each classified employee so affected shall be notified in  
55 writing regarding such change and the effect thereof.

**§18B-9-7. Conferences regarding personnel classification.**

1 (a) The president of the institution or the designees  
2 charged with responsibility to develop any personnel  
3 recommendations for inclusion in the institution's  
4 annual report to its governing board shall meet and  
5 confer during development of the recommendations  
6 with any classified employee who (1) may be affected  
7 by proposed recommendations to its governing board;  
8 or (2) has requested a change in job title.

9 (b) In accordance with the provisions of article  
10 twenty-nine, chapter eighteen of this code relating to  
11 employee grievance procedures, a classified employee  
12 may appeal the initial assignment, any change in the  
13 assigned classification or job title, or any change in the  
14 system of classification, whether such change is the  
15 result of action taken by the appropriate governing  
16 board upon its own authority or upon the recommen-  
17 dations of the institutions.

**§18B-9-8. Hirings after effective date.**

1 Any individual hired as a full-time classified  
2 employee after the effective date of this section shall

3 be assigned by the appropriate governing board, with  
4 consideration to any recommendations of the institu-  
5 tion, to a placement on the salary schedule which is  
6 appropriate to such individual's classification, job title,  
7 pay grade and years of experience: *Provided*, That  
8 nothing in this section shall be construed to guarantee  
9 to a newly hired classified employee payment of the  
10 salary prescribed in section three of this article.

**§18B-9-9. Additional employment by mutual agreement;  
provision for governing board approval.**

1 In accordance with rules established by its govern-  
2 ing board and by mutual agreement, the president of  
3 an institution, or a designated representative, and a  
4 classified employee at such institution may agree on  
5 duties to be performed by such employee in addition  
6 to those duties listed in the job description. The terms  
7 and conditions of any such agreement shall be in  
8 writing, signed by both parties, and shall describe the  
9 additional duties to be performed, the length of time  
10 such agreement shall be in force and the additional  
11 compensation to be paid. Such agreement shall be  
12 submitted to the appropriate governing board and  
13 shall be in effect unless and until the institution  
14 receives notice of nonapproval within ten working  
15 days following the submission thereof.

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE  
INSTITUTIONS OF HIGHER EDUCATION.**

**§18B-10-1. Enrollment, tuition and other fees at educational  
institutions; refund of fees.**

1 (a) Each governing board shall fix tuition and other  
2 fees for each school term for the different classes or  
3 categories of students enrolling at each state institu-  
4 tion of higher education under its jurisdiction and may  
5 include among such fees any one or more of the  
6 following: (1) Health service fees, (2) infirmity fees,  
7 (3) student activities, recreational, athletic and extra-  
8 curricular fees, which said fees may be used to finance  
9 a student's attorney to perform legal services for  
10 students in civil matters at the such institutions:  
11 *Provided*, That such legal services shall be limited to

12 only those types of cases, programs or services  
13 approved by the administrative head of such institu-  
14 tion where such legal services are to be performed;  
15 and (4) graduate center fees and branch college fees,  
16 or either, if the establishment and operations of  
17 graduate centers or branch colleges are otherwise  
18 authorized by law. All fees collected at any graduate  
19 center or at any branch college shall be paid into  
20 special funds and shall be used solely for the mainte-  
21 nance and operation of the graduate center or branch  
22 college at which they were collected: *Provided, how-*  
23 *ever,* That the maximum fees to be collected under  
24 this section for resident students shall not exceed five  
25 hundred dollars per semester, and for nonresident  
26 students, one thousand dollars per semester. The  
27 schedule of all fees, and any changes therein, shall be  
28 entered in the minutes of the meeting of the appropri-  
29 ate governing board, and the board shall file with the  
30 legislative auditor a certified copy of such schedule  
31 and changes.

32 (b) In addition to the fees mentioned in the preced-  
33 ing paragraph, each governing board may impose and  
34 collect a student union building fee. All such building  
35 fees collected at an institution shall be paid into a  
36 special student union building fund for such institu-  
37 tion, which is hereby created in the state treasury, and  
38 shall be used only for the construction, operation and  
39 maintenance of a student union building or a combi-  
40 nation student union and dining hall building or for  
41 the payment of the principal of and interest on any  
42 bond issued to finance part or all of the construction  
43 of a student union building or a combination student  
44 union and dining hall building or the renovation of an  
45 existing structure for use as a student union building  
46 or a combination student union and dining hall  
47 building, all as more fully provided in section ten of  
48 this article. Any moneys in such funds not immedi-  
49 ately needed for such purposes may be invested in any  
50 such bonds or other securities as are now or hereafter  
51 authorized as proper investments for state funds.

52 (c) Refund, as an erroneous payment, may be made

53 of any such fees upon the voluntary or involuntary  
54 withdrawal from classes of any student until eight  
55 weeks of the school semester or term have expired,  
56 but no refund may be made thereafter.

**§18B-10-2. Higher education resource fee.**

1 In addition to the fees specifically provided for in  
2 section one of this article, all students enrolled for  
3 credit at a state institution of higher education shall  
4 pay a higher education resource fee. Each governing  
5 board shall fix the fee rates for the various institutions  
6 and classes of students under its jurisdiction and may  
7 from time to time change these rates. The amount of  
8 the fee charged at each institution shall be prorated  
9 for part-time students. The fee imposed by this section  
10 is in addition to the maximum fees allowed to be  
11 collected under the provision of section one of this  
12 article and is not limited thereby. Refunds of such fee  
13 may be made in the same manner as any other fee  
14 collected at state institutions of higher education.

15 Eighty percent of the total fees collected at each  
16 institution pursuant to this section shall be deposited  
17 in a special fund in the state treasury for the institu-  
18 tion at which the fees are collected and may be used  
19 by the institution for libraries and library supplies,  
20 including books, periodicals, subscriptions and audiovi-  
21 sual materials, instructional equipment and materials;  
22 and for the improvement in quality and scope of  
23 student services. The remaining twenty percent of fee  
24 collections shall be deposited in a special fund and  
25 expended or allocated by the appropriate governing  
26 board to meet general operating expenses, excluding  
27 personal services, of the state university system or  
28 state college system from which the fees were col-  
29 lected: *Provided*, That the board shall, to the maxi-  
30 mum extent practicable, offset the impact, if any, on  
31 financially needy students of any potential fee  
32 increases under this section by allocating an appropri-  
33 ate amount of such fee revenue to the state scholar-  
34 ship program to be expended in accordance with the  
35 provisions of article twenty-two-b of chapter eighteen  
36 of this code.

37 Each governing board shall, on or before the first  
38 day of July of each year, provide the legislative  
39 auditor with a report of the projected fee collections  
40 for the board and each of its institutions and the  
41 expenditures proposed for such fee.

**§18B-10-3. Faculty improvement fee.**

1 In addition to the fees specifically provided for in  
2 sections one and two of this article, all students  
3 enrolled for credit at a state institution of higher  
4 education shall pay a faculty improvement fee. Each  
5 governing board shall fix the fee rates for the various  
6 institutions and classes of students under its jurisdic-  
7 tion and may from time to time change these rates:  
8 *Provided*, That the fee for each class of students shall  
9 be uniform throughout the state and shall be no less  
10 than fifteen dollars per semester for residents and no  
11 less than fifty dollars per semester for out-of-state  
12 students. The amount of the fee charged at each  
13 institution shall be prorated for part-time students.  
14 The fee imposed by this section is in addition to the  
15 maximum fees allowed to be collected under the  
16 provisions of section one of this article and is not  
17 limited thereby. Refunds of the fee may be made in  
18 the same manner as any other fee collected at state  
19 institutions of higher education.

20 All faculty improvement fees collected shall be  
21 deposited in a special fund in the state treasury. Each  
22 governing board shall use such fees, including any fees  
23 on deposit as of the effective date of this section, to the  
24 extent available to implement article eight of this  
25 chapter.

26 Each governing board shall, before the first day of  
27 July of each year, provide the legislative auditor with  
28 a report of the projected fee collections for each of its  
29 institutions.

**§18B-10-4. Medical education fee.**

1 In addition to the fees specifically provided for in  
2 sections one, two and three of this article, all medical

3 students enrolled for credit at the West Virginia  
4 University school of medicine, Marshall University  
5 school of medicine and the West Virginia school of  
6 osteopathic medicine shall pay a medical education  
7 fee. The board of trustees shall fix the fee rates for  
8 students at each institution and may from time to time  
9 change these rates. The fee imposed by this section is  
10 in addition to the maximum fees allowed to be col-  
11 lected under the provisions of section one of this  
12 article and is not limited thereby. Refunds of the fee  
13 may be made in the same manner as any other fee  
14 collected at state institutions of higher education.  
15 Medical education fees collected shall be deposited in  
16 a special revenue account which is hereby created in  
17 the state treasury for the school at which the fees are  
18 collected and shall be used by the school to offset  
19 general operating costs: *Provided*, That the board of  
20 trustees may deposit a portion of the total fees col-  
21 lected therein into the medical student loan fund  
22 account in accordance with the provisions of article  
23 two, chapter eighteen of this code. Before the first day  
24 of July of each year, the board of trustees shall  
25 provide the legislative auditor with a report of the  
26 projected fee collections for each of the schools of  
27 medicine.

**§18B-10-4a. Health professions education fee.**

1 In addition to the fees specifically provided for in  
2 sections one, two, three and four of this article, all  
3 students enrolled for credit at the West Virginia  
4 University health sciences center, Marshall University  
5 School of Medicine and the West Virginia School of  
6 Osteopathic Medicine, shall pay a health professions  
7 education fee. The board of trustees shall fix the  
8 amount of the fee and may from time to time change  
9 that amount. The fee imposed by this section is in  
10 addition to the maximum fees allowed to be collected  
11 under the provisions of section one of this article and  
12 is not limited thereby. Refunds of the fee may be  
13 made in the same manner as any other fee collected  
14 at state institutions of higher education. All moneys  
15 collected from the health professions education fees

16 shall be deposited in a special revenue account for the  
17 respective school from which collection is made, said  
18 accounts shall be hereby created in the state treasury  
19 for the West Virginia health sciences center, Marshall  
20 University School of Medicine, and the West Virginia  
21 School of Osteopathic Medicine. The moneys in such  
22 fund shall be used to offset general operating costs for  
23 health sciences education in this state. Before the  
24 thirty-first day of June of each year, the board of  
25 trustees shall provide the legislative auditor with a  
26 report of the projected fee collections during the next  
27 fiscal year and a report of fee expenditures for the  
28 preceding fiscal year.

**§18B-10-5. Fee waivers — Undergraduate schools.**

1 Each governing board may establish, from time to  
2 time, fee waivers for students in undergraduate  
3 studies at institutions under its jurisdiction entitling  
4 recipients to waiver of enrollment, tuition, registra-  
5 tion, higher education resource and other fees subject  
6 to the following conditions and limitations:

7 (1) No state educational institution may have in  
8 effect at any time undergraduate fee waivers in a  
9 number which exceeds five percent of the number of  
10 full-time equivalent undergraduate students registered  
11 during the fall semester of the immediately preceding  
12 academic year.

13 (2) Each undergraduate fee waiver shall entitle the  
14 recipient thereof to attend a designated state educa-  
15 tional institution without payment of the enrollment,  
16 tuition, registration, higher education resource and  
17 other fees as may be prescribed by the governing  
18 board and be for a period of time not to exceed eight  
19 semesters of undergraduate study.

20 (3) The governing board shall make rules governing  
21 the award of undergraduate fee waivers, the issuance  
22 and cancellation of certificates entitling the recipients  
23 to the benefits thereof, the use of the fee waivers by  
24 the recipients and the rights and duties of the recip-  
25 ients in respect to the fee waivers. These rules may  
26 not be inconsistent with the provisions of this section.

27 (4) The awarding of undergraduate fee waivers shall  
28 be entered in the minutes of the meetings of the  
29 governing board, and each board shall file with the  
30 legislative auditor a copy of the rules governing the  
31 award of the fee waivers and a list of the names of the  
32 recipients thereof.

**§18B-10-6. Same — Professional and graduate schools.**

1 In addition to the fee waivers heretofore authorized  
2 for undergraduate study by the provisions of section  
3 five of this article, each governing board may establish  
4 from time to time fee waivers for study in graduate  
5 and professional schools under their jurisdiction,  
6 including medicine and dentistry, entitling the recip-  
7 ients to waiver of enrollment, tuition, registration,  
8 higher education resource and other fees, subject to  
9 the following conditions and limitations:

10 (1) West Virginia University may not have in effect  
11 at any time graduate and professional school fee  
12 waivers in a number which exceeds ten percent of the  
13 number of full-time equivalent graduate and profes-  
14 sional students registered during the corresponding  
15 fall semester, spring semester and summer term of the  
16 immediately preceding academic year. In addition to  
17 the above ten percent, all graduate assistants  
18 employed by West Virginia University shall be granted  
19 a fee waiver. All other institutions of higher education  
20 may not have in effect at any time graduate and  
21 professional school fee waivers in a number which  
22 exceeds five percent of the number of full-time  
23 equivalent graduate and professional students regis-  
24 tered during the corresponding fall semester, spring  
25 semester and summer term of the immediately pre-  
26 ceding academic year. In addition to the above five  
27 percent, all graduate assistants employed by the other  
28 institutions shall be granted a fee waiver.

29 (2) Each graduate or professional school fee waiver  
30 shall entitle the recipient to waiver of the enrollment,  
31 tuition, registration, higher education resource and  
32 other fees as may be prescribed by the governing  
33 boards and be for a period of time not to exceed the



34 number of semesters normally required in the recip-  
35 ient's academic discipline.

36 (3) The governing boards shall make rules governing  
37 the award of graduate and professional school fee  
38 waivers, the issuance and cancellation of certificates  
39 entitling the recipients to the benefits thereof, the use  
40 of the fee waivers by the recipients and the rights and  
41 duties of the recipients in respect to the fee waivers.  
42 These rules may not be inconsistent with the provi-  
43 sions of this section.

44 (4) The awarding of graduate and professional school  
45 fee waivers shall be entered in the minutes of the  
46 meeting of each governing board, and each board shall  
47 file with the legislative auditor a copy of the rules  
48 governing the award of the fee waiver and a list of the  
49 names of the recipients thereof.

**§18B-10-7. Tuition and fee waivers for children and spouses  
of officers and firefighters killed in the line  
of duty.**

1 Each state institution of higher education shall  
2 permit any person to attend its undergraduate courses  
3 and classes if classroom space is available without  
4 charging such person any tuition or any fees, including  
5 those provided in sections two and three of this article,  
6 if such person is the child or spouse of a law-  
7 enforcement officer as defined in section one, article  
8 twenty-nine, chapter thirty of this code, a correctional  
9 officer at a state penal institution, a conservation  
10 officer, or a registered firefighter, and such officer or  
11 firefighter was killed in the line of duty while  
12 employed by the state or any political subdivision  
13 thereof, or such firefighter was a member of a volun-  
14 teer fire department serving a political subdivision of  
15 this state: *Provided*, That the state institution of higher  
16 education may require such person to pay special fees,  
17 including any laboratory fees, if such fees are required  
18 of all other students taking a single or the particular  
19 course and may also require such person to pay for  
20 parking. The governing boards may promulgate rules  
21 for determining the availability of classroom space and

22 other rules as it considers necessary to implement this  
23 section, including rules regarding qualifications for  
24 attendance, which shall not exceed the qualifications  
25 required of other persons.

26 The governing boards may also extend to persons  
27 attending courses and classes under this section any  
28 rights, privileges or benefits extended to other stu-  
29 dents which it considers appropriate.

**§18B-10-8. Collection; disposition and use of additional  
registration fee; creation of special capital  
improvements funds; revenue bonds.**

1 (a) In addition to all other fees imposed by the  
2 governing boards, there is hereby imposed and the  
3 governing boards are hereby directed to provide for  
4 the collection of an additional registration fee from all  
5 students enrolled in any state institution of higher  
6 education under its jurisdiction in the amounts here-  
7 inafter provided.

8 For full-time students at each state institution of  
9 higher education, the additional registration fee shall  
10 be fifty dollars per semester. The governing boards  
11 shall have authority to increase such additional  
12 registration fee at institutions of higher education  
13 under their jurisdiction for students who are nonres-  
14 idents of this state. For all part-time students and for  
15 all summer school students, the governing boards shall  
16 impose and collect such fee in proportion to, but not  
17 exceeding, that paid by full-time students.

18 The fee imposed by this section shall be in addition  
19 to the maximum fees allowed to be collected under the  
20 provision of section one of this article and shall not be  
21 limited thereby. Refunds of such fee may be made in  
22 the same manner as any other fee collected at state  
23 institutions of higher education.

24 (b) There is created in the state treasury a state  
25 system special capital improvements fund into which  
26 shall be paid all proceeds of the additional registration  
27 fees collected from students at all state institutions of  
28 higher education pursuant to this section to be

29 expended jointly by the governing boards for the  
30 payment of the principal of or interest on any revenue  
31 bonds issued by the board of regents for which such  
32 registration fees were pledged prior to the enactment  
33 of this section.

34 At such time as the commingling of such registration  
35 fees shall no longer be required, all proceeds shall be  
36 paid into the appropriate special capital improvements  
37 fund for each governing board for the benefit of any  
38 and all state institutions of higher education under the  
39 jurisdiction of that governing board.

40 (c) The governing boards may make expenditures  
41 from any of the special capital improvements funds  
42 established in this section to finance, in whole or in  
43 part, together with any federal, state or other grants  
44 or contributions, any one or more of the following  
45 projects: (1) The acquisition of land or any rights or  
46 interest therein, (2) the construction or acquisition of  
47 new buildings, (3) the renovation or construction of  
48 additions to existing buildings, (4) the acquisition of  
49 furnishings and equipment for any such buildings, and  
50 (5) the construction or acquisition of any other capital  
51 improvements or capital educational facilities at such  
52 state institutions of higher education, including any  
53 roads, utilities or other properties, real or personal, or  
54 for other purposes necessary, appurtenant or incidental  
55 to the construction, acquisition, financing and  
56 placing in operation of such buildings, capital improve-  
57 ments or capital educational facilities.

58 Each governing board, in its discretion, may use the  
59 moneys in such special capital improvements funds to  
60 finance the costs of the above purposes on a cash basis,  
61 or may from time to time issue revenue bonds of the  
62 state as provided in this section to finance all or part  
63 of such purposes and pledge all or any part of the  
64 moneys in such special funds for the payment of the  
65 principal of and interest on such revenue bonds, and  
66 for reserves therefor. Any pledge of such special funds  
67 for such revenue bonds shall be a prior and superior  
68 charge on such special funds over the use of any of the  
69 moneys in such funds to pay for the cost of any of such

70 purposes on a cash basis: *Provided*, That any expendi-  
71 tures from such special funds, other than for the  
72 retirement of revenue bonds, may only be made by  
73 the governing board to meet the cost of a predeter-  
74 mined capital improvements program for one or more  
75 of the state institutions of higher education, in such  
76 order of priority as shall have been agreed upon by  
77 the governing board and presented to the governor for  
78 inclusion in the annual budget bill, and only with the  
79 approval of the Legislature as indicated by direct  
80 appropriation for the purpose.

81 Such revenue bonds may be authorized and issued  
82 from time to time by the governing board to finance  
83 in whole or in part the purposes provided in this  
84 section in an aggregate principal amount not exceed-  
85 ing the amount which the governing board shall  
86 determine can be paid as to both principal and interest  
87 and reasonable margins for a reserve therefor from  
88 the moneys in such special funds.

89 The issuance of such revenue bonds shall be autho-  
90 rized by a resolution adopted by the governing board,  
91 and such revenue bonds shall bear such date or dates,  
92 mature at such time or times not exceeding forty  
93 years from their respective dates; be in such form  
94 either coupon or registered, with such exchangeability  
95 and interchangeability privileges; be payable in such  
96 medium of payment and at such place or places,  
97 within or without the state; be subject to such terms  
98 of prior redemption at such prices not exceeding one  
99 hundred five per centum of the principal amount  
100 thereof; and shall have such other terms and provi-  
101 sions as the governing board shall determine. Such  
102 revenue bonds shall be signed by the governor and by  
103 the president of the governing board authorizing the  
104 issuance thereof, under the great seal of the state,  
105 attested by the secretary of state, and the coupons  
106 attached thereto shall bear the facsimile signature of  
107 the president of the governing board. Such revenue  
108 bonds shall be sold in such manner as the governing  
109 board may determine to be for the best interests of the  
110 state.

111 The governing board may enter into trust agree-  
112 ments with banks or trust companies, within or  
113 without the state, and in such trust agreements or the  
114 resolutions authorizing the issuance of such bonds may  
115 enter into valid and legally binding covenants with the  
116 holders of such revenue bonds as to the custody,  
117 safeguarding and disposition of the proceeds of such  
118 revenue bonds, the moneys in such special funds,  
119 sinking funds, reserve funds, or any other moneys or  
120 funds; as to the rank and priority, if any, of different  
121 issues of revenue bonds by the governing board under  
122 the provisions of this section; as to the maintenance or  
123 revision of the amounts of such additional registration  
124 fees, and the terms and conditions, if any, under  
125 which such additional registration fees may be  
126 reduced; and as to any other matters or provisions  
127 which are deemed necessary and advisable by the  
128 governing board in the best interests of the state and  
129 to enhance the marketability of such revenue bonds.

130 After the issuance of any of such revenue bonds, the  
131 additional registration fees at the state institutions of  
132 higher education shall not be reduced as long as any  
133 of such revenue bonds are outstanding and unpaid  
134 except under such terms, provisions and conditions as  
135 shall be contained in the resolution, trust agreement  
136 or other proceedings under which such revenue bonds  
137 were issued.

138 Such revenue bonds shall be and constitute negotia-  
139 ble instruments under the Uniform Commercial Code  
140 of this state; shall, together with the interest thereon,  
141 be exempt from all taxation by the state of West  
142 Virginia, or by any county, school district, municipal-  
143 ity or political subdivision thereof; and such revenue  
144 bonds shall not be deemed to be obligations or debts of  
145 the state, and the credit or taxing power of the state  
146 shall not be pledged therefor, but such revenue bonds  
147 shall be payable only from the revenue pledged  
148 therefor as provided in this section.

**§18B-10-9. Authority to excuse students in certain educa-  
tional programs from payment of enrollment  
fees.**

1 Whenever the cost of any institute, workshop,  
2 special course, or other educational program is wholly  
3 financed by a grant from any federal agency or from  
4 any foundation, corporation, or other association or  
5 person, except for indirect costs of administration and  
6 other overhead expenses, such as the cost of providing  
7 classrooms and other facilities, the governing board of  
8 the state educational institution administering such  
9 program shall have the authority to excuse all stu-  
10 dents enrolled in such program from the payment of  
11 tuition, registration and other enrollment fees.

**§18B-10-10. Disposition and use of student union fees;  
issuance of revenue bonds.**

1 Whenever the term "student union building" is used  
2 in this section, the same shall mean a student union  
3 building or a combination student union building and  
4 dining hall building; and wherever the term "building  
5 fund" is used in this section the same shall mean the  
6 respective special student union building funds created  
7 as provided in section one of this article for each state  
8 educational institution which has imposed student  
9 union fees pursuant to section one of this article, to be  
10 expended by the appropriate governing board for the  
11 benefit of the state institutions of higher education  
12 under its jurisdiction.

13 Each governing board may make expenditures from  
14 such building funds at the various state institutions of  
15 higher education under its jurisdiction to finance in  
16 whole or in part together with any federal, state or  
17 other grants or contributions, any one or more of the  
18 following purposes:

19 (1) The construction and acquisition of new student  
20 union buildings;

21 (2) The acquisition, renovation and improvement of  
22 existing buildings to be used as student union buildings;

23 (3) The construction of additions, extensions and  
24 improvements to existing student union buildings;

25 (4) The acquisition of furnishings and equipment for  
26 any existing student union buildings or student union

27 buildings to be constructed or acquired, or the con-  
28 struction of any roads, utilities or other properties,  
29 real or personal, or for any other purposes necessary,  
30 appurtenant or incidental to the construction, acquisi-  
31 tion, financing and placing in operation of such  
32 student union buildings; and

33 (5) The payment of the cost of operation and main-  
34 tenance of such student union buildings, subject  
35 however to any covenants or agreements made with  
36 the holders of revenue bonds heretofore and hereafter  
37 issued pursuant to this section or pursuant to section  
38 one of this article.

39 Each governing board, at its discretion, may use the  
40 moneys in such building funds to finance the costs of  
41 the above purposes on a cash basis, or may from time  
42 to time issue revenue bonds of the state as provided in  
43 this section to finance all or part of such purposes and  
44 pledge all or any part of the moneys in such building  
45 funds for the payment of the principal of and interest  
46 on such revenue bonds, and for reserves therefor. Any  
47 pledge of such building funds for such revenue bonds  
48 shall be a prior and superior charge on such special  
49 funds over the use of any of the moneys in such funds  
50 to pay for the cost of any of such purposes on a cash  
51 basis, or for the payment of the cost of operation and  
52 maintenance, or any part thereof, of such student  
53 union buildings, under such terms and conditions as  
54 shall be provided in the proceedings which authorized  
55 the issuance of such revenue bonds.

56 Such revenue bonds may be authorized and issued  
57 from time to time by a governing board to finance in  
58 whole or in part the projects at any state institution of  
59 higher education under its jurisdiction provided for in  
60 this section in an aggregate principal amount not  
61 exceeding the amount which the board shall deter-  
62 mine can be paid as to both principal and interest and  
63 reasonable margins for a reserve therefor from the  
64 moneys in such building funds.

65 The issuance of such revenue bonds shall be autho-  
66 rized by a resolution adopted by the governing board,

67 and such revenue bonds shall bear such date or dates;  
68 mature at such time or times not exceeding forty  
69 years from their respective dates; bear interest at such  
70 rate or rates, not exceeding twelve per centum per  
71 annum; be in such form either coupon or registered,  
72 with such exchangeability and interchangeability  
73 privileges; be payable in such medium of payment and  
74 at such place or places, within or without the state; be  
75 subject to such terms of prior redemption at such  
76 prices not exceeding one hundred five per centum of  
77 the principal amount thereof; and shall have such  
78 other terms and provisions as the board shall deter-  
79 mine. Such revenue bonds shall be signed by the  
80 governor and by the president of the governing board,  
81 under the great seal of the state, attested by the  
82 secretary of state, and the coupons attached thereto  
83 shall bear the facsimile signature of the president of  
84 the governing board. Such revenue bonds shall be sold  
85 in such manner as the governing board may deter-  
86 mine to be for the best interests of the state.

87 The governing board may enter into trust agree-  
88 ments with banks or trust companies, within or  
89 without the state, and in such trust agreements or the  
90 resolutions authorizing the issuance of such bonds may  
91 enter into valid and legally binding covenants with the  
92 holders of such revenue bonds as to the custody,  
93 safeguarding and disposition of the proceeds of such  
94 revenue bonds, the moneys in such building funds,  
95 sinking funds, reserve funds, or any other moneys or  
96 funds; as to the rank and priority, if any, of different  
97 issues of revenue bonds issued by the governing board  
98 for the same educational institution under the provi-  
99 sions of this section; as to the maintenance or revision  
100 of the amounts of such student union fees, and the  
101 terms and conditions, if any, under which any of such  
102 student union fees may be reduced; and as to any  
103 other matters or provisions which are deemed neces-  
104 sary and advisable by the governing board in the best  
105 interests of the state and to enhance the marketability  
106 of such revenue bonds.

107 Any revenues or income derived from the operation



108 of such student union buildings may, in the discretion  
109 of the governing board, be used to pay the cost of the  
110 operation and maintenance of such student union  
111 buildings, or for the debt service on any bonds issued  
112 pursuant to this section or pursuant to any other law.

113 After the issuance of any of such revenue bonds, the  
114 student union fees at the state institution of higher  
115 education for which such revenue bonds were issued  
116 shall not be reduced as long as any of such revenue  
117 bonds are outstanding and unpaid except under such  
118 terms, provisions and conditions as shall be contained  
119 in the resolution, trust agreement or other proceedings  
120 under which such revenue bonds were issued.

121 Such revenue bonds shall be and constitute negotia-  
122 ble instruments under the Uniform Commercial Code  
123 of the state and shall, together with the interest  
124 thereon, be exempt from all taxation by the state of  
125 West Virginia, or by any county, school district,  
126 municipality or political subdivision thereof; and such  
127 revenue bonds shall not be deemed to be obligations or  
128 debts of the state, and the credit or taxing power of  
129 the state shall not be pledged therefor, but such  
130 revenue bonds shall be payable only from the student  
131 union fees pledged therefor as provided in this section.

132 The provisions of this section shall constitute an  
133 additional, alternative and complete authority for the  
134 exercise of the powers and the issuance of the bonds  
135 provided for in this section, but shall not prevent the  
136 governing boards from exercising similar or related  
137 powers or issuing bonds therefor under any other law  
138 or laws, but the governing board, in exercising the  
139 powers and issuing the bonds provided for in this  
140 section, shall only be required to comply with the  
141 provisions of this section and shall not be required to  
142 comply with or be subject to the provisions of any  
143 other law or laws.

**§18B-10-11. Fees and money derived from athletic contests.**

1 The directors of athletics at state institutions of  
2 higher education may fix and charge admission fees to  
3 athletic contests at state institutions of higher educa-

4 tion and may enter into contracts and spend and  
5 receive money under such contracts for the student  
6 athletic teams of state institutions of higher education  
7 to contest with other athletic teams inside or outside  
8 the state. All money received from such fees and  
9 contracts shall be deposited into the athletic accounts  
10 of the state institutions of higher education.

11 All money derived from such fees and under such  
12 contracts shall be used to defray the cost of maintain-  
13 ing the athletic department and athletic program of  
14 such institutions. The operation of training camps and  
15 training tables and providing room accommodations  
16 for participants in the athletic program of such  
17 institutions shall be recognized and considered as a  
18 proper part of such maintenance, but the specific  
19 mention of training camps and training tables and  
20 providing room accommodations shall not be con-  
21 strued or understood to limit in any way the general  
22 power and authority otherwise granted and conferred  
23 by this section: *Provided*, That (1) one percent of the  
24 total gross receipts deposited into the athletic accounts  
25 and (2) not less than twenty-five percent of the net  
26 receipts from televised athletic events, bowl games  
27 and post-season tournaments deposited into the ath-  
28 letic accounts shall be transferred into a separate and  
29 distinct special revenue account for each individual  
30 state institution of higher education, which special  
31 revenue account shall be designated "athletic facilities  
32 construction, repair or replacement reserve account,"  
33 in the state treasury. Such revenues shall be used only  
34 for construction, repair or replacement of athletic  
35 facilities at the same individual state institution of  
36 higher education to which such special revenue  
37 account is credited. Notwithstanding any other provi-  
38 sion in this section to the contrary, in the year in  
39 which they are received, no more than twenty-five  
40 percent of the net receipts from televised athletic  
41 events, bowl games and post-season tournaments  
42 deposited into athletic accounts may be transferred  
43 into other accounts of the same state institution of  
44 higher education having such receipts for the support  
45 of academic programs to meet an occasional rather

46 than recurrent need or expense, and in accord with  
47 legislative rules promulgated by the appropriate  
48 governing board in accordance with chapter twenty-  
49 nine-a of this code, notwithstanding any other provi-  
50 sion of this code to the contrary.

**§18B-10-12. Student activity fees.**

1 The president or other administrative head of any  
2 state institution of higher education may authorize the  
3 collection of fees from students for the support of  
4 extracurricular activities of the students, and after  
5 authorizing the collection of such fees, the president or  
6 other administrative head shall file with the state  
7 auditor and state budget director a certified detailed  
8 statement of the fees authorized to be collected and  
9 the purpose for which they are to be spent.

**§18B-10-13. Fees from operation of dormitories, faculty homes, dining halls, and cafeterias.**

1 The appropriate governing board of each state  
2 institution of higher education shall fix the fees to be  
3 charged students and faculty members for rooms,  
4 board and meals at the dormitories, faculty homes,  
5 dining halls and cafeterias operated by such board at  
6 the institution. Such fees shall be commensurate with  
7 the complete cost of such services.

8 All fees collected for such services shall be used first  
9 to pay the operating and maintenance costs of the  
10 dormitories, faculty homes, dining halls and cafeterias  
11 and to meet interest, principal and sinking fund  
12 requirements due on any outstanding revenue bonds  
13 for which such receipts may have been pledged as  
14 security. Any such receipts not needed for these  
15 purposes may be expended by the appropriate govern-  
16 ing board to defray the costs in whole or in part for  
17 the construction of any such facility.

**§18B-10-14. Book stores.**

1 The appropriate governing board of each state  
2 institution of higher education shall have the authority  
3 to establish and operate a book store at the institution.  
4 The book store shall be operated for the use of the

5 institution itself, including each of its schools and  
6 departments, in making purchases of books, stationery  
7 and other school and office supplies generally carried  
8 in college stores, and for the benefit of students and  
9 faculty members in purchasing such products for their  
10 own use, but no sales shall be made to the general  
11 public. The prices to be charged the institution, the  
12 students and the faculty for such products shall be  
13 fixed by the governing board, shall not be less than the  
14 prices fixed by any fair trade agreements, and shall in  
15 all cases include in addition to the purchase price paid  
16 by the book store a sufficient handling charge to cover  
17 all expenses incurred for personal and other services,  
18 supplies and equipment, storage, and other operating  
19 expenses, to the end that the prices charged shall be  
20 commensurate with the total cost to the state of  
21 operating the book store.

22 All moneys derived from the operation of the store  
23 shall be paid into a special revenue fund as provided  
24 in section two, article two, chapter twelve of this code.  
25 Each governing board shall, subject to the approval of  
26 the governor, fix and from time to time change the  
27 amount of the revolving fund necessary for the proper  
28 and efficient operation of each book store.

29 Moneys derived from the operation of the book store  
30 shall be used first to replenish the stock of goods and  
31 to pay the costs of operating and maintaining the store.  
32 From any balance in the Marshall University book  
33 store fund not needed for operation and maintenance  
34 and replenishing the stock of goods, the governing  
35 board of that institution shall have authority to expend  
36 a sum not to exceed two hundred thousand dollars for  
37 the construction of quarters to house the book store in  
38 the university center at Marshall University. Until  
39 such quarters for housing the book store are com-  
40 pleted, the governing board of Marshall University and  
41 the governor shall take this authorization into account  
42 in fixing the amount of the revolving fund for the  
43 Marshall University book store.

**§18B-10-15. Authority of educational institutions to provide  
special services and programs; collection and  
disposition of fees therefor.**

1 The appropriate governing board of each state  
2 institution of higher education shall have authority to  
3 provide special services and special programs at such  
4 institutions and may fix and collect special fees or  
5 charges therefor. Such special services and special  
6 programs may include any one or more of the  
7 following:

8 (1) The conduct of music camps and band, orchestra,  
9 or voice clinics for secondary school students or other  
10 youth groups, summer tutoring programs for primary  
11 and secondary school students, speech therapy clinics  
12 and services, educational and psychological testing  
13 programs, student guidance programs, and statistical  
14 studies and calculations by an electronic computer  
15 service.

16 (2) Rental of lockers or other storage facilities and  
17 the maintenance and operation of parking facilities for  
18 use by students, faculty, staff, and visitors.

19 (3) Rental of musical recordings, educational films,  
20 slides, and other audiovisual aids.

21 (4) Microfilming or other mechanical reproduction of  
22 records and noncopyrighted library reference  
23 materials.

24 (5) Institutes, conferences, workshops, postgraduate  
25 and refresher noncredit courses, and any other special  
26 program or special service customarily provided by  
27 institutions of higher education.

28 (6) Motor pools, consisting of motor vehicles for the  
29 use of their employees when carrying on the business  
30 and affairs of the institutions.

31 All fees or charges collected for any such special  
32 services or programs shall be paid into a special fund  
33 and shall be expended solely for the maintenance,  
34 operation and support of such services and programs.

35 Whenever any such special service is provided by  
36 one school, division or department of a state institution  
37 of higher education for the benefit of any other school,  
38 division or department in the same institution, the cost

39 shall be paid by the school, division or department  
40 requesting the service and shall be deposited and  
41 expended as provided above. Whenever a motor pool is  
42 provided by the governing board of a state institution  
43 of higher education, such board may charge any  
44 school, college, department or division of such institu-  
45 tion for which a vehicle is used a reasonable amount  
46 for such use, which amount shall be paid by such  
47 school, college, department or division and shall be  
48 deposited and expended as above provided.

**§18B-10-16. Disposition of funds in state treasury.**

1 Except as may be provided for in any bond resolu-  
2 tion in effect, funds in the state treasury heretofore  
3 collected from any of the sources defined in the  
4 foregoing sections shall remain in the state treasury  
5 for use by the institution where collected. Any interest  
6 revenue generated by a special student fee account  
7 shall only be expended at or for the institution where  
8 such fee was collected.

**ARTICLE 11. MISCELLANEOUS INSTITUTES AND CENTERS.**

**§18B-11-1. Center for regional progress created; director powers; mission and purpose.**

1 (a) There is hereby created an economic develop-  
2 ment entity known as the "center for regional pro-  
3 gress" at Marshall University. The center shall be  
4 under the control and supervision of a director, which  
5 position is to be filled by an individual qualified by  
6 experience and education. The director shall be  
7 appointed by the president of Marshall University. The  
8 director may employ such staff as is necessary to  
9 accomplish the center's mission and purpose. The  
10 director shall have administrative control and supervi-  
11 sion of the center. The center shall emphasize the  
12 creation of new jobs and the retention of existing jobs  
13 as the foundation necessary for the economic develop-  
14 ment of West Virginia. The center shall provide basic  
15 and applied research and technical assistance; counsel-  
16 ing and referral service; graduate research and coop-  
17 erative education programs; management and market-  
18 ing assistance; continuing education, seminars, work-

19 shops; courses to meet both employer and employee  
20 educational needs; and such other activities as are  
21 necessary to carry out the provisions of this article.  
22 The center shall provide research and technical  
23 assistance to meet the economic and community  
24 development needs of local, municipal, county and  
25 state governments.

26 (b) The center shall upon request respond to public  
27 policy needs of the Legislature and the executive; and  
28 apply for and obtain grants or funds from all available  
29 sources, private and public, state, federal, and other-  
30 wise. The center shall maintain a roster of faculty and  
31 staff at Marshall University and other institutions of  
32 higher education from which specific expertise may be  
33 drawn.

**§18B-11-2. Institute for public affairs; creation and purposes.**

1 (a) There is hereby created as an independent entity  
2 the institute for public affairs, to be located and  
3 operated at West Virginia University. The institute  
4 shall be under the control and supervision of a  
5 director, which position is to be filled by an individual  
6 whose credentials include accomplishments in the  
7 interdisciplinary academic fields and government. The  
8 director shall be appointed by the president of West  
9 Virginia University. The institute shall engage faculty  
10 from institutions of higher education throughout the  
11 state and shall cooperatively develop a program with  
12 other such institutions. The terms of such participation  
13 may be by contract, loan, part-time basis or other such  
14 arrangement.

15 (b) The institute is directed to conduct independent  
16 research and propose strategies and options on public  
17 issues and policies upon its own initiative or as may be  
18 requested by the executive or the Legislature.

19 (c) The institute is directed to seek all other funds,  
20 grants, and other sources of assistance from other  
21 agencies of government as well as the private sector.

22 (d) The director shall have administrative control  
23 and supervision of the institute.

**§18B-11-3. Institute for international trade development; creation and purpose.**

1 There is hereby created as an independent entity  
2 the institute for international trade development, to be  
3 located and operated at Marshall University. The  
4 institute is established to facilitate faculty involvement  
5 in the formation and continuation of international  
6 market entry and development strategy, to provide  
7 assistance to state businesses in exporting and attract-  
8 ing foreign investment, and to engage in other activ-  
9 ities designed to promote, develop and stimulate  
10 export expansion and foreign direct investment. The  
11 institute shall be under the control and supervision of  
12 a director, who shall be appointed from among the  
13 faculty by the president of Marshall University. The  
14 institute shall engage faculty from institutions of  
15 higher education throughout the state and shall  
16 cooperatively develop an export program with the  
17 other such institutions. The terms of such participation  
18 may be by contract, loan, part-time basis, or other  
19 such arrangement. The institute shall develop with the  
20 board of trustees and the governor a program of  
21 student internships in international business to place  
22 qualified students for academic credit with businesses  
23 in West Virginia to help develop export awareness and  
24 potential. The institute shall further provide research  
25 and analysis on matters of international trade upon  
26 request of the executive or the Legislature; initiate  
27 partnership grants, and proposals in the area of  
28 international trade in accordance with the provisions  
29 of article two-a, chapter five-b of this code; and apply  
30 for and obtain grants or funds from all available  
31 sources, private and public.

**ARTICLE 12. RESEARCH AND DEVELOPMENT AGREEMENTS FOR STATE INSTITUTIONS OF HIGHER EDUCATION.**

**§18B-12-1. Definitions.**

- 1 The following words used in this article shall, unless  
2 the context clearly indicates a different meaning, be  
3 construed as follows:
- 4 (a) "Agreement" means any agreement being



5 entered into between a governing board and a corpo-  
6 ration pursuant to section four of this article.

7 (b) "Corporation" means a non-stock, not-for-profit  
8 corporation established under the general corporation  
9 laws of the state which meets the description pres-  
10 ented by section three of this article.

11 (c) "Corporate directors" means the board of direc-  
12 tors of a corporation.

**§18B-12-2. Legislative findings and purpose.**

1 (a) The Legislature finds and determines that the  
2 future economic development in the state will depend  
3 in part upon research developed at the state institu-  
4 tions of higher education, and enhanced research  
5 opportunities for state institutions of higher education  
6 will promote the general economic welfare of the  
7 citizens of the State. In order to enhance the compet-  
8 itive position of state institutions of higher education  
9 in the current environment for research and develop-  
10 ment, expenditures for equipment and material for  
11 research projects must be handled in an expeditious  
12 fashion, and the acquisition and utilization of research  
13 grants can be simplified and expedited through the  
14 utilization of corporations.

15 (b) The interest of the citizens of the State will be  
16 best met by agreements entered into and carried out  
17 by the governing boards and corporations to provide  
18 research assistance for state institutions of higher  
19 education. Therefore, in order to facilitate research  
20 and development grants and opportunities for state  
21 institutions of higher education, it is appropriate to  
22 authorize the governing boards to contract with  
23 corporations organized for the purpose of providing  
24 such services to state institutions of higher education.

**§18B-12-3. Boards authorized to contract with corporations;  
characteristics of corporations.**

1 Each governing board for a state institution of  
2 higher education is hereby authorized to enter into  
3 agreements and any other contractual relationships  
4 with one or more corporations formed with respect to

5 such state institution of higher education, but only if  
6 each such corporation meets the following descriptions:

7 (1) The president and the president's appointees  
8 from the institution shall constitute a majority of the  
9 voting corporate directors.

10 (2) The corporation must be organized as a non-  
11 profit, non-stock corporation under the general corpo-  
12 ration laws of the state exclusively for charitable,  
13 educational or scientific purposes within the meaning  
14 of section 501(c) of the Internal Revenue Code of 1986,  
15 as amended, to foster and support research at the  
16 respective state institution of higher education and to  
17 provide evaluation, development, patenting, manage-  
18 ment and marketing services for inventions of the  
19 faculty, staff and students of such state institution of  
20 higher education.

21 (3) The meetings of the corporate directors shall be  
22 subject to the provisions of section three, article nine-  
23 a, chapter six of this code.

24 (4) Upon dissolution of the corporation, the assets of  
25 the corporation shall be transferred to such entity as  
26 the appropriate governing board shall designate for  
27 the benefit of the state institution of higher education:  
28 *Provided*, That such recipient shall be an organization  
29 operated exclusively for charitable, educational or  
30 scientific purposes as shall at such time qualify as an  
31 exempt organization under section 501(c)(3) of the  
32 Internal Revenue Code of 1986.

**§18B-12-4. Agreement; required provisions.**

1 (a) Notwithstanding section ten, article three, chap-  
2 ter twelve of this code or any other provision of law  
3 to the contrary, each governing board is hereby  
4 authorized to enter into an agreement with a corpora-  
5 tion, which agreement shall be for the benefit of such  
6 state institution of higher education and contain the  
7 following provisions, subject to further specification as  
8 shall be mutually agreed upon by the appropriate  
9 governing board and the corporation:

10 (1) On the effective date of the agreement, the

11 corporation shall be charged with the responsibility of  
12 serving as fiscal agent for sponsored projects con-  
13 ducted by the faculty, staff and students of the state  
14 institution of higher education, and grants shall be  
15 accepted by the corporation on behalf of the institution  
16 and assigned to the corporation for fiscal management.

17 (2) The corporation shall provide evaluation, devel-  
18 opment, patenting, licensing, management and mar-  
19 keting services for inventions, processes, trademarks,  
20 copyrights or any other intellectual property devel-  
21 oped by faculty, staff and students of any state  
22 institution of higher education.

23 (3) The corporation shall have the right to determine  
24 the application of the proceeds from any invention,  
25 process, trademark, copyright or any other intellectual  
26 property developed by the faculty, staff or students of  
27 a state institution of higher education among the  
28 corporation, the inventor or developer, and the  
29 institution.

30 (4) The corporation shall have such additional  
31 responsibilities related to the administration of  
32 research and development at the state institution of  
33 higher education as are necessary or desirable to  
34 facilitate the development of research at the institution.

35 (b) Upon termination of the agreement, the funds or  
36 grants paid or held by the corporation shall be paid to  
37 the state institution of higher education or its designee  
38 as the appropriate governing board shall direct.

39 (c) A corporation may utilize both corporation  
40 employees and personnel of the state institution of  
41 higher education, provided, however, that the corpora-  
42 tion may pay the costs incurred by the state institution  
43 of higher education including personnel funded on  
44 grants and contracts, fringe benefits of personnel  
45 funded on grants and contracts, administrative support  
46 costs and other costs which may require reimburse-  
47 ment and may include as costs any applicable over-  
48 head and fringe benefit assessments necessary to  
49 recover the costs expended by the state institution of  
50 higher education pursuant to the terms of the agree-

51 ment, it being the intention that a board may be  
52 reimbursed for expenses incurred by it pursuant to  
53 the agreement.

**§18B-12-5. Audit.**

1 The operations of the corporation shall be subject to  
2 an audit by an independent auditor.

**§18B-12-6. Conflicts of interest.**

1 Notwithstanding any other provision of this code to  
2 the contrary, officers and employees of a governing  
3 board and the affected state institution of higher  
4 education may hold appointments to offices of the  
5 corporation and be corporate directors or officers or  
6 employees of other entities contracting with either the  
7 corporation or a governing board of a state institution  
8 of higher education. The executive director of the  
9 corporation shall have dual appointment with the state  
10 institution of higher education. The governing board of  
11 a state institution of higher education and the corpo-  
12 rate directors must be informed of such appointments  
13 annually.

**§18B-12-7. No waiver of sovereign immunity.**

1 Nothing contained in this article shall be deemed or  
2 construed to waive or abrogate in any way the sover-  
3 eign immunity of the state or to deprive a governing  
4 board of a state institution of higher education, a state  
5 institution of higher education or any officer or  
6 employee thereof of sovereign immunity.

**§18B-12-8. Not obligation of the state.**

1 Obligations of a corporation shall not constitute  
2 debts or obligations of a state institution of higher  
3 education, the governing board thereof or the state.

**§18B-12-9. Sections and provisions severable.**

1 The sections of this article, and the provisions and  
2 parts of said sections, are severable, and it is the  
3 intention to enact the whole or any part of the powers  
4 provided for in this article, and, if any of said sections,  
5 or the provisions or parts of any said sections, or the

6 application thereof to any person or circumstance, are  
7 for any reason held unconstitutional or invalid, it is  
8 the intention that the remaining sections of this  
9 article, and the remaining provisions or parts of any  
10 said sections, shall remain in full force and effect.

**ARTICLE 13. HIGHER EDUCATION-INDUSTRY PARTNERSHIPS.**

**§18B-13-1. Legislative purpose.**

1 A pressing need exists for collaborative research and  
2 development between institutions of higher education  
3 and industry. This need also extends to assisting  
4 companies to develop and adapt to new technology. A  
5 commitment by the state to support cooperative  
6 university-industry partnerships will preserve existing  
7 jobs and create new jobs; promote development of  
8 business enterprises and help them become competi-  
9 tive; and enable West Virginia to achieve the goals of  
10 economic growth and full employment by revitalizing  
11 and diversifying the West Virginia economy. Focused  
12 research and technical assistance efforts related to  
13 West Virginia industry will speed such development,  
14 improve technology transfer, assist companies in  
15 becoming growth leaders and link basic research and  
16 technological developments to economic advancement.

17 It is the purpose of the Legislature to establish the  
18 West Virginia Foundation for Science and Technology  
19 to have as its goals the movement of the state of West  
20 Virginia into the forefront of science and technology  
21 by the year two thousand; the attraction of business,  
22 federal contracts and industry; and the creation of jobs  
23 for the people of this state, through applied science  
24 and technology and partnership programs as set forth  
25 in this article.

*20*  
~~28~~ **§18B-13-2. The West Virginia foundation for science  
and technology.**

1 There is hereby created the West Virginia founda-  
2 tion for science and technology for the purpose of  
3 developing and implementing the High-Tech 2000 fund  
4 as set forth in this article, and for the awarding of  
5 grants and other assistance as provided herein. Grants

6 shall concentrate on targeted job-creating industries,  
7 processes and research as determined by the High-  
8 Tech 2000 board of trustees according to the strategic  
9 comprehensive plan and grant program required in  
10 this article, but shall include immediate priority for  
11 the topics of computer software, federal contract  
12 procurement, flexible manufacturing, materials han-  
13 dling and distribution, and hardwood manufacturing.

**§18B-13-3. Higher education-industry collaboration and technical assistance.**

1 Institutions of higher education shall develop a plan  
2 to engage in collaborative projects designed to assist  
3 business to adapt or develop new technology under  
4 this article and shall be eligible to receive financial  
5 support through the matching grant programs defined  
6 in this article.

7 The foundation is authorized and empowered to  
8 solicit and accept financial support from sources,  
9 including federal funds, other than the state. Any  
10 institution of higher education making application for  
11 financial support from the foundation, may deposit all  
12 or any part of funds received from the special High-  
13 Tech 2000 fund into a special revenue account in the  
14 state treasury which may be established.

**§18B-13-4. High-Tech 2000 program for research and technical assistance.**

1 The High-Tech 2000 board shall have the authority  
2 to allocate any funds available to higher education-  
3 industry projects operating under the provisions of  
4 this article. The amount of the grant may not exceed  
5 the level of contribution from all other sources  
6 combined.

7 The High-Tech 2000 board shall negotiate a contract  
8 for all grants, the terms of which should, if practicable,  
9 provide for payment of negotiated royalties, royalty  
10 sharing arrangements, loans, hybrid-debt equity  
11 arrangements, stock purchase arrangements or other  
12 payments to the fund, established in section five of  
13 this article.

14 The grant program shall bring together, through  
15 challenge or matching grants, partners from the  
16 business, industry, public and educational sectors to  
17 develop and apply technologies which will strengthen  
18 existing business and stimulate the formation of new  
19 firms and products including:

20 (1) *Joint partnership research and development*  
21 *projects.* — Such projects shall require a joint effort of  
22 a West Virginia business or businesses and an institu-  
23 tion of higher education in this state with the purpose  
24 of preserving or creating jobs in this state;

25 (2) *Education and training projects.* — Such projects  
26 shall include employment training or retraining, labor  
27 market and occupational analysis, new courses, shar-  
28 ing of costly equipment, and educational or technical  
29 assistance with small business innovation centers; and

30 (3) *Entrepreneurial development projects.* — Such  
31 projects shall include technical assistance, develop-  
32 ment of business plans, management counseling,  
33 technology transfer, and venture capital assistance,  
34 with emphasis on establishing new projects, processes  
35 or services.

**§18B-13-5. Special High-Tech 2000 Fund.**

1 There is hereby established a special High-Tech 2000  
2 Fund to which shall be credited any state appropria-  
3 tions, gifts, grants or other moneys available to the  
4 fund.

**§18B-13-6. High-Tech 2000 board; grants; authority.**

1 There is hereby created a High-Tech 2000 board  
2 consisting of the governor or a designee, the president  
3 of West Virginia University or a designee, the presi-  
4 dent of Marshall University or a designee, the presi-  
5 dent of West Virginia Institute of Technology or a  
6 designee, the president of Shepherd College or a  
7 designee, the director of the governor's office of  
8 economic and community development, or a designee,  
9 and four persons from the private sector who are  
10 representative of each of the congressional districts of  
11 the state, and which such private sector members shall

12 be appointed to staggered four-year terms by the  
13 governor with the advice and consent of the Senate.

14 The High-Tech 2000 board shall have the authority  
15 to review and approve all applications for grants or  
16 funds from the special High-Tech 2000 fund estab-  
17 lished pursuant to section five of this article and to  
18 establish rules for the administration of the fund.

19 Board members representing the private sector shall  
20 be reimbursed for all necessary expenses incurred in  
21 connection with the performance of their duties as  
22 members.

**§18B-13-7. Powers and duties.**

1 The High-Tech 2000 board is hereby authorized and  
2 directed to develop a strategic comprehensive plan and  
3 grant program to attract new science and high tech-  
4 nology industries, to retain and expand current state  
5 industries through technology and other processes, and  
6 to increase research grants, contracts, matching funds  
7 and procurement arrangements from the federal  
8 government, private industry and other agencies. Such  
9 initial, and annually updated, strategic comprehensive  
10 plan shall be developed and annually filed with the  
11 governor and Legislature. The High-Tech 2000 board  
12 shall consult with business, labor and other agencies of  
13 government, including institutions of higher educa-  
14 tion, for the purpose of determining such initial, and  
15 annually updated, strategic comprehensive plan.

16 The High-Tech 2000 board shall establish a grant  
17 program, to be known as the High-Tech 2000 program,  
18 to implement the strategic comprehensive plan.

19 The High-Tech 2000 board shall establish criteria for  
20 the grant program, and applications provided for  
21 herein, together with contractual provisions to protect  
22 the state's interest and financial commitment to such  
23 grant program.

24 The High-Tech 2000 board shall review the work and  
25 projects undertaken by the center of regional progress,  
26 the center for economic research, the institute for  
27 international trade development and the West Virginia



28 foundation for science and technology.

**§18B-13-8. Appointment of the director.**

1 The director of the foundation shall be appointed by  
2 the governor, with the advice and consent of the  
3 Senate, from a list of three persons submitted by the  
4 High-Tech 2000 board. The High-Tech 2000 board shall  
5 appoint a search committee of representatives of the  
6 educational, government, business and labor sectors to  
7 solicit and interview candidates for the position of  
8 director, who shall be qualified by knowledge and  
9 experience in the field of business and industry. The  
10 search committee shall present a list of three nomina-  
11 tions to the governor. The director of the governor's  
12 office of community and industrial development shall  
13 act as director of the foundation until the governor  
14 shall appoint a director.

15 The High-Tech 2000 board shall establish a salary for  
16 the director at a level sufficient to attract and retain  
17 an individual of knowledge and experience in the  
18 field.

**§18B-13-9. Annual reports.**

1 On the first day of January of each year, the  
2 director shall submit a report on the operation of the  
3 foundation, including expenditures from the special  
4 High-Tech 2000 Fund, to the governor and to the  
5 Legislature. Such report shall include a summary of  
6 the expenditures from the subject fund and a com-  
7 plete statement of grants made hereunder.

**§18B-13-10. High-Tech 2000 research zones and parks.**

1 (a) The governor's office of community and indus-  
2 trial development shall work with the county commis-  
3 sions, the municipalities and local development  
4 authorities where state colleges and universities are  
5 located, and shall develop a plan and program for the  
6 establishment and operation of qualifying High-Tech  
7 2000 research zones, parks and technology centers on  
8 or near the campuses of selected universities and  
9 colleges to attract local business and industry engaged  
10 in science and technology related research.

11 (b) The governor's office of community and indus-  
12 trial development shall coordinate the development of  
13 such plan and program, which shall include qualifica-  
14 tions for eligible High-Tech 2000 research zones, parks  
15 and research centers and which qualifications shall  
16 require a minimum partnership commitment from the  
17 private sector either in the construction, operation or  
18 location of the research parks or zones or technology  
19 centers; and the West Virginia economic development  
20 authority shall have authority to enter into agree-  
21 ments with state institutions of higher education,  
22 private developers or other interested businesses or  
23 persons to acquire, finance, construct, operate, own,  
24 lease or otherwise manage any research park or zone  
25 and to collect rentals or other forms of payment for  
26 the operation of the research parks or zones or  
27 technology centers. Ownership of the research park or  
28 zone shall be in the state of West Virginia, the West  
29 Virginia industry and jobs development corporation or  
30 a governing board.

31 The West Virginia economic development authority  
32 is hereby authorized either singularly or in conjunc-  
33 tion with any county commission, municipality or local  
34 development authority, to issue special High-Tech 2000  
35 bonds for the purpose of this section, including, but  
36 not limited to, special project revenue bonds and  
37 special user bonds limited to the actual cost of con-  
38 struction and start-up of any qualifying and approved  
39 research park or zone or technology centers, and  
40 improvements necessary thereto, pursuant to article  
41 twelve-b, chapter eighteen of this code.

**§18B-13-11. Research park or zone tax exemptions.**

1 Notwithstanding any other provision of this code to  
2 the contrary relating to any other exemptions or  
3 credits to which any business may be entitled under  
4 this code, the following exemptions shall apply to any  
5 qualified, approved High-Tech 2000 research park or  
6 zone or technology center:

7 (a) The enterprise zone tax exemptions as provided  
8 in section five, article two-b, chapter five-b of this

9 code;

10 (b) A tax credit for qualified business, in the amount  
11 of the workers' compensation premium paid in accor-  
12 dance with article two, chapter twenty-three of this  
13 code, which credit shall be credited against any  
14 corporate net income tax or personal income tax of the  
15 qualified business or liability of the owners of the  
16 qualified business which is a proprietorship or a  
17 partnership;

18 (c) The deferral for qualified business of all state  
19 corporate net income tax, business and occupation tax,  
20 telecommunications tax, severance tax, business fran-  
21 chise tax, or other state income tax liability for the  
22 start-up period of the business not to exceed three  
23 years, and qualified business shall be entitled to an  
24 exemption from any such deferred tax if such business  
25 both employs at least seven persons on a full-time  
26 basis as of the due date of the deferred tax liability,  
27 and the qualified business maintains an average  
28 employment of at least seven full time employees over  
29 the last two years of the three year start-up period.

**§18B-13-12. Use of state property and equipment; faculty.**

1 (a) The governing boards are authorized to provide  
2 for the low cost and economical use and sharing of  
3 state property and equipment, including computers,  
4 research labs and other scientific and necessary  
5 equipment to assist any qualified business within an  
6 approved research park or zone or technology center.  
7 The governing boards shall approve a schedule of  
8 nominal or reduced cost reimbursements to the state  
9 for such use.

10 (b) The governing boards shall develop and provide  
11 for a program of release time, sabbaticals or other  
12 forms of faculty involvement or participation with any  
13 qualifying business.

14 (c) The Legislature finds that cooperation, communi-  
15 cation and coordination are integral components of  
16 higher education's involvement in economic develop-  
17 ment. In order to proceed in a manner that is cost

18 effective and time efficient, it shall be the duty of the  
19 governing boards to review and coordinate such  
20 aspects of the programs administered by the governing  
21 boards. Such review and coordination shall not operate  
22 so as to adversely affect sources of funding nor shall it  
23 affect any statutory characterization of any program as  
24 an independent entity. The governing boards shall  
25 report on an annual basis to the Legislature and the  
26 governor. The report shall contain the following  
27 information:

28 (1) The number of seminars and workshops  
29 conducted;

30 (2) The subject matter addressed in each seminar  
31 and workshop;

32 (3) The number of feasibility studies conducted and  
33 the subject matter contained in each study; and

34 (4) An accounting of the cost of all travel expenses,  
35 seminars, workshops and feasibility studies.

**ARTICLE 14. MISCELLANEOUS.**

**§18B-14-1. Authorization to sell West Virginia University  
poultry farm properties located in  
Morgantown.**

1 (a) The board of trustees is hereby authorized and  
2 empowered to sell those parcels of land situate on the  
3 Van Voorhis Road in Monongalia County, West Vir-  
4 ginia, bounded and described as follows:

5 Beginning at a post standing south of the center line  
6 of the said Van Voorhis Road, in the line of property  
7 now or formerly of Vandervort, 170.0 feet, thence from  
8 said post, S. 75 degrees 34' E. 1190.6 feet to a white oak  
9 stump, corner to land now or formerly of Gorman,  
10 Goodwin, Baker and Hawkins; thence with a line of  
11 the said corner to land of J. D. Harless, and with his  
12 said line, N. 58 degrees 18' W. 279.7 feet to a point in  
13 the center line of said Van Voorhis Road; thence with  
14 the center line of said road, S. 56 degrees 25' W. 946.1  
15 feet to a point in the center of said road; thence s. 10  
16 degrees 34' E. 170.0 feet to the place of beginning,

17 containing 15.71 acres, as surveyed and platted by B.  
18 W. Reynolds, Surveyor, October 28, 1946.

19 And, beginning at a stake in a line of Charles Baker  
20 and 27.96 feet from the corner of Charles Baker and D.  
21 L. Hartman; thence N. 26 degrees 26' E. 150 feet to a  
22 stake; thence S. 63 degrees 34' E. 70 feet to a stake;  
23 thence S. 26 degrees 26' thence N. 36 degrees 58' W. 7.29  
24 feet to the place of beginning, containing .28 acres,  
25 more or less. And, beginning at a stake in a line of  
26 Charles Baker and on a corner of land of Virginia May  
27 Burruss and A. J. W. Headlee; thence N. 26 degrees 26'  
28 E. 160 feet to a stake; thence S. 63 degrees 34' E. 70 feet  
29 to a stake; thence S. 26 degrees 26' W. 160 feet to a  
30 stake on a corner of land of Virginia May Burruss and  
31 A. J. W. Headlee; thence N. 63 degrees 34' W. 75 feet  
32 to the place of beginning, containing .257 acres, more  
33 or less.

34 And, beginning at a stone corner of the lands of W.  
35 W. McClure and L. O. Starkey, and running Southwest  
36 a distance of 660 feet (40 poles) to a point or corner of  
37 lands of L. O. Starkey and Emma Hill; thence west-  
38 ward a distance of 587.4 feet (35.35 poles) to a white oak  
39 tree, corner to lands of the said Emma Hill and  
40 Charles M. Baker; thence northwest a distance of 610.5  
41 (37 poles) to a walnut tree, corner to lands of Charles  
42 M. Baker and Martin L. Goodwin; thence in an  
43 easterly direction a distance of 990 feet (60 poles) to the  
44 cornerstone herein before mentioned as the place of  
45 beginning, containing 12 3/4 acres, more or less.

46 And, beginning at a point in the line of property  
47 formerly belonging to James Gorman, being the  
48 property formerly occupied by S. S. Ivill, which said  
49 beginning point is N. 9 1/2 degrees W. 739 feet from the  
50 center of Chestnut Ridge Road; thence with the line of  
51 property formerly belonging to Coleman Vandervort  
52 and now belonging to Headlee, and thence with a line  
53 of Headlee, S. 80 degrees E. 535 feet, more or less, to  
54 the corner of Baker; and thence with Baker two lines  
55 in a Southerly direction with the line of Baker, 645  
56 feet to a point and 576 feet to a point in the line of  
57 Baker, which said last mentioned point is 754 feet in a

58 northerly direction from the center of said Chestnut  
59 Ridge Road; and thence with an arbitrary line through  
60 the property formerly belonging to Adam W. Thomp-  
61 son in a Westerly direction 570 feet to the place of  
62 beginning, containing 16 acres, more or less; and being  
63 the same real estate conveyed to the grantor, Lee  
64 Moore, by deed from Benjamin G. Reeder and Marie  
65 F. Reeder, his wife, dated February 28, 1956, and  
66 recorded in the office of the clerk of the County of  
67 Monongalia, West Virginia, at a public auction: *Pro-*  
68 *vided*, That prior to such action the board of trustees  
69 shall have the property appraised by two licensed  
70 appraisers and shall not sell the property for less than  
71 the average of the two appraisals.

72 (b) The proceeds from the sale of the property  
73 referred to shall be deposited in a special revenue  
74 account from which the board of trustees is hereby  
75 authorized to expend funds to relocate the West  
76 Virginia University poultry facility with such surplus  
77 as may be left being used for improvements to the  
78 college of agriculture and forestry facilities or depos-  
79 ited in a special medical school fund heretofore  
80 created in the state treasury under the provisions of  
81 section two, article nineteen, chapter eleven of this  
82 code, for educationally related projects.

**§18B-14-2. Authorization to sell West Virginia University  
vacant lot located in Morgantown and biolog-  
ical research station located in Terra Alta.**

1 (a) The board of trustees is hereby authorized and  
2 empowered to sell those parcels of land situate on the  
3 Chestnut Ridge Road in Monongalia County, West  
4 Virginia, bounded and described as follows:

5 Beginning at a hub in the edge of the Chestnut  
6 Ridge Road along the boundary formerly belonging to  
7 Sam Ivill; thence with Ivill, N 10 degrees 01' W 260.04  
8 feet to a hub, corner to the lands of Blanche Sayre  
9 found in Deed Book No. 481, at Page 95; thence with  
10 Sayre, S 89 degrees 36' E 295.45 feet to a hub, corner  
11 to W. V. Board of Regents in Deed Book No. 584, at  
12 Page 1; thence with W. V. Board of Regents S O

13 degrees 55' W 255.82 feet to a hub at the northern edge  
14 of the Chestnut Ridge Road; thence along the northern  
15 edge of the Chestnut Ridge Road, N 89 degrees 36' W  
16 254.00 feet to the place of beginning, containing 1.61  
17 acres, more or less, as surveyed by Triad Engineering  
18 Consultants on 6/27/79.

19 (b) The board of trustees is hereby further autho-  
20 rized and empowered to sell those parcels of land  
21 situate in Terra Alta, Preston County, West Virginia,  
22 bounded and described as follows:

23 Those lots or parcels of real estate situated in  
24 Portland District, Preston County, West Virginia,  
25 containing 48.28 acres recorded under Book 283, Page  
26 217.

27 (c) Such sale shall be by public auction: *Provided*,  
28 That prior to such action the board of trustees shall  
29 have the property appraised by two licensed apprais-  
30 ers and shall not sell the property for less than the  
31 average of the appraisals.

32 (d) The proceeds from the sale of the property  
33 referred to shall be deposited in a special revenue  
34 account from which the board of trustees is hereby  
35 authorized to expend the funds therefrom for develop-  
36 ment of the Downtown Campus, at West Virginia  
37 University, in Morgantown.

## **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

### **ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.**

#### **§18C-1-1. Administration generally.**

1 The senior administrator jointly employed by the  
2 chancellors of the board of trustees and the board of  
3 directors shall, as provided in section two, article four,  
4 chapter eighteen-b of this code, have a ministerial  
5 duty to administer, oversee or monitor all state and  
6 federal student loan, scholarship and state aid pro-  
7 grams which are administered at the state level in  
8 accordance with established guidelines, in consultation  
9 with and under the direction of the governing boards.

10 Such programs include, but are not limited to: The  
11 guaranteed student loan program under this article,  
12 which may be administered by a private nonprofit  
13 agency; the medical student loan program under  
14 article three of this chapter; the Underwood-Smith  
15 teacher scholarship program under article twenty-one,  
16 chapter eighteen of this code; the state scholarship  
17 program, commonly known as the West Virginia  
18 higher education grant program, under article twenty-  
19 two-b, chapter eighteen of this code; the higher  
20 education student assistance loan program under  
21 article twenty-two-d, chapter eighteen of this code; the  
22 West Virginia higher education tuition trust act under  
23 article thirty, chapter eighteen of this code, which  
24 shall be administered by the state treasurer as pro-  
25 vided in said article; the state aid programs for  
26 students of optometry, under article three of this  
27 chapter; the state aid programs for students of veter-  
28 inary medicine under section six-a, article eleven,  
29 chapter eighteen of this code; any reciprocal program  
30 and contract program for student aid under sections  
31 three and four, article four of chapter eighteen-b of  
32 this code; any other state level student aid program  
33 under this code; and any federal grant or contract  
34 student assistance or support programs administered  
35 at the state level.

#### §18C-1-2. Definitions.

1 The definitions used in this chapter, unless the  
2 context clearly indicates otherwise, shall be the  
3 definitions provided in section two, article one, chapter  
4 eighteen-b of this code.

5 The term "board" or "governing board" in the  
6 singular or plural as used in this chapter shall be  
7 deemed to mean the senior administrator employed by  
8 the governing boards when a power or duty assigned  
9 to a governing board is delegated by it to the senior  
10 administrator.

#### §18C-1-3. Transfer of obligations.

1 As of the first day of July, one thousand nine  
2 hundred eighty-nine, any obligations of the board of



3 regents pertaining to student loans, scholarships or  
4 state aid shall be transferred and deemed the obliga-  
5 tions of the governing boards.

**ARTICLE 2. GUARANTEED STUDENT LOAN PROGRAM.**

**§18C-2-1. Purpose of provisions of article relating to  
guaranteed student loan program; loan pro-  
gram to be administered by senior adminis-  
trator of governing boards.**

1 The Legislature enacts the provisions of this article  
2 which relate to the establishment of the guaranteed  
3 student loan program to continue and encourage  
4 education of citizens of this state who are in need of  
5 financial assistance, such assistance and education  
6 being for the welfare of this state, and the Legislature  
7 hereby declares such to be a public purpose.

8 The guaranteed student loan program established  
9 and authorized by this article shall be administered by  
10 the senior administrator of the board of trustees and  
11 board of directors acting under their direction.

**§18C-2-2. "Act," "undertaking" and "obligations" defined.**

1 As used in this article, the following words and  
2 terms shall have the following meanings, unless the  
3 context shall indicate another or different meaning or  
4 intent:

5 (a) The words "act" or "undertaking" shall mean  
6 the official act of the governing boards, or senior  
7 administrator acting under the direction of the boards,  
8 in connection with the acquisition or disposition of all  
9 or any part of obligations or interest therein which the  
10 governing boards are authorized to buy or sell  
11 hereunder.

12 (b) The word "obligations" shall mean those eviden-  
13 ces of debt which the governing boards may buy, sell,  
14 endorse, or guarantee under the provisions of this  
15 article.

**§18C-2-3. Authority to buy and sell certain student obliga-  
tions; undertakings not to constitute state  
debt; undertakings limited to available funds.**

1 In order to facilitate the education of residents in  
2 this state and promote the industrial and economic  
3 development of the state, the governing boards are  
4 hereby authorized and empowered to buy and sell  
5 obligations of students who are residents of West  
6 Virginia, and who have been residents of this state for  
7 at least one year and are students or have been  
8 accepted as students at state supported or private  
9 institutions of higher education, or vocational schools  
10 accredited by a nationally recognized accrediting  
11 agency or by a state agency designated by the gover-  
12 nor and representing loans made to such students who  
13 have met the requirement of financial need as deter-  
14 mined by the governing boards, such loans having  
15 been made for the purpose of an education.

16 No act or undertaking of the governing boards shall  
17 be deemed to constitute a debt of the state or of any  
18 political subdivision thereof or a pledge of the faith  
19 and credit of the state or of any such political subdi-  
20 vision, and shall be payable solely from the funds of  
21 the governing boards specifically appropriated for the  
22 guaranteed student loan program. All such acts and  
23 undertakings shall contain on the face thereof a  
24 statement to the effect that neither the state nor the  
25 governing boards shall be obligated to pay the same or  
26 the interest thereon except from revenues of the  
27 governing boards and that neither the faith and credit  
28 nor the taxing power of the state or of any political  
29 subdivision thereof is pledged to the payment of the  
30 principal of or the interest on such acts and  
31 undertakings.

32 All expenses incurred in carrying out the provisions  
33 of this article dealing with the guaranteed student loan  
34 program shall be payable solely from funds provided  
35 for the purpose and no liability or obligation shall be  
36 incurred by the governing boards hereunder beyond  
37 the extent to which money shall have been provided  
38 under the applicable provisions of this article for the  
39 guaranteed student loan program.

**§18C-2-4. Powers and duties of senior administrator regard-  
ing loan program.**

1 The senior administrator acting under direction of

2 the governing boards is hereby authorized and  
3 empowered:

4 (1) To fix and revise from time to time and charge  
5 and collect fees for its acts and undertakings;

6 (2) To establish rules concerning the acts and  
7 undertakings;

8 (3) To acquire, hold and dispose of personal property  
9 in the exercise of its powers and the performance of  
10 its duties;

11 (4) To make and enter into all contracts and agree-  
12 ments necessary or incidental to the performance of  
13 its duties and the execution of its powers under this  
14 article;

15 (5) To employ in its discretion such employees as it  
16 may deem necessary to carry out its powers and duties  
17 as enumerated in this article;

18 (6) To receive and accept from any federal or private  
19 agency, corporation, association or person, grants to be  
20 expended in accomplishing the objectives of this  
21 article and to receive and accept from the state, from  
22 any municipality, county or other political subdivision  
23 thereof and from any other source, aid or contribu-  
24 tions of either money, property, or other things of  
25 value to be held, used and applied only for the  
26 purposes for which such grants and contributions may  
27 be made;

28 (7) To sue and be sued as provided by law;

29 (8) To do all other acts and things necessary or  
30 convenient to carry out the powers expressly granted  
31 by the provisions of this article which relate to the  
32 guaranteed student loan program. Nothing in this  
33 article shall be construed to empower the governing  
34 boards to engage in the business of banking or  
35 insurance.

**§18C-2-5. Title to property.**

1 Title to any property acquired by the governing  
2 boards under the provisions of this article which relate

3 to the guaranteed student loan program shall be taken  
4 and held in the name of the governing boards.

**§18C-2-6. Acquisition of contingent interests in obligations  
from lending institutions; collection of delin-  
quent obligations.**

1 With funds available to the governing boards for  
2 purposes other than the payment of compensation to  
3 personnel and the lease or rental of offices or equip-  
4 ment, the governing boards may acquire from any  
5 bank or other lending institution of this state a  
6 contingent interest in student obligations. The total  
7 contingent interest of the governing boards on all such  
8 obligations shall not exceed at any one time a sum of  
9 twelve and one-half times the total funds which the  
10 governing boards can employ to acquire such contin-  
11 gent interests. When a governing board acquires any  
12 such contingent interest, it may require the payment  
13 to it of a portion of the interest payable upon any such  
14 obligation. In each such acquisition, the governing  
15 board shall provide that at such time as the obligation  
16 becomes delinquent, the bank or other lending institu-  
17 tion shall notify the governing board forthwith and  
18 shall transfer forthwith to the governing board, by  
19 assignment or otherwise, an interest in such obligation  
20 equal to the contingent interest of the governing board  
21 therein. The bank or other lending institution and the  
22 governing board shall forthwith take such steps as  
23 may be necessary to recover the balance due upon any  
24 such obligation, and such recovery shall be apporti-  
25 oned between the governing board and the bank or  
26 other lending institution as their respective interests  
27 may appear.

**§18C-2-7. Terms of acquisitions.**

*Ac*  
1 Each governing board shall prescribe the terms,  
2 conditions and limitations upon which it will acquire  
3 a contingent or direct interest in any obligation and  
4 such terms, conditions and limitations shall include,  
5 but without limiting the generality thereof, the terms  
6 for payment of principal and interest, applicable life or  
7 other insurance which may be required in connection

8 with any such obligation and who shall pay the  
9 premiums thereon, the safekeeping of assets pledged  
10 to secure any such undertaking, and any and all  
11 matters in connection with the foregoing as will  
12 protect the assets of the governing board.

**§18C-2-8. Trust fund established; limitations on use of fund;  
duties of treasurer in connection therewith;  
special account created.**

1 The appropriation made to the governing boards  
2 under the provisions of this article which relate to the  
3 guaranteed student loan program shall be used exclu-  
4 sively for the purpose of acquiring contingent or  
5 vested rights in obligations which it may acquire  
6 under this article, and such appropriation, payments,  
7 revenue and interest, as well as other income received  
8 in connection with such obligations, is hereby estab-  
9 lished as a trust fund. Such fund shall be used for the  
10 purposes of the governing boards other than for  
11 maintenance and operation.

12 The maintenance and operating expenses of the  
13 governing board shall be paid from funds specifically  
14 appropriated for such purposes. No part of the trust  
15 fund established under this section shall be expended  
16 for such purposes.

17 The governing board shall be the trustee of the trust  
18 fund hereby created, and all investments to be made  
19 from the assets of such trust shall be made by the state  
20 treasurer in the manner provided by law. For the  
21 purposes of this article, there is hereby created in the  
22 treasury of this state a special revolving account for  
23 deposits and withdrawals as herein provided. The state  
24 treasurer shall be the custodian of the assets of the  
25 board. All payments from the accounts thereof shall be  
26 made by the treasurer upon warrants issued by the  
27 auditor and upon vouchers signed by such persons as  
28 are designated by the governing board. A duly attested  
29 copy of a resolution of the governing board designating  
30 such persons shall be filed with the state treasurer as  
31 the authority for issuing warrants upon such vouchers.

**§18C-2-9. Construction of provisions of article relating to loan program.**

1 The provisions of this article which relate to the  
2 guaranteed student loan program shall be liberally  
3 construed to the end that its beneficial purposes may  
4 be effectuated.

**ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN PROGRAMS.**

**§18C-3-1. Medical student loan program; establishment; administration; eligibility; loan forgiveness.**

1 (a) There is hereby created a medical student loan  
2 program to be administered by the senior administra-  
3 tor. The purpose of this program is to provide loans to  
4 state residents who demonstrate financial need, meet  
5 academic standards and are enrolled or accepted for  
6 enrollment at the West Virginia University school of  
7 medicine, Marshall University school of medicine or  
8 the West Virginia school of osteopathic medicine.

9 (b) There is hereby established a special revolving  
10 fund account under the board of trustees in the state  
11 treasury to be known as the medical student loan fund  
12 which shall be used to carry out the purposes of this  
13 section. The fund shall consist of: (1) Amounts allo-  
14 cated by the board of trustees from the medical  
15 education fee as established by section four, article ten  
16 of chapter eighteen-b of this code: *Provided*, That the  
17 board of trustees may transfer to this fund for student  
18 loans an amount not to exceed thirty-three percent of  
19 the total collections from the medical education fee in  
20 any one year; (2) appropriations provided by the  
21 Legislature; (3) principal and interest repaid by  
22 medical student loan recipients; and (4) other amounts  
23 which may be available from external sources. Balan-  
24 ces remaining in the fund at the end of the fiscal year  
25 shall not expire or revert. All costs associated with the  
26 administration of this section shall be paid from the  
27 medical student loan fund.

28 (c) The board shall promulgate rules for the admin-  
29 istration of the medical student loan program. Such  
30 rules shall include, but not be limited to, the areas of

31 academic standards, financial need loan amounts,  
32 residency requirements, loan repayment require-  
33 ments, loan forgiveness provisions, interest rates,  
34 collection procedures and financial management.  
35 Loans shall be awarded at the institutional level in a  
36 manner consistent with rules promulgated by the  
37 board of trustees.

38 (d) An individual shall be eligible for loan consider-  
39 ation if the individual is a resident of this state as  
40 defined by the trustees, demonstrates financial need,  
41 meets established academic standards and is enrolled  
42 or accepted for enrollment at one of the aforementi-  
43 oned schools of medicine in a program leading to the  
44 degree of medical doctor (M. D.) or doctor of osteopa-  
45 thy (D. O.): *Provided*, That the individual has not yet  
46 received one of these degrees and is not in default of  
47 any previous student loan.

48 (e) The board, in conjunction with the state depart-  
49 ment of health, shall determine qualifying medically  
50 underserved areas and medical specialties in which  
51 there is a shortage of physicians.

52 At the end of each fiscal year, any individual who  
53 has received a medical student loan and who has  
54 actually rendered services as a medical doctor or  
55 doctor of osteopathy in this state in a designated  
56 medically underserved area or in a designated medical  
57 specialty in which there is a shortage of physicians,  
58 may submit to the trustees a statement of service on  
59 a form provided for that purpose. Upon receipt of such  
60 statement in proper form, the trustees shall cancel  
61 appropriate portions of the outstanding loan or loans  
62 in accordance with rules promulgated by the trustees.

**§18C-3-2. State aid for students of optometry.**

1 The board of trustees is hereby authorized to enter  
2 into a contract with an educational institution or  
3 institutions outside the state that offer training in  
4 optometry, by the terms of which the board of trustees  
5 may obligate itself to pay such institution, within the  
6 limits of any appropriation made for the purpose, a  
7 stated amount per year for each West Virginia student

8 the institution will agree to accept for training in  
9 optometry.

10 The board of trustees shall each year send to any  
11 institution with which such contract is made a certi-  
12 fied list of all persons applying to the trustees for  
13 training in optometry who are bona fide citizens and  
14 residents of this state prior to the filing of their  
15 applications, and who have completed either within or  
16 without the state the course of study required by such  
17 institution as a prerequisite to the study of optometry.

18 Any person who receives state aid under this section  
19 shall, upon graduation from an educational institution  
20 for study of optometry, be required to practice optom-  
21 etry for a period of two years in this state, or in lieu  
22 thereof shall, within sixty days from the date of  
23 graduation, reimburse the board of trustees for any  
24 tuition advanced to such person by the trustees.

## **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

### **ARTICLE 3B. TRESPASS.**

#### **§61-3B-4. Trespass on student residence premises or student facility premises of an institution of higher education.**

1 (a) For the purposes of this section:

2 (1) "Residence hall" means housing or a unit of  
3 housing provided primarily for students as a tempo-  
4 rary or permanent dwelling place or abode and owned,  
5 operated or controlled by an institution of higher  
6 education.

7 (2) "Student facility" means a facility owned,  
8 operated or controlled by an institution of higher  
9 education at which alcoholic liquor or nonintoxicating  
10 beer is purchased, sold or served to students enrolled  
11 at such institution, but shall not include facilities at  
12 which athletic events are regularly scheduled and an  
13 admission fee is generally charged.

14 (3) "Institution of higher education" means any state  
15 university, state college or state community college  
16 under the control, supervision and management of the



17 West Virginia board of trustees or West Virginia board  
18 of directors, or any other university, college or institu-  
19 tion of higher education in the state subject to rules  
20 for accreditation under the provisions of section seven,  
21 article four, chapter eighteen-b of this code.

22 (4) "Person authorized to have access to a residence  
23 hall or student facility" means:

24 (A) A student who resides or dwells in the residence  
25 hall; or

26 (B) An invited guest of a student who resides or  
27 dwells in the residence hall; or

28 (C) A parent, guardian or person who has legal  
29 custody of a student who resides or dwells in the  
30 residence hall; or

31 (D) An employee of the institution of higher educa-  
32 tion who is required by such employment by such  
33 institution to be in the residence hall or student  
34 facility and who is acting within the scope of his or her  
35 employment; or

36 (E) A delivery person, repair person or other such  
37 person who is not an employee of the institution of  
38 higher education but who nonetheless has a legitimate  
39 commercial reason to be in the residence hall or  
40 student facility and who is acting pursuant to such  
41 legitimate commercial reason.

42 (b) If a person authorized to have access to a  
43 residence hall or a student facility enters such resi-  
44 dence hall or student facility and by such presence or  
45 acts interferes with the peaceful or orderly operation  
46 of such residence hall or student facility, such person  
47 may be asked to leave such residence hall or student  
48 facility. If a person not authorized to have access to a  
49 residence hall or student facility enters such a resi-  
50 dence hall or student facility, that person may be  
51 asked to leave such residence hall or student facility  
52 notwithstanding the fact that he or she has not  
53 interfered with the peaceful or orderly operation of  
54 such residence hall or student facility or otherwise  
55 committed a breach of the peace or violated any

56 statute or ordinance. Such request to leave may be  
57 made by the president or other administrative head of  
58 the institution of higher education, an employee  
59 designated by the president to maintain order in the  
60 residence hall or student facility, a security officer  
61 appointed pursuant to the provisions of section five,  
62 article four, chapter eighteen-b of this code, or a  
63 municipal police officer, a sheriff or deputy sheriff, or  
64 a member of the department of public safety.

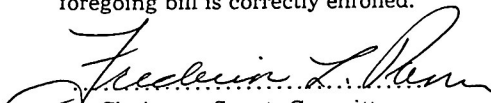
65 (c) It shall be unlawful for a person to remain in a  
66 residence hall or student facility after being asked to  
67 leave as provided for in subsection (b) of this section.

68 (d) Any person who violates the provisions of  
69 subsection (c) of this section shall be guilty of a  
70 misdemeanor, and, upon conviction thereof, shall be  
71 fined fifteen dollars. For any second or subsequent  
72 conviction for a violation occurring within one year  
73 after a previous violation for similar conduct, such  
74 person shall be fined an amount not to exceed one  
75 hundred dollars.

76 (e) This section shall not be construed to be in  
77 derogation of the common law, nor shall the provisions  
78 of this section contravene or infringe upon existing  
79 statutes related to the same subject.

Enr. Com. Sub. For Com. Sub. For S. B. No. 420]172


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

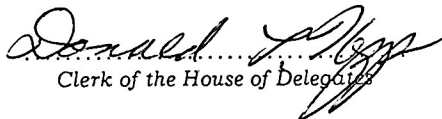
  
.....  
Chairman Senate Committee

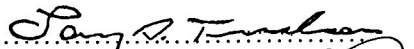
  
.....  
Chairman House Committee


Originated in the Senate.

To take effect July 1, 1989.

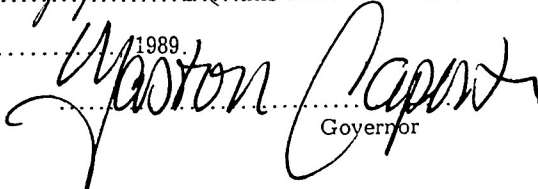
  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is approved* this the *16<sup>th</sup>* day of *April* 1989.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/89

Time 10:42