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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

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## ENROLLED

*Com. Sub. for Com. Sub. for*  
SENATE BILL NO. 377

(By Senators *Burdette, Mr. President, and*  
*Boley, By Request of the Executive*)

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PASSED *April 21,* 1993  
In Effect *from* Passage

**E N R O L L E D**

COMMITTEE SUBSTITUTE

FOR

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**Senate Bill No. 377**

(BY SENATORS BURDETTE, MR. PRESIDENT, AND BOLEY,  
BY REQUEST OF THE EXECUTIVE)

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[Passed April 21, 1993; in effect from passage.]

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AN ACT to repeal article twenty-two-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section ten, article one, chapter eighteen-b of said code; to amend and reenact sections thirteen and fifteen, article two, chapter five-a of said code; to amend and reenact section two-a, article five, chapter ten of said code; to amend and reenact section eight, article three, chapter twelve of said code; to amend article one, chapter eighteen-b of said code by adding thereto three new sections, designated sections one-a, one-b and five-a; to amend and reenact sections two, five, seven and eight of said article; to amend and reenact sections one and three, article two of said chapter; to further amend said article by adding thereto a new section, designated section eight; to amend and reenact sections one, three

and four, article three of said chapter; to amend and reenact section two, article three-a of said chapter; to further amend said chapter by adding thereto a new article, designated article three-c; to amend and reenact sections one and two, article four of said chapter; to amend and reenact section two, article five of said chapter; to further amend said article by adding thereto a new section, designated section two-a; to amend and reenact section one, article six of said chapter; to amend and reenact sections one and five, article seven of said chapter; to further amend said article by adding thereto five new sections, designated sections six, seven, eight, nine and ten; to amend and reenact section three, article eight of said chapter; to further amend said article by adding thereto a new section, designated section three-a; to amend and reenact sections four and five, article nine of said chapter; to further amend said article by adding thereto a new section, designated section eleven; to amend and reenact sections one and fourteen, article ten of said chapter; to amend and reenact article thirteen of said chapter; to amend article fourteen of said chapter by adding thereto a new section, designated section three; to amend and reenact sections two and three, article seventeen of said chapter; and to amend chapter eighteen-c of said code by adding thereto a new article, designated article five, all relating to higher education; advancing certain recommendations of the higher education advocacy team; providing for quarterly allotment shortfalls through temporary special revenue transfers and special consideration by secretary of administration; stating legislative intent and goals regarding distance learning; placing secretary of education and arts on distance learning council; placing council under jurisdiction of secretary of education and arts; allowing term extension of chair of distance learning council; transferring funds of distance learning coordinating council to secretary of education and arts; setting forth goals for post-secondary education; providing for implementation of said goals; redefining community college terms; requiring governing boards and state board of education to provide secretary of education and arts with requested informa-

tion in timely manner; requiring post-secondary academic success score testing; authorizing distance learning pilot program; requiring specified periodic studies as part of five-year review; giving governing boards jurisdiction over teacher education programs; requiring presidential performance evaluations to be written; allowing governing boards to enter into contracts and consortium agreements for specified purposes; requiring rules for advance placement; requiring individuals to work with state auditor and treasurer and report to legislative oversight commission on education accountability regarding efficient expenditure methods that ensure payment within fifteen days of properly submitted requests therefor; requiring uniform method for conducting personnel transactions; allowing federal employees to serve on higher education governing boards; requiring boards and institutions to adopt salary policies; stating legislative intent to provide funds for salaries from appropriations; establishing consortium of comprehensive child development centers and providing generally therefor; giving Fairmont state and West Virginia institute of technology primary responsibility for technical preparation teacher training programs; specifying duties of board of directors regarding comprehensive community college system; requiring board of directors to delegate authority as deemed prudent to community college presidents; providing for joint administrative board for facilities shared by public and higher education; deleting vice-chancellor for community colleges; replacing said vice-chancellor with chancellor of board of directors on joint commission for vocational-technical-occupational education; creating governor's council on higher and other post-secondary education and providing generally therefor; setting forth powers and duties of council and limitations thereto; updating duties of senior administrator; requiring governing boards to establish resource allocation model and policies; requiring funds, including funds for salary increases, be distributed in accordance with policies; authorizing certain transfers of general and special revenue funds within and among certain higher education accounts in accordance with stated procedure

and with stated limitations; authorizing and providing generally for special efficiency surplus revolving fund which may be carried over to next fiscal year and expended only by line item appropriation; authorizing Legislature to transfer certain funds and redesignate same; requiring reports regarding line item transfer and surplus fund; requiring institutional board of advisors to provide advice and assistance to president relating to certain activities; authorizing administrative officer appointed to institutional board of advisors to serve more than two terms and coordinate institution's economic development activities; providing for preferential hiring of existing classified employees; requiring boards to establish policies, with assistance of faculty and/or classified employees, regarding continuing education and staff development, adjunct faculty, professional productivity, teaching and research duties of faculty-rank campus administrators and employment innovations; providing across-the-board annual salary increase of two thousand dollars for full-time faculty, including extension faculty, subject to appropriation; providing across-the-board annual salary increase of fifteen hundred dollars for full-time, nonclassified employees subject to appropriation of funds; setting forth timeline for approval and implementation of uniform employee classification system for classified employees without additional appropriation; stating need for emergency rule in regard thereto; declaring certain provisions null and void upon implementation of rule; providing across-the-board monthly salary increase of one hundred twenty-five dollars for full-time classified employees, including extension employees, subject to appropriations; providing classified employee salary increase be prorated for part-time classified employees as defined; allowing classified employees at maximum salary to receive limited salary increase; authorizing future salary increases for non-classified and classified employees and faculty; stating goal for level of tuition and required fees for resident and nonresident students at state institutions of higher education; setting forth fees for off-campus courses; defining full-time enrollment for fee purposes; provid-

ing alternative methods for payment of fees and extensions in cases of legal work stoppages; requiring boards to adopt standardized refund policy; requiring penalties, by rule, for excessive course registration; authorizing public interest research group fee; suggesting stated textbook policies in order to minimize costs; streamlining provision regarding higher education-industry partnerships; limiting tax credits and deferrals; requiring certain reports; authorizing southern West Virginia community college to sell real property as set forth; authorizing legislative rules; recodifying higher education grant program; removing administration from the state commission on higher education and placing it with senior administrator; requiring additional one and one-half million dollars appropriation each year for five years to that grant program; deleting obsolete code provision dealing with the task force on faculty salaries; and deleting or updating outdated code sections.

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

That article twenty-two-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section ten, article one, chapter eighteen-b of said code be repealed; that sections thirteen and fifteen, article two, chapter five-a of said code be amended and reenacted; that section two-a, article five, chapter ten of said code be amended and reenacted; that section eight, article three, chapter twelve of said code be amended and reenacted; that article one, chapter eighteen-b of said code be amended by adding thereto three new sections, designated sections one-a, one-b and five-a; that sections two, five, seven and eight of said article be amended and reenacted; that sections one and three, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eight; that sections one, three and four, article three of said chapter be amended and reenacted; that section two, article three-a of said chapter be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article three-c; that sections one and two, article four of said chapter be amended and reenacted; that section two, article

five of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section two-a; that section one, article six of said chapter be amended and reenacted; that sections one and five, article seven of said chapter be amended and reenacted; that said article be further amended by adding thereto five new sections, designated sections six, seven, eight, nine and ten; that section three, article eight of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section three-a; that sections four and five, article nine of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eleven; that sections one and fourteen, article ten of said chapter be amended and reenacted; that article thirteen of said chapter be amended and reenacted; that article fourteen of said chapter be amended by adding thereto a new section, designated section three; that sections two and three, article seventeen of said chapter be amended and reenacted; and that chapter eighteen-c of said code be amended by adding thereto a new article, designated article five, all to read as follows:

**CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

**ARTICLE 2. FINANCE DIVISION.**

**§5A-2-13. Examination and approval of expenditure schedules; amendments; copies to legislative auditor.**

1 The secretary shall examine the expenditure sched-  
2 ule of each spending unit, and if it conforms to the  
3 appropriations made by the Legislature, the require-  
4 ments of this article, and is in accordance with sound  
5 fiscal policy, the secretary shall approve the schedule.  
6 In addition, the secretary shall give special consider-  
7 ation in the approval of expenditure schedules to  
8 accounts in which the appropriations consist predom-  
9 inantly of personal services funds so that the quarterly  
10 allotments of funds to the various spending units  
11 pursuant to section fifteen of this article are sufficient  
12 to pay such personnel costs in the quarter in which  
13 they are due.

14 The expenditure of the appropriations made to a  
15 spending unit shall be only in accordance with the  
16 approved expenditure schedule unless the schedule is  
17 amended with the consent of the secretary, or unless  
18 appropriations are reduced in accordance with the  
19 provisions of sections twenty to twenty-three, inclu-  
20 sive, of this article. The spending officer of a spending  
21 unit shall transmit to the legislative auditor a copy of  
22 each and every requested amendment to such sched-  
23 ule at the same time that such requested amendment  
24 is submitted to the secretary. The secretary shall send  
25 to the legislative auditor copies of any schedule  
26 amended with the secretary's approval.

**§5A-2-15. Requests for quarterly allotments; approval or  
reduction by governor.**

1 At least thirty days prior to the beginning of each  
2 quarter of the fiscal year, each spending officer shall  
3 submit to the secretary a request for an allotment of  
4 public funds sufficient to operate the unit during the  
5 ensuing quarter in accordance with the approved  
6 expenditure schedule.

7 The secretary shall examine the requests, giving  
8 special consideration to accounts in which the appro-  
9 priations consist predominantly of personal services  
10 funds so that the quarterly allotments of funds to the  
11 various spending units are sufficient to pay such  
12 personnel costs in the quarter in which they are due,  
13 and, if the secretary finds that the amounts requested  
14 are in accordance with the approved expenditure  
15 schedules and are in accordance with sound fiscal  
16 policy, the secretary shall submit the requests to the  
17 governor. The secretary shall also submit a summary  
18 statement showing the amounts expended under the  
19 budget for each preceding quarter of the fiscal year  
20 and the total amount requested for allotment during  
21 the ensuing quarter.

22 The governor shall consider the amount of requests  
23 for allotment and the collection of revenues. If the  
24 governor finds that the collection of revenue warrants  
25 the expenditure of the amount requested in the

26 allotment, the governor shall approve the allotment of  
27 funds for the ensuing quarter and send copies of the  
28 requests to the legislative auditor after approval. If the  
29 governor finds that the collection of revenue does not  
30 warrant the allotment of the requested amount, the  
31 governor may reduce the amount of allotments pend-  
32 ing the collection of sufficient revenue.

**CHAPTER 10. PUBLIC LIBRARIES;  
PUBLIC RECREATION; ATHLETIC ESTABLISHMENTS;  
MONUMENTS AND MEMORIALS;  
ROSTER OF SERVICEMEN;  
EDUCATIONAL BROADCASTING AUTHORITY.**

**ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.**

**§10-5-2a. West Virginia distance learning coordinating  
council; creation; duties.**

1 (a) The Legislature finds that the educational bene-  
2 fits of making a broader range of courses available to  
3 West Virginia students, and the economic benefits  
4 from continuing education and staff development for  
5 businesses, industry and the professions, are immeas-  
6 urable and that distance learning technology offers an  
7 efficient means of delivering such education and  
8 personnel development courses. The Legislature fur-  
9 ther finds that distance learning technology requires a  
10 substantial financial investment and the acquisition  
11 and utilization of such technology should, therefore, be  
12 coordinated among the various affected agencies.

13 (b) To facilitate such coordination, there is hereby  
14 created a West Virginia distance learning coordinating  
15 council which shall be composed of one representative  
16 of each of the following: SatNet, EdNet, the education-  
17 al broadcasting authority, the West Virginia library  
18 commission, the state department of education, the  
19 higher education central office, the department of  
20 administration's division of information systems and  
21 communications and the office of the secretary of  
22 education and the arts. The chair elected by the  
23 council shall serve a term of one year, at which time  
24 the council shall elect a new chair. A member of the  
25 council may not serve for more than two consecutive

26 terms as chair, except by unanimous vote of the  
27 council.

28 The council shall meet at least quarterly and shall  
29 develop long-range plans to integrate the instructional  
30 telecommunications system, to coordinate distance  
31 learning in West Virginia and to clarify the roles of the  
32 agencies involved in the state's distance learning  
33 enterprise. The council shall submit an annual report  
34 to the governor and the Legislature, which includes its  
35 recommendations for achieving the best use of limited  
36 resources in the development and operation of a  
37 distance learning technology system.

38 (c) A goal of the council is the creation of a statewide  
39 technology system linking universities and colleges,  
40 schools, libraries and, eventually, homes with soft-  
41 ware, data bases and video learning capabilities. In  
42 pursuit of this goal, the council shall determine the  
43 most effective and efficient ways to integrate the  
44 capabilities of the state for producing, delivering and  
45 receiving electronic instruction and establish a com-  
46 prehensive long-range plan to further the cooperation  
47 and coordination of the various educational and other  
48 agencies of the state, and the county boards of educa-  
49 tion, in establishing distance learning technology.

50 (d) There is hereby created in the state treasury, a  
51 special fund designated the "Distance Learning Fund"  
52 which shall be under the jurisdiction of the secretary  
53 of education and the arts for use solely for the  
54 purposes of the distance learning grant program as  
55 provided in this section.

56 Appropriate guidelines for participation by school  
57 districts, state institutions of higher education, public  
58 libraries and public broadcasting stations, in the grant  
59 program, shall be established by the distance learning  
60 coordinating council subject to approval by the legisla-  
61 tive oversight commission on education accountability.  
62 Such guidelines shall include application procedures  
63 and shall establish policies for awarding grants in the  
64 event that more grant applications are received than  
65 there are funds available to honor the applications in

66 any fiscal year. In allocating funds to applicants, the  
67 council may give due consideration to revenues  
68 available from all other sources. The state board of  
69 education shall approve courses offered through this  
70 program at the elementary and secondary education  
71 level. The higher education governing boards shall  
72 approve courses taught at the post-secondary level.

73 (e) In any fiscal year moneys in the fund shall be  
74 used first to ensure that any and all school districts,  
75 state institutions of higher education, public libraries  
76 and public television stations seeking aid under this  
77 program shall receive telecommunications equipment  
78 necessary to participate in the satellite learning  
79 process; second, to provide the school districts and  
80 state institutions of higher education with access to  
81 subjects at the advanced level or the remedial level or  
82 which are not taught in the schools of the district or  
83 the service area or campus; and third, to provide  
84 enrichment classes, continuing education and profes-  
85 sional development. However, the council may set  
86 aside a portion of the funds to be used to contract with  
87 state institutions of higher education, state institutions  
88 of public education and public broadcasting stations to  
89 develop instructional programs for grades kindergar-  
90 ten through twelve. Funds may also be used for  
91 undergraduate and graduate course work suitable for  
92 broadcast to the school districts, state institutions of  
93 higher education, as appropriate, for continuing  
94 education and professional development for business  
95 and industry seminars and to develop the capability to  
96 transmit programs cited in this section.

97 (f) Participation by a local school district, a state  
98 institution of higher education, a public library or a  
99 public broadcasting station in the program established  
100 by this section shall be voluntary. No school district,  
101 state institution of higher education, public library or  
102 public broadcasting station receiving funds under this  
103 program shall use those funds for any purpose other  
104 than that for which they were intended. Any school  
105 district, state institution of higher education, public  
106 library or public broadcasting station shall be eligible

107 to receive funds under this program regardless of its  
108 curriculum, local wealth or previous contractual  
109 arrangements to receive satellite broadcast instruction.

110 (g) The secretary of education and the arts on behalf  
111 of the state of West Virginia may contract with  
112 institutions of higher education and the state board of  
113 education for the development or operation, or both, of  
114 state employee training programs transmitted by  
115 telecommunications technology.

116 Instructional programs developed under this section  
117 which are transmitted one-way through the airwaves  
118 or by cable shall be available to all residents of this  
119 state without charge or fee to the extent permitted by  
120 the West Virginia constitution. "Without charge or  
121 fee" shall not require the providing of equipment to  
122 transmit or receive telecommunications instruction or  
123 the providing of commercial cable service. If the  
124 instructional program involves two-way, interactive  
125 communication between the instructor and the partic-  
126 ipant, the district or institution operating the program  
127 may prescribe academic prerequisites and limit the  
128 number of persons who may enroll in the specific  
129 program and give preference to residents of the  
130 district or institutional attendance area who are age  
131 twenty-one or younger but shall not discriminate  
132 against any resident on any other basis. A fee may be  
133 charged which will be paid directly by the individual  
134 participant for the specific program, but the fee shall  
135 be equal for all such participants. If a subscription fee  
136 is charged by the originator of the program, the  
137 district or institution may pay the subscription fee for  
138 all participants from a grant under this section or from  
139 any other public or private fund legally authorized to  
140 be used for this purpose. Printed materials designed to  
141 facilitate or complement telecommunications pro-  
142 grams or electronic reproduction thereof may be made  
143 available for loan by the school district, institution of  
144 higher education through the public library system or  
145 the curriculum technology resource center, subject to  
146 the normal rules and regulations of the lending system  
147 and in such quantities as may be approved by the

148 governing body of the district or institution.

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

### **ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.**

#### **§12-3-8. Requisition on behalf of institutions to be accompanied by statement showing funds on hand.**

1 No requisition shall be made upon the auditor for  
2 any money appropriated for the penitentiary, the West  
3 Virginia schools for the deaf and blind, state mental  
4 health facilities, state hospitals, corrections facilities, or  
5 for any other public institution for education, charity  
6 or correction, institutions governed by the university  
7 of West Virginia board of trustees and by the board of  
8 directors of the state college system, unless such  
9 requisition shall be accompanied by the statement in  
10 writing of the treasurer or other financial officer of  
11 such institution, showing the amount of money in his  
12 or her hands to the credit of such institution, or  
13 otherwise in its control, on the day such requisition is  
14 forwarded for payment.

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

### **ARTICLE I. GOVERNANCE.**

#### **§18B-1-1a. Goals for post-secondary education.**

1 (a) *Findings and directives.* — The Legislature finds  
2 that higher education is a vital force in the future of  
3 West Virginia. For the state to realize its considerable  
4 potential in the twenty-first century, West Virginia  
5 should invest in its people through a strong and  
6 dynamic higher education system.

7 The Legislature further finds that the people of West  
8 Virginia have demonstrated their support for this  
9 finding through their involvement and comments at  
10 meetings held throughout the state pursuant to Senate  
11 Concurrent Resolution No. 30 adopted at the regular  
12 session of the West Virginia Legislature, one thousand  
13 nine hundred ninety-two. The Legislature, also,  
14 endorses the report submitted by the higher education  
15 advocacy team pursuant to said resolution and directs  
16 the affected educational agencies to implement unified

17 strategies for accomplishing the needed improvements.

18 (b) *Goals and objectives.* — In the pursuance of the  
19 above findings, the following goals and objectives are  
20 hereby adopted with respect to the investments which  
21 are necessary for higher education in West Virginia to  
22 contribute fully to the growth, development and  
23 quality of life of the state and its citizens:

24 (1) Students should be better prepared in high school  
25 to meet college standards jointly agreed upon by  
26 higher education and the public schools as required  
27 under subsection (c), section five of this article. Those  
28 standards should be conveyed to students prior to  
29 entering tenth grade;

30 (2) More students should obtain education beyond  
31 the high school level for our individual and collective  
32 economic development:

33 (A) The awareness of post-secondary educational  
34 opportunities among the state's citizens should be  
35 expanded and their motivation to take advantage of  
36 available opportunities should be enhanced;

37 (B) Assistance in overcoming the financial barriers  
38 to post-secondary education should be provided;

39 (C) A student-friendly environment should be  
40 created within post-secondary education to encourage  
41 and expand participation for the increasingly diverse  
42 student population;

43 (3) Students should be prepared to compete in a  
44 global economy in which the good jobs will require an  
45 advanced education and level of skill which far  
46 surpasses former requirements.

47 (A) Academic preparation should be improved to  
48 ensure that students enrolling in programs of post-  
49 secondary education are adequately prepared to be  
50 successful in their selected fields of study and career  
51 plans;

52 (B) College graduates should meet or exceed nation-  
53 al and international standards for skill levels in  
54 reading, oral and written communications, mathemat-

55 ics, critical thinking, science and technology, research  
56 and human relations;

57 (C) College graduates should meet or exceed nation-  
58 al and international standards for performance in  
59 their fields through national accreditation of programs  
60 and through outcomes assessment of graduates;

61 (4) Resources should be focused on programs and  
62 courses which offer the greatest opportunities for  
63 students and the greatest opportunity for job creation  
64 and retention in the state:

65 (A) An entrepreneurial spirit and flexibility should  
66 be created within higher education to respond to the  
67 needs of the current work force and other nontradi-  
68 tional students for college-level skills upgrading and  
69 retraining;

70 (B) A focus should be created on programs suppor-  
71 tive of West Virginia employment opportunities and  
72 the emerging high technology industries;

73 (C) Closer linkages should be established among  
74 higher education and business, labor, government,  
75 community and economic development organizations;

76 (5) Resources should be used to their maximum  
77 potential and faculty and technology should be com-  
78 bined in a way that makes West Virginia higher  
79 education more productive than similar institutions in  
80 other states:

81 (A) Institutional missions should be clarified and  
82 resources should be shifted to programs which meet  
83 the current and future work force needs of the state;

84 (B) Program duplication necessary for geographic  
85 access should be determined and unnecessary dupli-  
86 cation should be eliminated;

87 (C) Systematic ongoing mechanisms should be  
88 established for each state institution of higher educa-  
89 tion to set goals, measure the extent to which those  
90 goals are met and use results of quantitative evalua-  
91 tion processes to improve institutional effectiveness;

92 (D) Institutional productivity and administrative  
93 efficiency standards should be established to ensure  
94 that state institutions of higher education are more  
95 productive and efficient than similar institutions in  
96 other states; and

97 (6) The compensation of faculty, staff and adminis-  
98 trators should be established at competitive levels to  
99 attract and keep quality personnel at state institutions  
100 of higher education:

101 (A) Faculty and staff classification and compensation  
102 at state institutions of higher education should be  
103 competitive with relevant market levels; and

104 (B) Available revenues should be distributed in an  
105 equitable fashion which enables each state institution  
106 of higher education to fulfill its mission and reward its  
107 employees appropriately.

**§18B-1-1b. Implementation of findings, directives, goals and objectives.**

1 The board of trustees and the board of directors  
2 shall develop a plan for implementation of the legisla-  
3 tive findings, directives, goals and objectives set forth  
4 in section one-a of this article and to ensure account-  
5 ability in implementing said findings, directives, goals  
6 and objectives in consultation with the secretary of  
7 education and the arts, the president of the state board  
8 of education, the president of the West Virginia  
9 association of private colleges, the president of the  
10 joint commission for vocational-technical-occupational  
11 education and the president of the West Virginia  
12 economic development council. A written report of the  
13 plan required by this section shall be submitted to the  
14 governor and the legislative oversight commission on  
15 education accountability by the first day of December,  
16 one thousand nine hundred ninety-three.

**§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) "Freestanding community colleges" means  
14 southern West Virginia community college and West  
15 Virginia northern community college, which shall not  
16 be operated as branches or off-campus locations of any  
17 other state institution of higher education;

18 (d) "Community colleges" means freestanding com-  
19 munity colleges, branches or off-campus locations of  
20 state institutions of higher education within the state  
21 college system and programs offered at state institu-  
22 tions of higher education within the state college  
23 system which are two years or less in duration;

24 (e) "Community college component" means any  
25 program operated by a state institution of higher  
26 education within the university system which is two  
27 years or less in duration, which program may be  
28 offered at the institution or at a branch or off-campus  
29 location;

30 (f) "Directors" or "board of directors" means the  
31 board of directors of the state college system created  
32 pursuant to article three of this chapter or the  
33 members thereof;

34 (g) "Higher educational institution" means any  
35 institution as defined by Sections 401(f), (g) and (h) of  
36 the federal Higher Education Facilities Act of 1963, as  
37 amended;

38 (h) "Post-secondary vocational education programs"  
39 means any college-level course or program beyond the  
40 high school level provided through an institution of  
41 higher education which results in or may result in the  
42 awarding of a two-year associate degree, under the  
43 jurisdiction of the board of directors;

44 (i) "Rule" or "rules" means a regulation, standard,  
45 policy or interpretation of general application and  
46 future effect;

47 (j) "Senior administrator" means the person hired  
48 by the governing boards in accordance with section  
49 one, article four of this chapter, with such powers and  
50 duties as may be provided for in section two of said  
51 article;

52 (k) "State college" means Bluefield state college,  
53 Concord college, Fairmont state college, Glenville state  
54 college, Shepherd college, West Liberty state college,  
55 West Virginia institute of technology or West Virginia  
56 state college;

57 (l) "State college system" means the state colleges  
58 and community colleges, and also shall include post-  
59 secondary vocational education programs in the state,  
60 as those terms are defined in this section;

61 (m) "State institution of higher education" means  
62 any university, college or community college in the  
63 state university system or the state college system as  
64 those terms are defined in this section;

65 (n) "Trustees" and "board of trustees" means the  
66 university of West Virginia board of trustees created  
67 pursuant to article two of this chapter or the members  
68 thereof;

69 (o) "University", "university of West Virginia" and  
70 "state university system" means the multi-campus,  
71 integrated university of the state, consisting of West  
72 Virginia university including West Virginia university  
73 at Parkersburg, Potomac state college of West Virginia  
74 university and the West Virginia university school of  
75 medicine; Marshall university including the Marshall  
76 university school of medicine; the West Virginia  
77 graduate college; and the West Virginia school of  
78 osteopathic medicine.

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

1 (a) The board of trustees and the board of directors,

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

14 (b) The secretary of education and the arts is  
15 responsible for the coordination of policies and pur-  
16 poses of the state university system and the state  
17 college system and shall provide for and facilitate  
18 sufficient interaction between the governing boards,  
19 and between the governing boards and the state board  
20 of education, to assure appropriate mission and pro-  
21 gram coordination and cooperation among: (1) The  
22 state university system; (2) the state college system,  
23 exclusive of the community colleges; (3) the communi-  
24 ty colleges, including free-standing community col-  
25 leges, and community college components; and (4) the  
26 vocational-technical centers in the state, recognizing  
27 the inherent differences in the missions and capabili-  
28 ties of these four categories of institutions. The  
29 governing boards and the state board of education  
30 shall provide any and all information requested by the  
31 secretary of education and the arts and legislators in a  
32 timely manner.

33 (c) The secretary of education and the arts, the  
34 chancellors of the board of trustees and the board of  
35 directors and the state superintendent of schools shall  
36 develop standards and suggest implementation  
37 methods for a standardized test to be used to predict  
38 post-secondary educational success such as the test  
39 offered by the American college testing program. The  
40 test, hereinafter referred as the post-secondary aca-  
41 demic success score or PASS, is to be administered to  
42 all students during the fall semester of the eighth

43 grade. The secretary of education and the arts, the  
44 chancellors of the board of trustees and the board of  
45 directors and the state superintendent of schools shall  
46 submit a joint report outlining their findings to the  
47 governor and the legislative oversight commission on  
48 education accountability by the first day of December,  
49 one thousand nine hundred ninety-three.

**§18B-1-5a. Pilot program of delivering educational services  
via distance learning.**

1 (a) The intent of the Legislature in enacting this  
2 section is to create the framework for establishing an  
3 educational delivery system to address findings that:

4 (1) The strength of the economy of the state of West  
5 Virginia is directly affected by the percentage of the  
6 available work force possessing college degrees and/or  
7 an advanced vocational-technical education from  
8 which an employer may draw;

9 (2) Real and perceived barriers within West Virginia  
10 and its systems of higher education, such as the cost of  
11 a college education, the availability of appropriate  
12 course work at locations and times convenient for  
13 students with families and/or jobs, and inadequate  
14 preparation for college-level work, have created road  
15 blocks for West Virginians in achieving their educa-  
16 tional goals and, in turn, have limited the economic  
17 opportunities available to them and the state of West  
18 Virginia; and

19 (3) Because of the state's history of a low college-  
20 going rate and a low percentage of state residents who  
21 hold college degrees, meeting the current and future  
22 work force needs of West Virginia will require atten-  
23 tion to the needs of working-age adults for upgrading  
24 their skills, continuing their educations, preparing for  
25 new careers and other lifelong learning pursuits, in  
26 addition to attending to the educational needs of  
27 traditional college age students.

28 (b) Such a delivery system should employ the best  
29 available technology and qualified instructors to  
30 provide courses of instruction to students at remote

31 locations by means of electronic transmission and  
32 computer assisted instruction. The delivery system  
33 should make maximum use of the currently existing  
34 resources, facilities, equipment and personnel in the  
35 state's systems of public and higher education and  
36 other educational and administrative agencies and  
37 should be low-tuition, commuter-oriented, open door  
38 admissions, serving adults of all ages. The courses of  
39 instruction offered through such a system should be  
40 relevant to the needs of the target population as  
41 expressed in the major findings listed in subsection (a)  
42 of this section and should meet the several goals of  
43 helping students to prepare for college level work, to  
44 increase their likelihood of securing gainful employ-  
45 ment given their other relevant life circumstances, to  
46 obtain higher education core curriculum course work  
47 that is universally accepted at all state institutions of  
48 higher education with the grade earned and to mini-  
49 mize the amount of additional course work they will  
50 be required to take at less convenient times and  
51 locations to achieve their educational goals. The  
52 delivery system should also include adequate student  
53 support services such as student advising, career  
54 counseling, library access and immediate interaction  
55 with peers and instructors.

56 (c) The secretary of education and the arts is  
57 responsible for establishing a three-year pilot program  
58 consisting of no more than eight sites within the state  
59 for the delivery of educational programs consistent  
60 with the goals established in this section. To assist in  
61 the development of this program, the secretary shall  
62 appoint an advisory committee comprised of persons  
63 from public education, higher education, the West  
64 Virginia distance learning coordinating council, the  
65 Legislature and the business community. In consulta-  
66 tion with the advisory committee, the secretary shall  
67 contract with the appropriate governing board or  
68 other body to offer courses or programs of various  
69 levels and types to meet the objectives of this section.  
70 The contracts shall specify the pilot sites for offering  
71 the educational programs, the various technologies for  
72 program delivery, the types of courses to be offered,

73 the course instructors and site coordinators and their  
 74 training, the fees to be charged, the institutions in the  
 75 state willing to enroll the student participants, the  
 76 collection of tuition and fees, a method for accounting  
 77 for the funds collected and expended and other issues  
 78 relevant to program administration. There is hereby  
 79 established in the state treasury a special revolving  
 80 fund within the account of the secretary of education  
 81 and the arts into which appropriations, course fees,  
 82 charitable contributions and other moneys received by  
 83 the secretary for the purposes of the program shall be  
 84 paid for expenditures in the operation of the pilot  
 85 program. During each year of the pilot program, the  
 86 secretary shall report to the governor and the Legisla-  
 87 ture on the progress of the program, whether it should  
 88 be continued or discontinued, and, if continued, any  
 89 recommended modifications in program scope and  
 90 mission and any action which is necessary on behalf of  
 91 the governor or the Legislature to improve the success  
 92 of the program. At the end of the pilot program, the  
 93 secretary shall make a final report to the governor and  
 94 the Legislature as to whether the findings set forth in  
 95 this section are being addressed through such an  
 96 educational delivery system and shall recommend  
 97 whether it should become permanent. If the secretary  
 98 recommends that the delivery system should become  
 99 permanent, the secretary shall also recommend specif-  
 100 ic structures for program support and administration,  
 101 instructional development and objectives, technology,  
 102 student support services and other relevant policy  
 103 issues.

**§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 between the boards and among such  
28 institutions in accordance with the resource allocation  
29 model and policies required by section two, article five  
30 of this chapter.

31 Each board shall delegate, as far as is lawful,  
32 efficient and fiscally responsible and within prescribed  
33 standards and limitations, such part of its power and  
34 control over financial, educational and administrative  
35 affairs of each state institution of higher education to  
36 the president or other administrative head of those  
37 institutions. This shall not be interpreted to include  
38 the classification of employees, lawful appeals made by  
39 students in accordance with board policy, lawful  
40 appeals made by faculty or staff or final review of new  
41 or established academic or other programs.

**§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 to assure that  
13 the needs of the state for a quality system of higher  
14 education are addressed: *Provided*, That the master  
15 plan for post-secondary vocational education is subject  
16 to approval by the joint commission for vocational-  
17 technical-occupational education. The plan shall also  
18 address the roles and missions of private post-second-  
19 ary education providers in the state. Each board shall  
20 involve the executive and legislative branches of state  
21 government and the general public in the develop-  
22 ment of all segments of the plan for post-secondary  
23 education in the state. The plan shall be established  
24 for periods of not less than five nor more than ten  
25 years and shall be periodically revised as necessary,  
26 including the addition or deletion of degree programs  
27 as, in the discretion of the boards, may be necessary.  
28 Whenever a state institution of higher education  
29 desires to establish a new degree program, such  
30 program proposal shall not be implemented until the  
31 same is filed with both governing boards. Upon  
32 objection thereto within sixty days by either govern-  
33 ing board, such program proposal shall be filed with  
34 the secretary of education and the arts, who shall  
35 approve or disapprove such proposal within one year  
36 of the filing of said program proposal;

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

42 (4) Consult with the executive branch and the  
43 Legislature in the establishment of funding parame-  
44 ters, priorities and goals;

45 (5) Establish guidelines for and direct the prepara-

46 tion of budget requests for each of the state institu-  
47 tions of higher education under its jurisdiction, such  
48 requests to relate directly to missions, goals and  
49 projections in its state master plan;

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

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

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

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

83 (10) Review, at least every five years, all academic  
84 programs offered at the state institutions of higher  
85 education under its jurisdiction. The review shall

86 address the viability, adequacy and necessity of the  
87 programs in relation to its master plan and the  
88 educational and work force needs of the state. As a  
89 part of such review, each governing board shall  
90 require each of its institutions to conduct periodic  
91 studies of its graduates and their employers to deter-  
92 mine placement patterns and the effectiveness of the  
93 educational experience. Where appropriate, these  
94 studies should make use of the studies required of  
95 many academic disciplines by their accrediting bodies.  
96 The governing boards shall also ensure that the  
97 sequence and availability of academic programs and  
98 courses is such that students have the maximum  
99 opportunity to complete programs in the time frame  
100 normally associated with program completion, that the  
101 needs of nontraditional college age students are  
102 appropriately addressed, and that core course work  
103 completed at any state institution of higher education  
104 is transferable to another state institution of higher  
105 education for credit with the grade earned. Notwith-  
106 standing any other provision of this code to the  
107 contrary, after the effective date of this section the  
108 appropriate governing board shall have the exclusive  
109 authority to approve the teacher education programs  
110 offered in the institutions under their control. In order  
111 to permit graduates of teacher education programs to  
112 receive a degree from a nationally accredited program  
113 and in order to prevent expensive duplication of  
114 program accreditation, the boards may select and  
115 utilize one nationally recognized teacher education  
116 program accreditation standard as the appropriate  
117 standard for program evaluation;

118 (11) Utilize faculty, students and classified staff in  
119 institutional level planning and decision making when  
120 those groups are affected;

121 (12) Administer a uniform system of personnel  
122 classification and compensation for all employees other  
123 than faculty and policy level administrators;

124 (13) Establish a uniform system for the hearing of  
125 employee grievances and appeals therefrom, so that  
126 aggrieved parties may be assured of timely and

127 objective review;

128 (14) Solicit and utilize or expend voluntary support,  
129 including financial contributions and support services,  
130 for the state institutions of higher education;

131 (15) Appoint a president or other administrative  
132 head for each institution of higher education from  
133 candidates submitted by the search and screening  
134 committees of the institutional boards of advisors  
135 pursuant to section one, article six of this chapter;

136 (16) Conduct written performance evaluations of  
137 each institution's president in every fourth year of  
138 employment as president, recognizing unique charac-  
139 teristics of the institution and utilizing institutional  
140 personnel, institutional boards of advisors, staff of the  
141 appropriate governing board and persons knowledge-  
142 able in higher education matters who are not other-  
143 wise employed by a governing board;

144 (17) Submit to the joint committee on government  
145 and finance, no later than the first day of December  
146 of each year, an annual report of the performance of  
147 the system of higher education under its jurisdiction  
148 during the previous fiscal year as compared to stated  
149 goals in its master plan and budget appropriations for  
150 that fiscal year; and

151 (18) The governing boards shall have the power and  
152 authority to enter into contracts or consortium agree-  
153 ments with the public schools, private schools or  
154 private industry to provide technical, vocational,  
155 college preparatory, remedial and customized training  
156 courses at locations either on campuses of public  
157 institutions of higher education or at off-campus  
158 locations in such institutions' regional educational  
159 service areas. To accomplish this goal, the boards are  
160 permitted to share resources among the various  
161 groups in the community. The governing boards shall  
162 promulgate uniform legislative rules providing for  
163 entering into said contracts and consortium agree-  
164 ments and for determining and granting credit for  
165 work experience for courses offered by the consortium.

166 (b) The power, herein given to each governing board  
167 to prescribe and allocate among the state institutions  
168 of higher education under its jurisdiction specific  
169 functions and responsibilities to meet the higher  
170 educational needs of the state and avoid unnecessary  
171 duplication, shall not be restricted by any provision of  
172 law assigning specified functions and responsibilities to  
173 designated state institutions of higher education, and  
174 such power shall supersede any such provision of law:  
175 *Provided*, That each governing board may delegate,  
176 with prescribed standards and limitations, such part of  
177 its power and control over the business affairs of a  
178 particular state institution of higher education to the  
179 president or other administrative head of such state  
180 institution of higher education in any case where it  
181 deems such delegation necessary and prudent in order  
182 to enable such institution to function in a proper and  
183 expeditious manner: *Provided, however*, That such  
184 delegation shall not be interpreted to include classifi-  
185 cation of employees, lawful appeals made by students  
186 in accordance with the appropriate governing board's  
187 policy, lawful appeals made by faculty or staff or fina  
188 review of new or established academic or othe  
189 programs. Any such delegation of power and contrc  
190 may be rescinded by the appropriate governing board  
191 at any time, in whole or in part.

192 (c) The governing boards shall promulgate uniform  
193 legislative rules by the first day of September, one  
194 thousand nine hundred ninety-three, setting forth  
195 standards for acceptance of advanced placement credit  
196 for their respective institutions. Individual depart-  
197 ments at institutions of higher education may, upon  
198 approval of the institutional faculty senate, require  
199 higher scores on the advanced placement test than  
200 scores designated by the appropriate governing board  
201 when the credit is to be used toward meeting a  
202 requirement of the core curriculum for a major in  
203 that department.

204 (d) Each governing board and/or an individual  
205 appointed by the president of each institution shall  
206 consult, cooperate and work with the state treasurer

207 and the state auditor to develop an efficient and cost-  
208 effective system for the financial management and  
209 expenditure of special revenue and appropriated state  
210 funds for higher education that ensures that properly  
211 submitted requests for payment be paid within fifteen  
212 days of receipt in the state auditor's office. The system  
213 shall be established and implemented as soon as  
214 practical and the governing boards shall report to the  
215 legislative oversight commission on education account-  
216 ability prior to the first day of January, one thousand  
217 nine hundred ninety-four, regarding the efficacy of  
218 the system.

219 (e) The governing boards shall implement by the  
220 first day of July, one thousand nine hundred ninety-  
221 four, a uniform and consistent method of conducting  
222 personnel transactions including, but not limited to,  
223 hiring, dismissal, promotions and transfers at all  
224 institutions under their jurisdiction. Each such person-  
225 nel transaction shall be accompanied by the appropri-  
226 ate standardized system or forms which will be  
227 submitted to the respective governing boards, secre-  
228 tary of education and the arts, department of finance  
229 and administration and the legislative oversight  
230 commission on education accountability.

**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 government of this state  
28 or any of its political subdivisions or an appointee or  
29 employee of the board of trustees or the board of  
30 directors: *Provided*, That if there are no ethical  
31 restrictions under state or federal law, a federal  
32 employee may serve as a member of the board of  
33 trustees. Of the twelve trustees appointed by the  
34 governor from the public at large, not more than six  
35 thereof shall belong to the same political party and at  
36 least two trustees shall be appointed from each  
37 congressional district.

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

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

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

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

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

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

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

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

**§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 of attaining salaries  
12 equal to the average faculty salaries within similar  
13 groups of disciplines and program levels at comparable  
14 peer institutions within member states of the southern  
15 regional educational board Four-Year 1 at West Vir-  
16 ginia university; Four-Year 3 at Marshall university;  
17 and appropriate levels at the West Virginia graduate  
18 college, Potomac state college of West Virginia univer-  
19 sity, West Virginia university at Parkersburg and the  
20 school of osteopathic medicine as determined by the  
21 board of trustees. It is the intent of the Legislature,  
22 limited by the extent of appropriations provided  
23 specifically therefor, to provide the board of trustees  
24 with sufficient funds to meet this goal by fiscal year  
25 one thousand nine hundred ninety-six.

**§18B-2-8. Consortium of comprehensive child development  
centers; establishment and operation of a  
consortium of comprehensive child develop-  
ment centers.**

1 (a) There is hereby established a consortium of  
2 comprehensive child development centers under the  
3 auspices of the board of trustees and under the  
4 direction and administration of the vice chancellor for  
5 health sciences. The goals of the consortium include,  
6 but are not limited to:

7 (1) Recommending a comprehensive diagnostic and  
8 technical support system to assist faculty and students  
9 in providing educational programs for students with  
10 disabilities;

11 (2) Providing a system for the comprehensive inter-  
12 disciplinary diagnosis, treatment and follow-up of  
13 children and young adults with special needs and their  
14 families;

15 (3) Offering programs for the training of parents and  
16 families;

17 (4) Creating significant links between disciplines,  
18 departments, schools, colleges, universities and  
19 agencies;

20 (5) Providing all services (clinical, training, technical  
21 assistance and consultation) at child development  
22 centers and at strategically planned outreach sites,  
23 including institutions of higher education;

24 (6) Planning and implementing a statewide system  
25 of care for children with special needs and their  
26 families;

27 (7) Providing family-centered, community-based,  
28 culturally sensitive, coordinated care;

29 (8) Assuring interdisciplinary, interagency  
30 cooperation;

31 (9) Linking community-based health and educational  
32 services with institutions of higher education;

33 (10) Establishing a statewide comprehensive diagnos-  
34 tic support team and advisory boards at each center  
35 composed of agency representatives, physicians, educa-  
36 tion providers, center personnel, parents and other;  
37 and

38 (11) Facilitating significant parent and family partic-  
39 ipation, including parents as members of the statewide  
40 team and representing a majority of the membership  
41 of each center's advisory boards.

42 (b) Subject to appropriations by the Legislature, the  
43 board of trustees is authorized and directed to estab-  
44 lish at least four comprehensive child development  
45 sites at existing university health science centers  
46 located at Morgantown, Charleston, Huntington and  
47 Lewisburg. Planning of at least these four centers and  
48 the establishment of advisory boards shall be complet-  
49 ed by the first day of July, one thousand nine hundred  
50 ninety-three. The board of trustees shall establish at  
51 least these four sites prior to the first day of January,  
52 one thousand nine hundred ninety-four.

53 The board of trustees may enter into a contractual  
54 relationship with each child development center,

55 which shall be in accordance with laws that apply to  
56 publicly funded partnerships with private, nonprofit  
57 entities and the provisions of section three, article five  
58 of this chapter.

**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  
4 board of trustees, ex officio, who shall not be entitled  
5 to vote; one shall be the state superintendent of  
6 schools, ex officio, who shall not be entitled to vote;  
7 one shall be the chairman of the advisory council of  
8 students, ex officio, who shall be entitled to vote; one  
9 shall be the chairman of the advisory council of  
10 faculty, ex officio, who shall be entitled to vote; and  
11 one shall be the chairman of the advisory council of  
12 classified employees, ex officio, who shall be entitled to  
13 vote. The other twelve directors shall be citizens of the  
14 state, appointed by the governor, by and with the  
15 advice and consent of the 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 government of this state  
28 or any of its political subdivisions, or an appointee or  
29 employee of the board of trustees or board of directors:  
30 *Provided*, That if there are no ethical restrictions  
31 under state or federal law, a federal employee may

32 serve as a member of the board of directors. Of the  
33 twelve directors appointed by the governor from the  
34 public at large, not more than six thereof shall belong  
35 to the same political party and at least two directors of  
36 the board shall be appointed from each congressional  
37 district.

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

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

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

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

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

72 succeed themselves.

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

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

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

1 (a) The board of directors of the state college system  
2 shall govern the state college system.

3 (b) The board of directors shall determine programs  
4 to be offered by state institutions of higher education  
5 under its jurisdiction, shall clarify the missions of the  
6 institutions under its jurisdiction, and, in so doing,  
7 ensure that Fairmont state and West Virginia institute  
8 of technology are given primary responsibility for  
9 technical preparation teacher training programs.

10 (c) The board of directors shall govern community  
11 colleges and shall organize eight community college  
12 service areas in accordance with section four of this  
13 article.

14 (d) The board of directors shall adopt a faculty salary  
15 program with an overall goal of attaining salaries  
16 equal to the average faculty salaries within similar  
17 groups of disciplines and program levels at comparable  
18 peer institutions within member states of the southern  
19 regional education board. It is the intent of the  
20 Legislature, limited by the extent of appropriations  
21 made specifically therefor, to provide the board of  
22 directors with sufficient funds to meet this goal by  
23 fiscal year one thousand nine hundred ninety-six.

**§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 col-  
6 lege. Such freestanding community colleges shall not  
7 be operated as branches or off-campus locations of any  
8 other state institution of higher education.

9 (b) The directors, in accordance with article two-b,  
10 chapter eighteen of this code, shall cooperate with the  
11 state board of education, the state council of vocation-  
12 al-technical education and the joint commission for  
13 vocational-technical-occupational education to develop  
14 a comprehensive system of academic, vocational,  
15 technical and career development programs to serve  
16 the educational needs of adults for college preparatory,  
17 two-year associate degree, continuing education, work  
18 force training and retraining, and other such programs  
19 within the state. The board of directors shall delegate  
20 such authority as they deem prudent to the communi-  
21 ty college presidents, or other administrative heads, to  
22 work with campus level advisory committees to assess  
23 the work force needs of business and industry within  
24 their service areas, regularly review and revise  
25 curricula to ensure that the work force needs are met,  
26 develop new programs and phase out or modify  
27 existing programs as appropriate to meet such needs,  
28 provide professional development opportunities for  
29 faculty and staff, establish cooperative programs and  
30 student internships with business and industry,  
31 streamline procedures for designing and implementing  
32 customized training programs and to accomplish such  
33 other complements of a quality comprehensive com-  
34 munity college. In developing such a system, the  
35 various educational agencies shall establish coopera-  
36 tive relationships to utilize existing community col-  
37 leges and programs, public school vocational centers  
38 and other existing facilities to serve the identified  
39 needs within the service area. The community col-  
40 leges, including freestanding community colleges, shall  
41 be organized into eight community college service  
42 areas which shall have the same boundaries as the

43 regional educational service agencies established by  
44 the state board of education pursuant to section  
45 twenty-six, article two, chapter eighteen of said code:  
46 *Provided*, That any community college and the  
47 branches thereof existing on the effective date of this  
48 section may be located in more than one community  
49 college service area created pursuant to this section  
50 and shall not be affected by such service area  
51 boundary.

52 (c) A separate division of community colleges shall  
53 be established under the board of directors. Programs  
54 at community colleges shall be two years or less in  
55 duration.

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

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

76 (e) The board of directors may allocate funds from  
77 the appropriations for the state college system for the  
78 operation and capital improvement of any community  
79 college continued, established or designated under  
80 authority of this section and may accept federal grants  
81 and funds from county boards of education, other local  
82 governmental bodies, corporations or persons. The

83 directors may enter into memoranda of agreements  
84 with such governmental bodies, corporations or per-  
85 sons for the use or acceptance of local facilities and/or  
86 the acceptance of grants or contributions toward the  
87 cost of the acquisition or construction of such facilities.  
88 Such local governmental bodies may convey capital  
89 improvements, or lease the same without monetary  
90 consideration, to the board of directors for the use by  
91 the community college, and the board of directors may  
92 accept such facilities, or the use or lease thereof, and  
93 grants or contributions for such purposes from such  
94 governmental bodies, the federal government or any  
95 corporation or person.

96 (f) To facilitate the administration, operation and  
97 financing of programs in shared facilities of the state  
98 college system or the university of West Virginia  
99 system and a county board or boards of education, the  
100 affected governing board and county board or boards  
101 of education may appoint a joint administrative board  
102 consisting of five members to be appointed as follows:  
103 The county board of education shall appoint two  
104 members in consultation with the county superinten-  
105 dent of schools; the appropriate governing board shall  
106 appoint two members in consultation with the presi-  
107 dent of the affected state institution of higher educa-  
108 tion; and one at-large member, who shall chair the  
109 joint administrative board, shall be appointed by  
110 mutual agreement of the respective boards in consul-  
111 tation with their superintendent and president. When  
112 two or more county boards of education are participat-  
113 ing in such shared program, such county board  
114 appointments shall be made by mutual agreement of  
115 each of the participating county boards in consultation  
116 with their respective superintendents. Members shall  
117 serve for staggered terms of three years. With respect  
118 to initial appointments, one member appointed by the  
119 county board or boards of education and one member  
120 appointed by the governing board shall serve for one  
121 year, one member appointed by the county board or  
122 boards of education and one member appointed by the  
123 governing board shall serve for two years, and the at-  
124 large member shall serve for three years. Subsequent

125 appointments shall be for three years. A member may  
126 not serve more than two consecutive terms. Members  
127 shall be reimbursed for reasonable and necessary  
128 expenses actually incurred in the performance of their  
129 duties as board members from funds allocated to the  
130 shared facility, except that members who are  
131 employed by a board of education, governing board or  
132 state institution of higher education shall be reim-  
133 bursed by their employer.

**ARTICLE 3A. WEST VIRGINIA JOINT COMMISSION FOR VOCATION-  
AL-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-technical-occupational  
17 education appointed by the governor with advice from  
18 the state superintendent of schools and three of whom  
19 shall be representatives of post-secondary vocational-  
20 technical-occupational education appointed by the  
21 governor, with advice from the chancellor of the board  
22 of directors.

23 In addition to the members appointed by the gover-  
24 nor, the state superintendent of schools and the  
25 chancellor of the board of directors shall serve as an  
26 ex officio member.

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

**ARTICLE 3C. GOVERNOR'S COUNCIL ON HIGHER AND OTHER  
POST-SECONDARY EDUCATION.**

**§18B-3C-1. Legislative findings; statement of purpose.**

1 (a) The Legislature finds that West Virginia's eco-  
2 nomic future depends in part on the number of  
3 citizens with higher and other post-secondary educa-  
4 tion. In today's knowledge-based economy, higher  
5 education or other training beyond the high school  
6 level is required for most jobs that allow our citizens  
7 to maintain or improve their standard of living. To  
8 that end, access to higher and other post-secondary  
9 education must be expanded for students currently  
10 enrolled in school, as well as nontraditional students.  
11 This requires adequate planning and preparation, as  
12 well as the acquisition of strong basic skills, thinking  
13 and learning skills and human relation skills, so that  
14 the education may be successfully completed.

15 The Legislature further finds that real and per-  
16 ceived barriers within West Virginia's education  
17 systems hamper West Virginians from achieving their  
18 educational goals and limit citizens' economic oppor-  
19 tunities. To overcome these barriers, the education  
20 providers must address issues such as cost and avail-  
21 ability of courses at locations and times convenient to

22 students with families and jobs, as well as adequate  
23 preparation.

24 The Legislature further finds that clear expectations  
25 and objectives among the institutions, boards and  
26 other entities providing higher and post-secondary  
27 education can be improved, with a view toward  
28 accountability, efficiency and productivity. The state  
29 board of education, the governing board of the state  
30 college system, the governing board of the university  
31 system, the joint commission on vocational-technical-  
32 occupational education and the administrations of the  
33 many private college and universities and private,  
34 proprietary schools are all important components in  
35 the delivery of higher and other post-secondary  
36 education in this state and will play a vital role in  
37 meeting the challenges of the future. Cooperation and  
38 planning among the public and private institutions is  
39 necessary for effective work force preparation.

40 The Legislature further intends, by this article, to  
41 extend post-secondary and higher educational oppor-  
42 tunities to diverse populations, thereby requiring  
43 sensitivity to regional, cultural, ethnic, economic, age  
44 and other differences so as to enhance West Virginians  
45 preparedness for, awareness of, interest in and access  
46 to such education and to eliminate barriers to receiv-  
47 ing such education. The emphasis must be to meet the  
48 needs of all West Virginians.

49 (b) To that end, the Legislature intends to regularly  
50 convene those persons at the highest legislative and  
51 education policy-making levels of state government, as  
52 well as private educational institutions and economic  
53 development entities, to fulfill the responsibilities set  
54 forth in this article, as well as to adopt other strategies  
55 to meet the goals set forth in this article.

56 The Legislature intends this council to be an adviso-  
57 ry, coordinating council with no governing authority  
58 over the state's educational institutions.

**§18B-3C-2. Governor's council on higher and other post-  
secondary education established.**

1 There is hereby created the governor's council on  
2 higher and other post-secondary education, hereinaf-  
3 ter referred to as the "HOPE council" or the "coun-  
4 cil". In addition to such other persons as the governor  
5 may appoint to the HOPE council, the council shall  
6 include the secretary of education and the arts, the  
7 chairs of each of the higher education governing  
8 boards, the president of the state board of education,  
9 the president of the association of independent col-  
10 leges, the president of the joint commission on voca-  
11 tional-technical-occupational education, the president  
12 of the council on economic development and the chairs  
13 of the education committees of both the Senate and  
14 the House of Delegates, both of whom shall serve in an  
15 advisory capacity only.

16 The HOPE council shall be chaired by the governor  
17 and shall convene at least quarterly. The HOPE  
18 council shall establish bylaws which govern its deci-  
19 sion making.

**§18B-3C-3. Powers and authority of council generally.**

1 (a) In addition to all other powers granted to the  
2 HOPE council in this article and elsewhere by law, the  
3 HOPE council shall have the power and authority to:

4 (1) Make such budget recommendations as may be  
5 necessary for financing the work coordinated or  
6 facilitated by the council, such recommendation to be  
7 submitted to the governor for inclusion in the execu-  
8 tive budget in one or more appropriate existing  
9 accounts;

10 (2) Promote the work of the HOPE council in order  
11 to engender strong support from the community,  
12 education providers, the Legislature and business  
13 leaders;

14 (3) Report annually to the Legislature and to such  
15 other entities as the HOPE council may deem appro-  
16 priate on issues relating to higher and other post-  
17 secondary education and develop a means of commu-  
18 nication with education providers and advisory coun-  
19 cils and with community members and business

20 leaders who are involved in activities which further  
21 the goals, objectives and duties set forth in this article;

22 (4) Facilitate written agreements and procedures  
23 between and among the higher education governing  
24 boards, the state board of education, county boards of  
25 education, the joint commission for vocational-techni-  
26 cal-occupational, the distance learning coordinating  
27 council and other boards, agencies and entities  
28 involved in activities which further the goals, objec-  
29 tives and duties set forth in this article;

30 (5) Review any rules, policies and procedures to the  
31 extent that they impact on or create barriers to higher  
32 or post-secondary education;

33 (6) Solicit proposals in furtherance of any program  
34 or service required by this article, especially for the  
35 implementation of pilot programs, and direct such  
36 proposals to the appropriate entity for possible  
37 implementation;

38 (7) Solicit grants, gifts, bequests, donations and other  
39 funds for the benefit of any board, agency, commission  
40 or other public entity best suited to administer or  
41 facilitate the purpose of the grant, gift, bequest,  
42 donation or other funds; and

43 (8) Report to the Legislature not later than the first  
44 day of January, one thousand nine hundred ninety-  
45 four, a common protocol for the education and certi-  
46 fication of teachers in the public schools of this state  
47 which shall be developed with input from the center  
48 for professional development.

49 (b) The HOPE council shall not have the authority  
50 to hire personnel, nor shall the council have a separate  
51 budget or direct control over any state funds.

**§18B-3C-4. Funding and budgetary needs for higher and  
other post-secondary education.**

1 (a) The HOPE council shall analyze the accounts in  
2 the state budget that address or impact upon higher  
3 education and other post-secondary educational oppor-  
4 tunities, review budgetary needs and revenue sources

5 and make recommendations regarding the governor's  
6 proposed budget and the redirection of resources. In  
7 making such recommendations, the HOPE council  
8 shall educate themselves on the availability of and  
9 eligibility for federal, local and private funding, with  
10 the goal of maximizing federal, local and private  
11 revenues for enhancing higher education and other  
12 post-secondary educational opportunities.

13 (b) The HOPE council shall consider statutory  
14 changes necessary to further the intent of this article:  
15 *Provided*, That any legislative recommendation shall  
16 be accompanied by a proposal or plan for sufficient  
17 funding. In exploring all aspects of funding possibili-  
18 ties, the HOPE council shall consider innovative,  
19 flexible funding such as inter-board and inter-agency  
20 funding and reimbursement and joint funding pools.

21 (c) The HOPE council shall recommend fiscal incen-  
22 tives for institutions offering higher and other post-  
23 secondary education that adopt and implement policies  
24 and programs that result in substantial cost savings.  
25 Any resulting savings shall be identified, deposited in  
26 a special revenue account and expended in accordance  
27 with legislative appropriation: *Provided*, That any  
28 resulting savings shall be retained by the school, state  
29 institution of higher education, board, commission or  
30 other public entity responsible for the savings: *Provid-*  
31 *ed, however*, That the governing boards may redirect  
32 no more than fifty percent of savings identified by  
33 specific institutions of higher education if the appro-  
34 priate governing board decides that the savings should  
35 not be retained by the institution: *Provided further*,  
36 That any savings accruing to accounts which are  
37 subject to appropriation by the Legislature shall  
38 remain in said appropriated accounts and may be  
39 expended only upon subsequent appropriation by the  
40 Legislature.

**§18B-3C-5. Increased enrollment.**

1 (a) The HOPE council shall work to increase all West  
2 Virginians' preparedness for, awareness of, interest in  
3 and access to higher and other post-secondary educa-

4 tion through effective means that include, but are not  
5 limited to, recommending or coordinating:

6 (1) Marketing programs and other means of dissem-  
7 inating information illustrating the benefits of higher  
8 and other post-secondary education, including infor-  
9 mation regarding lifetime earning potential projec-  
10 tions and specific job opportunities which require  
11 higher or other post-secondary education;

12 (2) Clear definitions of expectations and needs  
13 regarding academic competencies required for success  
14 in higher and other post-secondary educational  
15 programs;

16 (3) Utilization of students, alumni, advisory councils  
17 and business and community leaders to promote the  
18 importance of education;

19 (4) Coordinated information systems and examples  
20 of forms, including admission and other forms,  
21 designed to provide people with complete, easy-to-read  
22 information on higher and other post-secondary  
23 education and to simplify the admissions process;

24 (5) Public information whereby citizens can receive  
25 information on higher and other post-secondary  
26 education which may include television programs,  
27 public service announcements and any other effective  
28 means of providing information on, communicating or  
29 promoting higher and other post-secondary education,  
30 including an expansion of "Project Go" and other  
31 computerized services intended to designate appropri-  
32 ate institutions of higher education to meet the goals,  
33 needs and abilities of potential students; and

34 (6) Support, assistance and encouragement to cur-  
35 rently enrolled students and other citizens, especially  
36 in minority or other groups under-represented in the  
37 post-secondary student population, who may need  
38 same to begin or return to higher or other post-  
39 secondary education, which shall include an expansion  
40 of the federally-funded talent search project;

41 (b) As to students currently enrolled in elementary  
42 and secondary school programs, the council shall work

43 to increase their preparedness for, awareness of,  
44 interest in and access to higher and other post-  
45 secondary education through effective means that  
46 include, but are not limited to, facilitating:

47 (1) Having college student volunteers tutor in the  
48 elementary and secondary schools;

49 (2) Providing career counseling to each student, with  
50 at least two in-depth sessions, including one during the  
51 middle or junior high school years;

52 (3) Emphasizing strong basis skills in math, science  
53 and communication, together with total wellness  
54 concepts that recognize the link between good physical  
55 health and mental aptitude;

56 (4) Eliminating the general curriculum and, instead,  
57 focusing on college preparation, technical preparation  
58 ("tech prep") or occupational preparation;

59 (5) Developing and signing onto a high school  
60 curriculum plan for each eighth grade student that  
61 steers each student into appropriate career directions  
62 without setting up limitations and educational and  
63 career barriers for any student;

64 (6) Organizing at least annually career day programs  
65 and career fairs and inviting guest lecturers in careers  
66 requiring higher or other post-secondary education;

67 (7) Developing an early warning system for elemen-  
68 tary and secondary school students to identify academ-  
69 ic deficiencies, which includes an opportunity for each  
70 student to be evaluated and assesses each student's  
71 progress regarding potential entry into post-secondary  
72 education by each student's tenth grade year;

73 (8) Providing sequential assessment in junior and  
74 senior high school to periodically measure student  
75 academic achievement, utilizing such means of assess-  
76 ment as the education planning and assessment system  
77 (EPAS) offered by American college testing (ACT);

78 (9) Providing information on financing post-second-  
79 ary education to each sixth grade student;

80 (10) Extending by the one thousand nine hundred  
81 ninety-three — ninety-four school year to students  
82 entering the ninth grade the warranty of proficiency  
83 that is given in the form of a certificate of proficiency  
84 in basic skills to public school system graduates that  
85 enables them to return to the public school system to  
86 receive additional schooling in the areas where profi-  
87 ciency is lacking;

88 (11) Informing each eleventh grade student, by the  
89 mid-point of the eleventh grade year, of standardized  
90 test-taking requirements for college entrance, provid-  
91 ing instruction on how to prepare for such tests,  
92 explaining college application procedures and provid-  
93 ing financial aid information;

94 (12) Assisting students in the twelfth grade and their  
95 parents with admission and financial aid forms;

96 (13) Exposing each student to a college campus  
97 through at least one academic visit to a college campus  
98 and providing opportunities for high school juniors  
99 and seniors to spend time on campus; and

100 (14) Expanding college courses offered in high  
101 schools and enrolling advanced high school students in  
102 college courses.

103 (c) As to non-traditional students, the council shall  
104 work to increase their preparedness for, awareness of,  
105 interest in and access to higher and other post-  
106 secondary education through effective means that  
107 include, but are not limited to, facilitating:

108 (1) Outreach in familiar environments by communi-  
109 ty organizations and by employment services and  
110 public assistance organizations;

111 (2) Development of a retraining fund for persons  
112 who have been in the work force for four or more  
113 years;

114 (3) Provision of child care services;

115 (4) College recruitment programs for retired mili-  
116 tary personnel;

- 117 (5) Advisory groups of employees and trade councils;
- 118 (6) Institution of courses attractive and available to  
119 business and industry employees and employers who  
120 require advanced training or retraining;
- 121 (7) Funding for rapid responses to the needs of  
122 business and industry, making courses available when  
123 needed and where needed without developing perma-  
124 nent programs, in an amount to be appropriated by  
125 the Legislature to the West Virginia development  
126 office for a competitive grant program;
- 127 (8) Courses at locations and times convenient for  
128 students with families and/or jobs, such as modular  
129 courses in non-traditional formats and at non-tradi-  
130 tional times such as on weekends;
- 131 (9) Work toward an amendment of federal law to  
132 allow unemployed workers to become full-time stu-  
133 dents without losing benefits;
- 134 (10) Sensitivity training for faculty, staff and stu-  
135 dents regarding cultural diversity; and
- 136 (11) Coordinating in-service training for all faculty  
137 and staff to inform them of the requirements of Public  
138 Law 101-336, the Americans with Disabilities Act, and  
139 any amendments thereto, to sensitize them to the  
140 needs of individuals with disabilities.

**§18B-3C-6. Student financing and cost of providing higher  
and other post-secondary education.**

- 1 (a) In addition to other provisions in this article and  
2 code relating to student financing of higher and other  
3 post-secondary education, the HOPE council shall  
4 address issues regarding the cost of higher and other  
5 post-secondary education in an attempt to render such  
6 education more affordable and shall utilize effective  
7 means that include, but are not limited to:
- 8 (1) Recommending increases in available funds  
9 subject to legislative appropriation for grants and  
10 loans, including the higher education grant program  
11 created pursuant to article five, chapter eighteen-c of  
12 this code;

13 (2) Encouraging new student aid funded primarily  
14 from local community resources in return for the  
15 future performance of public service jobs by students  
16 receiving such aid;

17 (3) Facilitating the sale or offering of bonds pursuant  
18 to the individual higher education savings plan pro-  
19 gram set forth in section five, article nine-d, chapter  
20 eighteen of this code;

21 (4) Publicizing the availability of unsubsidized  
22 guaranteed loans;

23 (5) Arranging for the publication of brochures about  
24 applying for financial aid and make same widely  
25 available in convenient locations;

26 (6) Addressing the financial needs and sources of  
27 funds for state institutions of higher education with a  
28 goal that tuition and fees for state residents are  
29 approximately the median of the average of fees for  
30 comparable institutions within the southern regional  
31 education board area and so that, beginning with the  
32 school year beginning on the first day of July, one  
33 thousand nine hundred ninety-five, and continuing  
34 thereafter, tuition and fees for nonresident students  
35 covers the full cost of instruction at state institutions  
36 of higher education;

37 (7) Assisting the governing boards with the develop-  
38 ment of flexible means for the payment of tuition and  
39 fees, including installment payment plans, and pay-  
40 ment by credit card or other commonly accepted form  
41 of credit;

42 (8) Assisting the governing boards with the develop-  
43 ment of policies which minimize textbook changes,  
44 utilize textbooks system-wide and statewide to the  
45 extent possible and require that each campus imple-  
46 ment a textbook exchange program, which program  
47 shall be extended system-wide and statewide; and

48 (9) Exploring ways that students can earn money  
49 while having higher and other post-secondary educa-  
50 tional opportunities.

51 (b) In addition to other provisions in this article and  
52 code relating to fiscal efficiency and accountability in  
53 the provision of higher and other post-secondary  
54 education, the HOPE council shall address issues  
55 regarding the cost of higher and other post-secondary  
56 education in an attempt to reduce the cost of providing  
57 such education and shall utilize effective means that  
58 include, but are not limited to:

59 (1) Assisting with the expansion of computer-assisted  
60 instruction and technological delivery, including the  
61 expanded use of public libraries for this delivery; the  
62 integration to the greatest extent possible of the higher  
63 education, public education and public library systems;  
64 the delivery of the general education core curriculum  
65 by technology-based instruction; and other distance  
66 learning technologies set forth in section two-a, article  
67 five, chapter ten of this code;

68 (2) As regards the general education core curricu-  
69 lum, facilitating the establishment of standards and  
70 strategies for assessing student learning of the technol-  
71 ogy-based instruction, including standards for mini-  
72 mum competencies in basic skill areas, higher order  
73 thinking skills, and general knowledge, utilizing the  
74 college assessment of academic proficiency (CAAP)  
75 component of the educational planning and assessment  
76 system (EPAS) offered by American college testing  
77 (ACT); and

78 (3) Recommending the elimination of unnecessary  
79 duplicate programs and courses.

**§18B-3C-7. Succeeding in higher and other post-secondary  
education endeavors.**

1 (a) The HOPE council shall facilitate the adoption of  
2 policies and the implementation of programs that  
3 assist students currently enrolled in higher education  
4 and other post-secondary educational programs in  
5 completing such programs, such policies and programs  
6 to include, but not be limited to:

7 (1) Standard systems for assessing students and their  
8 proficiency for entrance and placement in either

9 college-level credit courses or non-credit development  
10 courses and periodic evaluations of these systems;

11 (2) Procedures to monitor individual student pro-  
12 gress and assess student proficiencies during the  
13 second year of enrollment;

14 (3) Counseling and academic advising services that  
15 give students an understanding of the academic  
16 program requirements necessary for successful pro-  
17 gram or degree completion, with a view toward each  
18 student's career goals, which services should be  
19 accessible to the student in terms of the hours that  
20 student service offices are open and the location of  
21 such services;

22 (4) Other student support services such as library  
23 access, prompt interaction with peers and instructors  
24 and peer mentoring for new students;

25 (5) Course reviews intended to assure that full-time  
26 undergraduate students can earn degrees in a reason-  
27 able length of time, to minimize the amount of  
28 additional course work that must be taken at less  
29 convenient times and locations before an undergradu-  
30 ate degree may be completed, and to ensure that the  
31 sequence and availability of academic programs and  
32 courses is such that students have the maximum  
33 opportunity to complete programs in the time frame  
34 normally associated with program completion; and

35 (6) Transferability of course work credits, especially  
36 core course work credits, among the state institutions  
37 of higher education in each system, between the  
38 systems and with private colleges and universities,  
39 including transferability of core course work complet-  
40 ed at any state institution of higher education to  
41 another state institution of higher education at the  
42 grade earned.

43 (b) The HOPE council shall facilitate the adoption of  
44 policies and the implementation of programs that  
45 assist students currently enrolled in higher education  
46 and other post-secondary educational programs in  
47 completing such programs, such policies and programs

48 to include, but not be limited to:

49 (1) A smooth transition from secondary and post-  
50 secondary vocational programs to associate degree  
51 programs, including the provision of enough resources  
52 to meet the influx of students from vocational  
53 programs;

54 (2) Encouragement to each student to complete the  
55 associate degree even if that student intends to earn a  
56 higher education bachelor's degree through appropri-  
57 ate counseling services;

58 (3) Encouragement to each student, after completion  
59 of the associate degree, to continue toward a higher  
60 education bachelor's degree through appropriate  
61 counseling services; and

62 (4) Facilitation of the completion of the associate  
63 degree and the continuation of education to comple-  
64 tion of a higher education bachelor's degree by  
65 providing more "two plus two" programs which  
66 combine two-year associate degree programs with two  
67 more years of study toward a bachelor's degree.

68 (c) While encouraging all students to receive as  
69 much higher or other post-secondary education as  
70 their means and circumstances may allow, the HOPE  
71 council shall recognize the appropriateness of technical  
72 certificates and associate degrees, shall not treat the  
73 programs as second-class programs and shall give  
74 attention to such programs through effective means  
75 that include, but are not limited to:

76 (1) Cooperation between private, public and higher  
77 education in the delivery of vocational, occupational  
78 and technical programs and courses, including the  
79 sharing of advanced technology;

80 (2) Competitive grants administered by the joint  
81 commission on vocational-technical-occupational edu-  
82 cation as set forth in article three-a of this chapter,  
83 with priority given to grants intended to match state  
84 and federal funds for expansion of technical prepara-  
85 tion programs; and

86 (3) Definitions regarding expectations for secondary  
87 and associate degree levels programs and the success-  
88 ful completion thereof.

89 (d) The HOPE council shall assure that the higher  
90 and other post-secondary education offered in this  
91 state prepares the student for entering the work force  
92 through effective means that include, but are not  
93 limited to:

94 (1) Utilizing campus-level, system-wide and state-  
95 wide advisory groups, assess work force, business and  
96 industry and market needs; prepare students for  
97 specialized and other careers that meet these needs;  
98 regularly review and revise programs and curricula  
99 designed to train for specialized and other careers that  
100 meet the work force needs; and develop new programs  
101 and phase out or modify existing programs as appro-  
102 priate to meet work force, business and industry and  
103 market needs;

104 (2) Emphasizing science and technology courses;

105 (3) Encouraging the establishment of courses and  
106 programs which incorporate into the curriculum field  
107 placements, internships, cooperative or apprenticeship  
108 components, on-the-job training, service internships  
109 and/or work experiences;

110 (4) Facilitating the study of the placement of the  
111 patterns of students receiving a general education  
112 degree to assess the effectiveness of the general  
113 education experience, using studies required of accred-  
114 iting bodies;

115 (5) Assuring that graduates meet performance  
116 standards through national accreditation and through  
117 outcome assessments of graduates determined through  
118 such means as follow-up studies of performances on  
119 licensure exams and other objective indicia of meeting  
120 performance standards and surveys and interviews  
121 with subsequent employers; and

122 (6) Recommending ways to streamline procedures  
123 for designing and implementing customized training  
124 programs to meeting the needs of employers for

125 specific programs of limited duration.

126 (e) The HOPE council shall assist students who have  
127 completed higher and other post-secondary education  
128 in finding suitable employment through effective  
129 means that include, but are not limited to:

130 (1) Coordinating the maintenance of a statewide job  
131 bank for persons holding vocational, associate and  
132 college degrees;

133 (2) Inviting committees of private citizens and  
134 business leaders to identify work force needs, expand  
135 opportunities and aid in job placement;

136 (3) Making recommendations regarding resource  
137 placement based on economic realities and job  
138 opportunities;

139 (4) Periodically assessing employee supply and job  
140 demands in order to make recommendations regarding  
141 the adjustment of programs to accommodate employ-  
142 ment needs and produce appropriate number of  
143 graduates;

144 (5) Assisting with the development of systems for  
145 enrollment management so that the number of stu-  
146 dents corresponds to the demand for graduates in that  
147 area of training; and

148 (6) Recommending increases in admission and grad-  
149 uation standards in programs producing too many  
150 graduates.

151 (f) The HOPE council shall facilitate the provision of  
152 evaluative feedback to the public and private second-  
153 ary schools in this state to determine the effectiveness  
154 of the educational experience and the performance of  
155 their alumni through periodic studies of its graduates  
156 and reports to the schools, which feedback shall  
157 include information relating to:

158 (1) The graduates' general readiness for higher and  
159 other post-secondary educational experiences;

160 (2) Student performance levels; and

161 (3) Job offers and job placement to the extent such

162 information is available.

163 (g) The HOPE council shall facilitate the provision of  
164 evaluative feedback to higher education institutions  
165 and other post-secondary schools in this state to  
166 determine the effectiveness of the educational experi-  
167 ence and the job placement of their alumni through  
168 periodic studies of its graduates and reports to the  
169 schools, which feedback shall, where appropriate,  
170 make use of studies required of many academic  
171 disciplines by their accrediting bodies and shall  
172 include information relating to:

173 (1) The graduates' general readiness for additional  
174 higher and other post-secondary educational experien-  
175 ces or for entry into the work force;

176 (2) Job offers and job placement; and

177 (3) General evaluative information regarding the  
178 graduates' employment performance levels.

**§18B-3C-8. Interaction among the state's education pro-  
fessionals.**

1 (a) The HOPE council shall encourage interaction  
2 among elementary, secondary, post-secondary and  
3 higher education faculty and counselors through  
4 effective means that include, but are not limited to:

5 (1) Communications and academic alliances among  
6 educators in similar academic fields, especially among  
7 middle and high school counselors and higher educa-  
8 tion personnel in student advising roles, regarding  
9 academic standards, expectations and needs; and

10 (2) Strategies to ensure that school counselors are  
11 well informed about the efforts of the council to help  
12 students prepare for, be aware of and interested in  
13 and have access to higher education and other post-  
14 secondary educational opportunities.

15 (b) The HOPE council shall facilitate the coordina-  
16 tion of secondary, post-secondary and higher education  
17 programs through effective means that include, but  
18 are not limited to:

- 19 (1) Administration of community colleges and tech-  
20 nical schools in a single system;
- 21 (2) Post-baccalaureate courses for teachers that are  
22 more subject-matter based; and
- 23 (3) Professional development opportunities.

**§18B-3C-9. Assistance for students with disabilities.**

- 1 (a) The HOPE council shall coordinate efforts among  
2 the state institutions of higher education to work with  
3 educational professionals in the public and private  
4 elementary and secondary schools to increase training,  
5 education and awareness regarding individuals with  
6 disabilities and to develop and implement the adoles-  
7 cent plan for transition services.
- 8 (b) The HOPE council shall encourage schools and  
9 educational institutions to solicit input, advice and  
10 consultation regarding issues that impact individuals  
11 with disabilities through an advisory disability council  
12 established at the schools and institutions. Membership  
13 on the disability council should include individuals  
14 with disabilities, teachers and faculty members,  
15 parents, agency representatives, principals or other  
16 administrative personnel, counselors and others whose  
17 input would be helpful to the council. The HOPE  
18 council shall encourage that each school or institution  
19 with an advisory council make every effort to coordi-  
20 nate with existing community networks and give them  
21 appropriate representation on the council.
- 22 (c) The HOPE council shall make recommendations  
23 regarding teacher education training to enable future  
24 teachers to meet the unique educational needs of  
25 individuals with disabilities.
- 26 (d) The HOPE council shall coordinate the dissemi-  
27 nation of information about programs, services and  
28 activities for individuals with disabilities and shall  
29 make recommendations to facilitate the development  
30 of a public relations program regarding services  
31 available for individuals with disabilities.
- 32 (e) The HOPE council shall recommend funding

33 sources for services and equipment for individuals  
34 with disabilities and shall facilitate written agreements  
35 between or among agencies and foundations that  
36 provide direct or support services to individuals with  
37 disabilities.

38 (f) The HOPE council shall examine and make  
39 recommendations for the modification of existing  
40 enrollment procedures to better facilitate timely  
41 identification of students with disabilities who should  
42 be provided the opportunity of higher and other post-  
43 secondary education and the resources necessary to  
44 meet that objective.

45 (g) The HOPE council shall encourage the develop-  
46 ment of an orientation program for education profes-  
47 sionals, students and parents concerning student  
48 disabilities and availability of services.

49 (h) The HOPE council shall encourage education  
50 personnel to assist students with disabilities by moni-  
51 toring the performance of students, making referrals  
52 for counseling and services and developing a system  
53 that provides students on probation with counseling  
54 and assessment services.

#### 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 appoint-  
3 ed by the governor a president and such other officers  
4 as it may deem necessary or desirable: *Provided*, That  
5 the initial annual meeting shall be held during July,  
6 one thousand nine hundred eighty-nine. The president  
7 and such other officers shall be elected for a one-year  
8 term commencing on the first day of July following  
9 the annual meeting and ending on the thirtieth day of  
10 June of the following year. The president of the board  
11 shall serve no more than two consecutive terms.

12 (b) Each governing board shall employ a chancellor  
13 who shall serve at the will and pleasure of the  
14 employing board and shall assist the governing board

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

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

49 (d) Suitable offices for the senior administrator and  
50 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, admini-  
9 strative, 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 authorized or required  
48 to be performed by the governing boards and not  
49 specifically assigned to the board of trustees or the  
50 board of directors may be administered by the senior  
51 administrator. Such program or service may include,  
52 but shall not be limited to, telecommunications activ-  
53 ities and other programs and services provided for  
54 under grants and contracts from federal and other  
55 external funding sources.

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

**§18B-5-2. Resource allocation model and policies; allocation  
of appropriations.**

1 (a) To promote the missions and achieve the goals  
2 and objectives of the systems under their jurisdiction  
3 and to provide information and guidance for the  
4 allocation of funding between the two systems in an  
5 equitable manner, the governing boards, through the  
6 central office, shall develop a resource allocation  
7 model for the allocation of general revenue funds  
8 appropriated for the state system of higher education.  
9 In developing the resource allocation model, the  
10 boards shall consider such factors as peer institution  
11 information, enrollment information and such other  
12 data as shall further an equitable distribution of  
13 general revenue funds for higher education. The  
14 governing boards, through the central office, shall  
15 develop the model prior to the first day of July, one  
16 thousand nine hundred ninety-three, and may modify  
17 the model thereafter: *Provided*, That such modifica-  
18 tions are subject to the provisions of article three-a,  
19 chapter twenty-nine-a of this code.

20 At such time as budget information for the next  
21 fiscal year shall be due, each year the governing  
22 boards shall make allocation decisions for the upcom-  
23 ing fiscal year in accordance with the model then in

24 effect and shall inform the secretary of education and  
25 the arts of the division of the recommended appropri-  
26 ation for higher education for submission to the  
27 appropriate state agency for incorporation in the  
28 executive budget. The governing boards shall provide  
29 such other information as may be requested by the  
30 secretary of education and the arts to support the  
31 allocation division. Prior to the first day of January of  
32 each year the governing boards shall present this and  
33 any other appropriate information to the Legislature  
34 to support the proposed allocation of appropriation as  
35 between the governing boards.

36 (b) To promote the missions and achieve the goals  
37 and objectives of the institutions under the jurisdic-  
38 tion of the board of trustees and board of directors and  
39 to provide information and guidance for the allocation  
40 of funding among the institutions in the separate  
41 systems in an equitable manner in relation to their  
42 missions, goals and objectives, the board of trustees  
43 and the board of directors shall each develop a  
44 resource allocation policy based on comparative infor-  
45 mation which includes the following factors:

46 (1) Full-time equivalent enrollment;

47 (2) Average state appropriations per full-time-  
48 equivalent student at similar institutions in the  
49 southern regional education board; and

50 (3) Other relevant factors.

51 The Legislature finds that an emergency situation  
52 exists and therefore, the governing boards are hereby  
53 authorized to establish by emergency rule a resource  
54 allocation policy for each governing board prior to the  
55 first day of January, one thousand nine hundred  
56 ninety-four. Either governing board may modify its  
57 policy thereafter, such modification to be submitted to  
58 the legislative oversight commission on education  
59 accountability subject to the provisions of article  
60 three-a, chapter eighteen-a of this code.

61 Upon approval of the resource allocation policy, each  
62 governing board, prior to the first day of January of

63 each year, shall present information to the secretary of  
64 education and the arts and the Legislature which sets  
65 forth the allocation decisions made by the respective  
66 governing boards for the then current fiscal year  
67 based on the policy then in effect, and the allocation  
68 decisions proposed for the next year, based on the  
69 policy in effect for the next succeeding fiscal year.

70 (c) From appropriations to the institutional control  
71 accounts of the respective governing boards for alloca-  
72 tion to the state institutions of higher education under  
73 their jurisdiction, the governing boards shall allocate  
74 all such funds above the amounts actually allocated  
75 from appropriations for fiscal year one thousand nine  
76 hundred ninety-three to their respective institutions  
77 proportional to such amounts as are indicated by  
78 application of the resource allocation policy then in  
79 effect.

80 For fiscal year one thousand nine hundred ninety-  
81 four, all funds that are in excess of the funds received  
82 by the governing boards for expenditure by the state  
83 institutions of higher education for fiscal year one  
84 thousand nine hundred ninety-three shall be allocated  
85 in accordance with the governing boards' resource  
86 allocation model and each governing board's institu-  
87 tional resource allocation policy to the extent that a  
88 policy is in place, whether or not the policy has been  
89 approved in accordance with the provisions of subsec-  
90 tion (b) of this section.

91 (d) Beginning with fiscal year one thousand nine  
92 hundred ninety-five, each governing board shall apply  
93 its resource allocation policy to existing base budgets  
94 in order to effect an equalization of the institutional  
95 state funding differences at twenty percent per year  
96 over a five-year period until such time as the percent-  
97 age of institutional differences as determined by the  
98 resource allocation policy for that system are equal-  
99 ized. After a five-year phase-in period, all appropria-  
100 tions to the institutional accounts of the respective  
101 governing boards shall be allocated to their respective  
102 institutions proportional to such amounts as are  
103 indicated by application of the resource allocation

104 policy for that system.

105 (e) From appropriations for the higher education  
106 governing boards, the governing boards shall jointly  
107 allocate funds for the operation of the central office  
108 under the senior administrator and shall share equally  
109 the cost of suitable offices for the senior administrator  
110 and other staff in Charleston.

111 (f) Any tuition and registration fee collections paid  
112 into tuition and registration fee special capital  
113 improvement funds and special revenue bond funds  
114 which accrue in excess of the amounts necessary to  
115 protect the interests of all holders of obligations for  
116 which such fees were pledged by the board of regents  
117 and shall remain pledged under the governing boards,  
118 shall be allocated to each governing board in propor-  
119 tion to the amounts of such fees collected through the  
120 institutions under its jurisdiction and shall be deposit-  
121 ed in special capital improvement funds in the state  
122 treasury under the name of the governing board for  
123 expenditure for capital improvements at the institu-  
124 tions under the appropriate board's jurisdiction.

**§18B-5-2a. Authorizing certain transfers within and among  
general and special revenue accounts of state  
institutions of higher education.**

1 (a) In accordance with the provisions of section  
2 seventeen, article two, chapter five-a of this code, the  
3 transfer of amounts between items of appropriations,  
4 or the transfer of moneys in a special account estab-  
5 lished for a particular purpose into another account  
6 for expenditure for another purpose, are specifically  
7 authorized for a spending unit under the jurisdiction  
8 of the governing boards subject to the following  
9 conditions:

10 (1) The president or other administrative head of a  
11 state institution of higher education submits a written  
12 request to the appropriate governing board. The  
13 appropriate governing board approves the request for  
14 the transfer and submits a written request for the  
15 transfer to the secretary of education and the arts. The  
16 legislative auditor and the legislative oversight com-

17 mission on education accountability are to be fur-  
18 nished a copy of the request;

19 (2) The secretary of education and the arts, after  
20 consultation with the appropriate governing board,  
21 gives written approval to a request for a transfer and  
22 follows such procedures as may be required by the  
23 secretary of administration, the auditor and the  
24 treasurer to effect the transfer prior to any expendi-  
25 ture of the moneys so transferred;

26 (3) Such a transfer does not:

27 (A) Expand a program, establish a new program or  
28 provide capital for an expense that cannot be paid  
29 during the current fiscal year; or

30 (B) Increase the moneys allocated or appropriated to  
31 personal services unless:

32 (i) Such transfer to personal services is made on an  
33 emergency basis for the employment of personnel for  
34 summer school, and then only in such amounts as  
35 mandated for salary purposes by articles eight and  
36 nine of this chapter: *Provided*, That moneys trans-  
37 ferred for the employment of personnel for summer  
38 school shall be separately accounted for to indicate  
39 which of the accounts appropriated by the Legislature  
40 are increased or reduced as a result of the transfer; or

41 (ii) A quarterly allotment of funds pursuant to  
42 section fifteen, article two, chapter five-a of this code  
43 is insufficient to meet the appropriated personal  
44 services budget of the spending unit in that fiscal  
45 quarter, in which case a transfer may only be made to  
46 meet the insufficiency and shall be accompanied by a  
47 pledge to replace funds in the original accounts by the  
48 end of that fiscal year;

49 (4) Not more than five percent of the total allocation  
50 or appropriation in any general revenue account of a  
51 state institution of higher education may be trans-  
52 ferred between the items of allocation or appropriation  
53 thereof or between the accounts established for such  
54 institution;

55 (5) The transfer of moneys in a special account  
56 established for a particular purpose into another  
57 account for expenditure for another purpose shall not  
58 exceed such amounts as are determined by the pres-  
59 ident or other administrative head of the institution to  
60 be in excess of that reasonably required to accomplish  
61 the purposes for which the account was established,  
62 unless such excess balances are insufficient to provide  
63 the amounts necessary for a temporary transfer in the  
64 case of a quarterly allotment which is insufficient to  
65 meet the appropriated personal services budget;

66 (6) Funds in any general or special account estab-  
67 lished for a specific state institution of higher educa-  
68 tion shall not be transferred pursuant to this section  
69 for use by another state institution of higher education.

70 (b) Notwithstanding the procedures and restrictions  
71 set forth in subsection (a) of this section, except to the  
72 extent that the section explicitly relates to transfers  
73 due to quarterly allotment insufficiencies, and not-  
74 withstanding any other provision of this code to the  
75 contrary, if a quarterly allocation of appropriations  
76 from the general revenue fund to the respective  
77 governing boards is insufficient to meet the cash flow  
78 needs within their respective systems to meet their  
79 payroll requirements, the boards may authorize the  
80 institutions to transfer funds from the various special  
81 revenue accounts under their jurisdiction to meet  
82 these needs, except funds whose use is governed by  
83 bonding covenants: *Provided*, That the legislative  
84 auditor shall be notified by the institution at the time  
85 of transfer and shall be provided whatever documen-  
86 tation that may be required to maintain records of the  
87 amounts transferred and subsequently restored: *Pro-  
88 vided, however*, That the amounts of funds so trans-  
89 ferred shall be restored to the accounts from which  
90 the transfers were made by the end of the fiscal year  
91 in which the transfers occurred: *Provided further*,  
92 That if the records in the office of the legislative  
93 auditor indicate any amounts transferred have not  
94 been restored by the end of the fiscal year, the  
95 legislative auditor shall notify the secretary of admin-

96 istration, auditor and treasurer, and thereafter no  
97 funds appropriated or allocated to the institution shall  
98 be encumbered or expended until such amounts are  
99 replaced: *And provided further*, That the respective  
100 spending units have first pursued appropriate admin-  
101 istrative remedies to avoid anticipated cash flow  
102 shortages: *And provided further*, That nothing herein  
103 restricts the ability of the boards to respond to  
104 reductions of appropriations imposed in accordance  
105 with article two, chapter five-a of this code within the  
106 restoration period.

107 (c) If, due to increased efficiency in operations, a  
108 state institution of higher education accumulates  
109 balances in any of its accounts, or accounts established  
110 for the institution by its governing board, which are in  
111 excess of the amounts needed to accomplish the  
112 purposes for which the accounts were established,  
113 either general or special revenue, the institution may  
114 employ the transfer provisions established in subdivi-  
115 sions (1) and (2), subsection (a) of this section to  
116 transfer such excess balances into a special efficiency  
117 surplus revolving fund which shall be created in the  
118 state treasury for the institution and which shall be  
119 carried forward into the subsequent fiscal years:  
120 *Provided*, That expenditures from any special efficien-  
121 cy surplus fund shall only be made upon line item  
122 appropriation by the Legislature. In the case of such  
123 transfers, the president shall, in addition to the  
124 request for a transfer, also submit to the secretary of  
125 education and the arts, the appropriate governing  
126 board, the legislative auditor and the legislative  
127 oversight commission on education accountability,  
128 documentation of the efficiencies accomplished which  
129 resulted in the excess balance. Funds transferred into  
130 the special surplus fund of an institution shall be  
131 budgeted by the president or other administrative  
132 head of the institution in consultation with the faculty  
133 senate, classified staff and student government organi-  
134 zation to meet the highest academic priorities of the  
135 institution: *Provided, however*, That such funds may  
136 not be used to support a continuing operation or  
137 expense unless the efficiencies which resulted in such

138 funds becoming available are likewise continuing:  
 139 *Provided further*, That the restrictions on fund  
 140 transfers set forth in subdivisions (3), (4) and (5) of said  
 141 subsection of this section shall not apply to transfers to  
 142 the efficiency surplus revolving fund: *And provided*  
 143 *further*, That the restriction set forth in subdivision (6)  
 144 of said subsection shall apply to such transfers.

145 (d) If the Legislature finds that amounts deposited in  
 146 any fund created pursuant to this section or trans-  
 147 ferred to any fund exceed the amounts needed to  
 148 effectuate any of the purposes set forth in this section,  
 149 such amounts may be transferred to other accounts or  
 150 funds and redesignated for other purposes upon  
 151 appropriation by the Legislature.

152 (e) Reports setting forth the exercise of any author-  
 153 ity granted by this section shall be submitted with  
 154 specificity to the legislative commission on oversight  
 155 accountability and the joint committee on government  
 156 and finance on the first day of January of any year in  
 157 which such authority was exercised during the prior  
 158 twelve-month period.

#### **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 except the administrative officer, shall be eligible to  
26 succeed themselves for no more than one additional  
27 term. A vacancy in an unexpired term of a member  
28 shall be filled within sixty days of the occurrence  
29 thereof in the same manner as the original appoint-  
30 ment or election. Except in the case of a vacancy, all  
31 elections shall be held and all appointments shall be  
32 made no later than the thirtieth day of April preced-  
33 ing the commencement of the term.

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

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

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

56 (c) The board of advisors shall review, prior to the  
57 submission by the president to its governing board, all

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

74 (d) The board of advisors shall review, prior to their  
75 implementation by the president, all proposals regard-  
76 ing institution-wide personnel policies. The board of  
77 advisors may comment on such proposals in writing.

78 (e) The board of advisors shall provide advice and  
79 assistance to the president in establishing closer  
80 connections between higher education and business,  
81 labor, government, community and economic develop-  
82 ment organizations to give students greater opportun-  
83 ities to experience the world of work, such as business  
84 and community service internships, apprenticeships  
85 and co-operative programs; to communicate better and  
86 serve the current work force and work force develop-  
87 ment needs of their service area, including the needs  
88 of nontraditional students for college-level skills  
89 upgrading and retraining and the needs of employers  
90 for specific programs of limited duration; and to assess  
91 the performance of institution's graduates and assist in  
92 job placement. The administrative officer of the  
93 institution serving on the advisory council may be  
94 assigned the responsibility for coordinating the institu-  
95 tion's activities related to economic development.

96 (f) Upon the occurrence of a vacancy in the office of  
97 president of the institution, the board of advisors shall  
98 serve as a search and screening committee for candi-

99 dates to fill the vacancy under guidelines established  
100 by its governing board. When serving as a search and  
101 screening committee, the board of advisors and its  
102 governing board are each authorized to appoint up to  
103 three additional persons to serve on the committee as  
104 long as the search and screening process is in effect.  
105 The three additional appointees of the board of  
106 advisors shall be faculty members of the institution.  
107 Only for the purposes of the search and screening  
108 process, such additional members shall possess the  
109 same powers and rights as the regular members of the  
110 board of advisors, including reimbursement for all  
111 reasonable and necessary expenses actually incurred.  
112 Following the search and screening process, the  
113 committee shall submit the names of at least three  
114 candidates to the governing board for consideration  
115 and appointment. If the governing board rejects all  
116 candidates so submitted, the committee shall submit  
117 the names of at least three additional candidates, and  
118 this process shall be repeated until the governing  
119 board appoints one of the candidates so submitted. The  
120 governing board shall provide all necessary staff  
121 assistance to the board of advisors in its role as a  
122 search and screening committee.

**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) Definitions for terms used in this section shall be  
2 in accordance with those provided in section two,  
3 article nine of this chapter except that the provisions  
4 of this section shall apply only to classified employees  
5 whose employment, if continued, shall accumulate to  
6 a minimum total of one thousand forty hours during  
7 a calendar year and extend over at least nine months  
8 of a calendar year.

9 (b) All decisions by the appropriate governing board  
10 or their agents at state institutions of higher education  
11 concerning reductions in work force of full-time

12 classified personnel, whether by temporary furlough  
13 or permanent termination, shall be made in accor-  
14 dance with this section. For layoffs by classification for  
15 reason of lack of funds or work, or abolition of position  
16 or material changes in duties or organization and for  
17 recall of employees so laid off, consideration shall be  
18 given to an employee's seniority as measured by  
19 permanent employment in the service of the state  
20 system of higher education. In the event that the  
21 institution wishes to lay off a more senior employee,  
22 the institution must demonstrate that the senior  
23 employee cannot perform any other job duties held by  
24 less senior employees of that institution in the same  
25 job 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.

64 (d) A non-exempt classified employee, including a  
65 non-exempt employee who has not accumulated a  
66 minimum total of one thousand forty hours during the  
67 calendar year or whose contract does not extend over  
68 at least nine months of a calendar year, who meets the  
69 minimum qualifications for a job opening at the  
70 institution where the employee is currently employed,  
71 whether the job be a lateral transfer or a promotion,  
72 and applies for same shall be transferred or promoted  
73 before a new person is hired unless such hiring is  
74 affected by mandates in affirmative action plans or the  
75 requirements of Public Law 101-336, the Americans  
76 with Disabilities Act. If more than one qualified, non-  
77 exempt classified employee applies, the best-qualified  
78 non-exempt classified employee shall be awarded the  
79 position. In instances where such classified employees  
80 are equally qualified, the non-exempt classified  
81 employee with the greatest amount of continuous  
82 seniority at that state institution of higher education  
83 shall be awarded the position. A non-exempt classified  
84 employee is one to whom the provisions of the federal  
85 Fair Labor Standards Act, as amended, apply.

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

1 (a) Each state institution of higher education shall  
2 have the authority to establish and operate a faculty  
3 and classified employee continuing education and  
4 development program under rules adopted by the  
5 appropriate governing board. Funds allocated or made  
6 available may be used to compensate and pay expenses

7 for 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 (b) Before the first day of January, one thousand  
12 nine hundred ninety-four, each governing board, with  
13 the advice and assistance of the faculty senates, staff  
14 councils and other groups representing classified  
15 employees, shall adopt policies which encourage  
16 continuing education and staff development. The  
17 policies shall require that selection shall be made on a  
18 non-partisan basis, using fair and meaningful criteria  
19 which will afford all faculty and classified employees  
20 with opportunities to enhance their skills. Such  
21 policies may also include reasonable provisions for the  
22 continuation or return of any faculty or classified  
23 employee receiving the benefits of such education or  
24 training, or for reimbursement by the state for  
25 expenditures incurred on behalf of such faculty or  
26 classified employee.

**§18B-7-6. Adjunct faculty; part-time and temporary classified employees.**

1 (a) Before the first day of January, one thousand  
2 nine hundred ninety-four, each governing board, with  
3 the advice and assistance of the faculty senates, shall  
4 establish a policy pursuant to the provisions of article  
5 three-a, chapter twenty-nine-a of this code regarding  
6 the role of adjunct faculty at state institutions of  
7 higher education and define an appropriate balance  
8 between full-time and adjunct faculty members.

9 (b) Before the first day of January, one thousand  
10 nine hundred ninety-four, each governing board, with  
11 the advice and assistance of the staff councils and  
12 other groups representing classified employees, shall  
13 establish a policy pursuant to the provisions of article  
14 three-a, chapter twenty-nine-a of this code regarding  
15 the role of part-time classified employees at state  
16 institutions of higher education. Such policy shall  
17 discourage the hiring of part-time employees solely to  
18 avoid the payment of benefits or in lieu of full-time

19 employees and shall provide all qualified classified  
20 employees with nine-month or ten-month contracts  
21 with the opportunity to accept part-time or full-time  
22 summer employment before new persons are hired for  
23 the part-time or full-time employment.

**§18B-7-7. Professional productivity.**

1 Before the first day of January, one thousand nine  
2 hundred ninety-four, each governing board, with the  
3 advice and assistance of the faculty senates, shall  
4 establish a policy pursuant to the provisions of article  
5 three-a, chapter twenty-nine-a of this code regarding  
6 productivity of faculty and administrators, which  
7 policy shall require faculty productivity that is ten  
8 percent more than the average of similar institutions  
9 in other states by the fiscal year one thousand nine  
10 hundred ninety-five, such productivity to be based on  
11 the average number of student credit hours taught,  
12 and administrative productivity that is ten percent  
13 more than the average of similar institutions in other  
14 states by the fiscal year one thousand nine hundred  
15 ninety-five.

**§18B-7-8. Campus administrators.**

1 Before the first day of January, one thousand nine  
2 hundred ninety-four, each governing board, with the  
3 advice and assistance of the faculty senates, shall  
4 establish a policy pursuant to the provisions of article  
5 three-a, chapter twenty-nine-a of this code requiring  
6 all campus administrators holding faculty rank to  
7 teach at least one course during each eighteen-month  
8 employment period or to perform on-going research in  
9 lieu of teaching.

**§18B-7-9. Employment innovations.**

1 Before the first day of January, one thousand nine  
2 hundred ninety-four, each governing board, with the  
3 advice and assistance of the staff councils and other  
4 groups representing classified employees, shall estab-  
5 lish a policy pursuant to the provisions of article three-  
6 a, chapter twenty-nine-a of this code that discourages  
7 temporary, non-emergency, institutionally-imposed

8 changes in an employee's work schedule; that main-  
9 tains reasonable continuity in working schedules and  
10 conditions for employees; and that requires institu-  
11 tions to consider feasible and innovative ways to most  
12 efficiently utilize the institution's classified employees,  
13 such innovations to include flexibility in employee  
14 scheduling, job-sharing and four-day work weeks.

**§18B-7-10. Salary increases for cooperative extension  
workers.**

1 (a) Subject to appropriation by the Legislature  
2 therefor, each full-time cooperative extension worker  
3 employed pursuant to the provisions of section one,  
4 article eight, chapter nineteen of this code who is  
5 considered to be extension faculty shall be granted an  
6 annual salary increase of two thousand dollars effec-  
7 tive the first day of July, one thousand nine hundred  
8 ninety-three, and the salary increases authorized in  
9 subsection (b), section three-a, article eight of this  
10 chapter.

11 (b) Subject to appropriation by the Legislature  
12 therefor, each full-time, non-faculty cooperative  
13 extension worker employed pursuant to the provisions  
14 of section one, article eight, chapter nineteen of this  
15 code shall be granted a monthly salary increase of one  
16 hundred twenty-five dollars effective the first day of  
17 July, one thousand nine hundred ninety-three, and  
18 the salary increases authorized in section eleven,  
19 article nine of this chapter.

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

**§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 ninety-  
13 three — ninety-four, and thereafter, a salary which is  
14 no less than the salary being paid such faculty mem-  
15 ber for the academic year one thousand nine hundred  
16 ninety-two — ninety-three. No full-time faculty mem-  
17 ber shall receive a salary which is less than the salary  
18 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 July, one thousand nine  
22 hundred ninety-three, subject to appropriation by the  
23 Legislature therefor, each full-time faculty member  
24 shall receive an annual salary increase of two thou-  
25 sand dollars. The Legislature may by general appropri-  
26 ation, or the secretary of the department of education  
27 and the arts may allocate through authority set forth  
28 under the provisions of chapter five-f of this code,  
29 funds to be distributed for the purpose of accommodat-  
30 ing market and equity conditions within the system.  
31 Any remaining funds shall be applied in accordance  
32 with the provisions of subsection (d) of this section.

33 (d) Funds remaining after meeting the salary of  
34 each full-time faculty member in accordance with  
35 subsections (b) and (c) of this section shall be used to  
36 pay that amount that is the difference between such  
37 salary and the appropriate salary for each full-time  
38 faculty member's appropriate placement on the sched-  
39 ule: *Provided*, That such amount may be reduced  
40 proportionately based upon the amount of funds  
41 available for such purpose.

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

44 (f) Upon promotion in rank, placement on the  
45 minimum salary schedule shall be such as to provide  
46 a salary increase of at least ten percent and shall be at  
47 least the amount prescribed for the appropriate  
48 academic rank to which promoted at zero years of  
49 experience.

**§18B-8-3a. Institutional salary policies; distribution of faculty salary increases; distribution of non-classified administrative salary increases.**

1 (a) Beginning with the fiscal year commencing on  
2 the first day of July, one thousand nine hundred  
3 ninety-four, faculty salary increases shall be distribut-  
4 ed within each state institution of higher education, to  
5 the extent of legislative appropriation therefor in  
6 accordance with a written institutional salary policy  
7 which achieves or moves toward the following goals:

8 (1) Each full-time faculty member receives at least  
9 the amount indicated by the minimum salary sche-  
10 dules pursuant to section two of this article;

11 (2) Each full-time faculty member within a disci-  
12 pline group, receives a salary which is competitive  
13 with those in similar disciplines at peer institutions;

14 (3) Faculty are recognized for outstanding  
15 performance;

16 (4) Equity among salaries is maintained; and

17 (5) The institution's faculty are effectively involved  
18 in the administration of the campus-level faculty  
19 salary policy.

20 (b) To the extent of legislative appropriation there-  
21 for, for the fiscal year commencing on the first day of  
22 July, one thousand nine hundred ninety-four, an  
23 amount averaging one thousand dollars per full-time  
24 faculty member is recommended to be appropriated  
25 and distributed in that fiscal year for salary increases  
26 for full-time faculty members, and, for the fiscal year  
27 commencing on the first day of July, one thousand  
28 nine hundred ninety-five, an amount averaging two  
29 thousand dollars per full-time faculty member is  
30 recommended to be appropriated and distributed in  
31 that fiscal year for salary increases for full-time  
32 faculty members, such distribution to be in accordance  
33 with the resource allocation policies developed pursu-  
34 ant to the provisions of section two, article five of this  
35 chapter and the salary policies required in subsection  
36 (a) of this section.

37 (c) Subject to appropriation by the Legislature  
38 therefor, each full-time nonclassified administrative  
39 staff person shall be granted an annual salary increase  
40 for the fiscal year commencing on the first day of  
41 July, one thousand nine hundred ninety-three, of one  
42 thousand five hundred dollars; for the fiscal year  
43 commencing on the first day of July, one thousand  
44 nine hundred ninety-four, seven hundred fifty dollars  
45 and for the fiscal year commencing on the first day of  
46 July, one thousand nine hundred ninety-five, one  
47 thousand five hundred dollars.

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

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

1 (a) Before the first day of January, one thousand  
2 nine hundred ninety-four, the governing boards shall  
3 establish by rule and implement an equitable system  
4 of job classifications, with the advice and assistance of  
5 staff councils and other groups representing classified  
6 employees, each classification to consist of related job  
7 titles and corresponding job descriptions for each  
8 position within a classification, together with the  
9 designation of an appropriate pay grade for each job  
10 title, which system shall be the same for correspond-  
11 ing positions in institutions under both boards: *Provid-*  
12 *ed*, That before implementing the classification sys-  
13 tem, each classified employee is given an opportunity  
14 in a public hearing setting to address decisions affect-  
15 ing his or her classification assignment and pay scale.  
16 The system of job classifications shall be submitted to  
17 the secretary of education and the arts for review and  
18 approval prior to implementation.

19 By such date and with consideration to recommen-  
20 dations of the institutions, the appropriate governing  
21 board shall furnish each classified employee written  
22 confirmation of the assignment to the appropriate  
23 classification, job title and pay grade and of the proper  
24 placement on a salary schedule. Such assignment may

25 be appealed in accordance with article twenty-nine,  
 26 chapter eighteen of this code and all agencies are  
 27 directed to expedite and give priority to grievances  
 28 regarding the employee's initial assignment under the  
 29 terms of this section: *Provided*, That nothing herein  
 30 shall nullify or void any personnel classification  
 31 system in effect immediately prior to the first day of  
 32 July, one thousand nine hundred eighty-nine.

33 (b) Beginning with the fiscal year commencing on  
 34 the first day of July, one thousand nine hundred  
 35 ninety-four, classified staff salary increases distributed  
 36 within each state institution of higher education shall  
 37 be in accordance with a uniform employee classifica-  
 38 tion system and salary policy which is adopted by the  
 39 respective governing boards and approved in accor-  
 40 dance with the provisions of article three-a, chapter  
 41 twenty-nine-a of this code.

42 (c) The Legislature finds that an emergency situa-  
 43 tion exists and therefore, the governing boards are  
 44 hereby authorized to establish by emergency rule,  
 45 under the procedures of article three-a, chapter  
 46 twenty-nine-a of this code, a rule to implement the  
 47 provisions of this article, after approval by the legisla-  
 48 tive oversight commission on education accountability,  
 49 which shall receive said proposed rule by the first day  
 50 of November, one thousand nine hundred ninety-  
 51 three. Upon approval of such emergency rule by the  
 52 legislative oversight commission on education account-  
 53 ability, and the effective date of the implementation of  
 54 said rule, the salary schedule set out in section three  
 55 of this article shall be deemed null and void and  
 56 without the force and effect of law. Any other provi-  
 57 sions of this article inconsistent with said rule shall be  
 58 deemed null and void and without the force and effect  
 59 of law. Any other provisions of this article inconsistent  
 60 with said rule shall be deemed null and void upon  
 61 lawful implementation of the rule: *Provided*, That  
 62 nothing in this subsection shall be interpreted to  
 63 require that the Legislature appropriate any additional  
 64 funds for such implementation.

**§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 ninety-three, shall receive for the same  
4 employment at the same pay grade during the fiscal  
5 year commencing on such date and thereafter, subject  
6 to an appropriation by the Legislature therefor, and in  
7 addition to the experience increment increase provid-  
8 ed for in subsection (b) of this section, a monthly  
9 salary which is at least one hundred twenty-five  
10 dollars more than the final base monthly salary paid  
11 such classified employee for the fiscal year commenc-  
12 ing on the first day of July, one thousand nine  
13 hundred ninety-two, to be paid in equal installments  
14 within the regular pay periods and to be prorated for  
15 classified employees working less than thirty-seven  
16 and one-half hours per week.

17 (b) Commencing with the fiscal year beginning on  
18 the first day of July, one thousand nine hundred  
19 ninety-one, and each fiscal year thereafter, each  
20 classified employee with three or more years of  
21 experience shall receive an annual salary increase  
22 equal to thirty-six dollars times the employee's years  
23 of experience: *Provided*, That such annual salary  
24 increase shall not exceed the amount granted for the  
25 maximum of twenty years of experience. These  
26 incremental increases shall be in lieu of any salary  
27 increase received pursuant to section two, article five,  
28 chapter five of this code; shall be in addition to any  
29 across-the-board, cost-of-living or percentage salary  
30 increases which may be granted in any fiscal year by  
31 the Legislature; and shall be paid in like manner as  
32 the annual payment to eligible state employees of the  
33 incremental salary increases based on years of service  
34 under the provisions of said section.

35 (c) Each classified employee whose monthly salary  
36 under subsections (a) and (b) of this section is less than  
37 the minimum monthly salary for zero years of expe-  
38 rience for the appropriate pay grade as set forth in  
39 section three of this article shall receive additional  
40 compensation such that the monthly salary is at least  
41 the minimum amount prescribed for the appropriate  
42 pay grade at zero years of experience: *Provided*, That

43 such amounts may be reduced proportionately based  
44 upon the amount of funds available for such purpose.

45 (d) Any funds remaining after increasing the month-  
46 ly salary of each classified employee to at least the  
47 minimum amount prescribed for the appropriate pay  
48 grade at zero years of experience shall be used to place  
49 classified employees on the salary schedule at their  
50 appropriate years of experience: *Provided*, That such  
51 amount may be reduced proportionately based upon  
52 the amount of funds available for such purpose.

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

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

**§18B-9-11. Institutional salary policies; salary increase  
authorization.**

1 (a) Beginning with the fiscal year commencing on  
2 the first day of July, one thousand nine hundred  
3 ninety-four, classified employee salary increases shall  
4 be distributed within each state institution of higher  
5 education, to the extent of legislative appropriation  
6 therefor, in accordance with a written institutional  
7 salary policy which does not conflict with the uniform  
8 employee classification system and which achieves or  
9 moves toward the following goals:

10 (1) Each classified employee receives at least the

11 amount indicated by the minimum salary schedules  
12 pursuant to section three of this article;

13 (2) Each classified employee within a classification  
14 group receives a salary which will achieve salary  
15 equity as defined in the uniform employee classifica-  
16 tion system established pursuant to subsection (b),  
17 section four of this article;

18 (3) Classified employees are recognized for outstand-  
19 ing performance;

20 (4) Equity among salaries is maintained; and

21 (5) The institution's classified employees are effec-  
22 tively involved in the administration of the campus-  
23 level classified employee salary policy.

24 (b) Subject to an appropriation by the Legislature  
25 therefor, for the fiscal year commencing on the first  
26 day of July, one thousand nine hundred ninety-four,  
27 an amount equal to seven hundred fifty dollars per  
28 full-time classified employee is recommended to be  
29 appropriated and distributed in that fiscal year for  
30 salary increases for classified employees, and, for the  
31 fiscal year commencing on the first day of July, one  
32 thousand nine hundred ninety-five, an amount equal  
33 to one thousand five hundred dollars per full-time  
34 classified employee is recommended to be appropriat-  
35 ed and distributed in that fiscal year for salary  
36 increases for classified employees, such distribution to  
37 be in accordance with the resource allocation policies  
38 developed pursuant to the provisions of section two,  
39 article five of this chapter and the salary policies  
40 required in subsection (a) of this section: *Provided,*  
41 *That nothing in this section shall be construed to*  
42 *prohibit future salary increases for classified*  
43 *employees determined to be at the maximum for their*  
44 *pay grade under any new classification system pro-*  
45 *mulgated in accordance with subsection (b), section*  
46 *four of this article and in accordance with policies*  
47 *which shall be adopted by each governing board*  
48 *relating to salary increases for classified employees*  
49 *determined to be at maximum salary: Provided,*  
50 *however, That such policies shall provide that, when*

51 there is a system-wide, mandated salary increase,  
52 those employees determined to be at the maximum  
53 shall receive a percentage or across-the-board salary  
54 increase in an amount equal to not less than one-half  
55 of the percentage or across-the-board increase granted  
56 to the employee within the same pay grade receiving  
57 the smallest percentage or across-the-board increase.

**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) infirmary 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 such institutions: *Provided,*  
11 That such legal services shall be limited to only those  
12 types of cases, programs or services approved by the  
13 administrative head of such institution where such  
14 legal services are to be performed; and (4) graduate  
15 center fees and branch college fees, or either, if the  
16 establishment and operations of graduate centers or  
17 branch colleges are otherwise authorized by law. All  
18 fees collected at any graduate center or at any branch  
19 college shall be paid into special funds and shall be  
20 used solely for the maintenance and operation of the  
21 graduate center or branch college at which they were  
22 collected: *Provided, however,* That the governing  
23 boards shall use the median of the average tuition and  
24 required fees at similarly classified institutions in  
25 member states of the southern regional education  
26 board as a goal in establishing tuition and required fee  
27 levels for residents at state institutions of higher  
28 education under their jurisdiction: *Provided further,*  
29 That the governing boards shall use the actual instruc-  
30 tional cost as the same shall be determined in accor-

31 dance with board rule, in establishing nonresident  
32 undergraduate fees, with the goal of having tuition  
33 and fees cover the actual cost by fiscal year one  
34 thousand nine hundred ninety-six: *And provided*  
35 *further*, That students enrolled in undergraduate  
36 courses offered at off-campus locations shall pay an  
37 off-campus instruction fee and shall not pay the  
38 athletic fee and the student activity fee. The off-  
39 campus instruction fee shall be used solely for the  
40 support of off-campus courses offered by the institu-  
41 tion. Off-campus locations for each institution shall be  
42 defined by the appropriate governing board. The  
43 schedule of all fees, and any changes therein, shall be  
44 entered in the minutes of the meeting of the appropri-  
45 ate governing board, and the board shall file with the  
46 legislative auditor a certified copy of such schedule  
47 and changes.

48 (b) In addition to the fees mentioned in the preced-  
49 ing paragraph, each governing board may impose and  
50 collect a student union building fee. All such building  
51 fees collected at an institution shall be paid into a  
52 special student union building fund for such institu-  
53 tion, which is hereby created in the state treasury, and  
54 shall be used only for the construction, operation and  
55 maintenance of a student union building or a combi-  
56 nation student union and dining hall building or for  
57 the payment of the principal of and interest on any  
58 bond issued to finance part or all of the construction  
59 of a student union building or a combination student  
60 union and dining hall building or the renovation of an  
61 existing structure for use as a student union building  
62 or a combination student union and dining hall  
63 building, all as more fully provided in section ten of  
64 this article. Any moneys in such funds not immediate-  
65 ly needed for such purposes may be invested in any  
66 such bonds or other securities as are now or hereafter  
67 authorized as proper investments for state funds.

68 (c) The boards shall establish the rates to be charged  
69 full-time students enrolled during a regular academic  
70 term. For fee purposes a full-time undergraduate  
71 student shall be one enrolled for twelve or more credit

72 hours in a regular term, and a full-time graduate  
73 student shall be one enrolled for nine or more credit  
74 hours in a regular term. Undergraduate students  
75 taking fewer than twelve credit hours in a regular  
76 term shall have their fees reduced pro rata based upon  
77 one twelfth of the full-time rate per credit hour, and  
78 graduate students taking fewer than nine credit hours  
79 in a regular term shall have their fees reduced pro  
80 rata based upon one ninth of the full-time rate per  
81 credit hour.

82 Fees for students enrolled in summer terms or other  
83 nontraditional time periods shall be prorated based  
84 upon the number of credit hours for which the  
85 student enrolls in accordance with the above  
86 provisions.

87 (d) All fees are due and payable by the student upon  
88 enrollment and registration for classes except as  
89 provided for in this subsection:

90 (1) The governing boards shall permit fee payments  
91 to be made in up to three installments over the course  
92 of the academic term. The payments shall include  
93 interest at a rate set by the governing board: *Provided,*  
94 That all fees must be paid prior to the awarding of  
95 course credit at the end of the academic term.

96 (2) The governing boards shall also authorize the  
97 acceptance of credit cards or other payment methods  
98 which may be generally available to students for the  
99 payment of fees: *Provided,* That the governing boards  
100 may charge the students for the reasonable and  
101 customary charges incurred in accepting credit cards  
102 and other methods of payment.

103 (3) If a governing board determines that any student  
104 was adversely, financially affected by a legal work  
105 stoppage that commenced on or after the first day of  
106 January, one thousand nine hundred ninety-three, it  
107 may allow the student an additional six months to pay  
108 the fees for any academic term: *Provided,* That the  
109 governing board shall determine if a student was  
110 adversely, financially affected on a case-by-case basis.

111 (e) The governing boards shall establish legislative  
112 rules regarding the refund of any fees upon the  
113 voluntary or involuntary withdrawal from classes of  
114 any student which rules shall comply with all applica-  
115 ble state and federal law and shall be uniformly  
116 applied throughout the systems.

117 (f) The governing boards shall establish legislative  
118 rules using the fee structure or other penalties to  
119 provide a disincentive for students to register for  
120 classes in excess of the typical full-time course load,  
121 that being from twelve to eighteen credit hours for an  
122 undergraduate student and from nine to fifteen credit  
123 hours for a graduate student, and then to withdraw  
124 from such excess classes after the semester has begun.

125 (g) In addition to the fees mentioned in the preced-  
126 ing subsections, each governing board may impose,  
127 collect and distribute a fee to be used to finance a  
128 nonprofit, student controlled public interest research  
129 group: *Provided*, That the students at such institution  
130 demonstrate support for the increased fee in a manner  
131 and method established by that institution's elected  
132 student government: *Provided, however*, That such  
133 fees shall not be used to finance litigation against the  
134 institution.

**§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 Each governing board shall also ensure that book  
23 stores operated at institutions under its jurisdiction  
24 meet the additional objective of minimizing the costs  
25 to students of purchasing textbooks by adopting  
26 policies which may require the repurchase and resale  
27 of textbooks on an institutional or a statewide basis  
28 and provide for the use of certain basic textbooks for  
29 a reasonable number of years.

30 All moneys derived from the operation of the store  
31 shall be paid into a special revenue fund as provided  
32 in section two, article two, chapter twelve of this code.  
33 Each governing board shall, subject to the approval of  
34 the governor, fix and from time to time change the  
35 amount of the revolving fund necessary for the proper  
36 and efficient operation of each book store.

37 Moneys derived from the operation of the book store  
38 shall be used first to replenish the stock of goods and  
39 to pay the costs of operating and maintaining the store.  
40 From any balance in the Marshall university book  
41 store fund not needed for operation and maintenance  
42 and replenishing the stock of goods, the governing  
43 board of that institution shall have authority to expend  
44 a sum not to exceed two hundred thousand dollars for  
45 the construction of quarters to house the book store in  
46 the university center at Marshall university. Until  
47 such quarters for housing the book store are complet-  
48 ed, the governing board of Marshall university and the  
49 governor shall take this authorization into account in  
50 fixing the amount of the revolving fund for the  
51 Marshall university book store.

**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 have as the  
18 state's goals the movement of the state of West  
19 Virginia into the forefront of science and technology  
20 by the year two thousand; the attraction of business,  
21 federal contracts and industry; and the creation of jobs  
22 for the people of this state, through applied science  
23 and technology and partnership programs.

**§18B-13-2. 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.

**§18B-13-3. Powers and duties.**

1 The West Virginia state development council in  
2 consultation with the higher education governing  
3 boards is hereby authorized and directed to develop a  
4 strategic comprehensive plan and grant program to  
5 attract new science and high technology industries, to  
6 retain and expand current state industries through  
7 technology and other processes and to increase  
8 research grants, contracts, matching funds and pro-  
9 curement arrangements from the federal government,  
10 private industry and other agencies. Such initial, and  
11 annually updated, strategic comprehensive plan shall

12 be developed and annually filed with the governor and  
13 Legislature.

14 The West Virginia state development council in  
15 consultation with the higher education governing  
16 boards shall review the work and projects undertaken  
17 by the center of regional progress, the center for  
18 economic research, the institute for international trade  
19 development and the West Virginia foundation for  
20 science and technology.

**§18B-13-4. High-Tech 2000 research zones and parks; tax  
exemptions.**

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

11 The state development council shall coordinate the  
12 development of such plan and program, which shall  
13 include qualifications for eligible High-Tech 2000  
14 research zones, parks and research centers and which  
15 qualifications shall require a minimum partnership  
16 commitment from the private sector either in the  
17 construction, operation or location of the research  
18 parks or zones or technology centers; and the West  
19 Virginia economic development authority shall have  
20 authority to enter into agreements with state institu-  
21 tions of higher education, private developers or other  
22 interested businesses or persons to acquire, finance,  
23 construct, operate, own, lease or otherwise manage  
24 any research park or zone and to collect rentals or  
25 other forms of payment for the operation of the  
26 research parks or zones or technology centers.

27 The West Virginia economic development authority  
28 is hereby authorized either singularly or in conjunc-  
29 tion with any county commission, municipality or local

30 development authority, to issue special High-Tech 2000  
31 bonds for the purpose of this section, including, but  
32 not limited to, special project revenue bonds and  
33 special user bonds limited to the actual cost of con-  
34 struction and start-up of any qualifying and approved  
35 research park or zone or technology centers, and  
36 improvements necessary thereto, pursuant to article  
37 twelve-b, chapter eighteen of this code.

38 (b) Notwithstanding any other provision of this code  
39 to the contrary relating to any other exemptions or  
40 credits to which any business may be entitled under  
41 this code, the following exemptions shall only apply to  
42 qualified, approved High-Tech 2000 research park or  
43 zone or technology center:

44 (1) The enterprise zone tax exemptions as provided  
45 in section five, article two-b, chapter five-b of this  
46 code;

47 (2) A tax credit for qualified business, in the amount  
48 of the workers' compensation premium paid in accor-  
49 dance with article two, chapter twenty-three of this  
50 code, which credit shall be credited against any  
51 corporate net income tax or personal income tax of the  
52 qualified business or liability of the owners of the  
53 qualified business which is a proprietorship or a  
54 partnership;

55 (3) The deferral for qualified business of all state  
56 corporate net income tax, business and occupation tax,  
57 telecommunications tax, severance tax, business fran-  
58 chise tax or other state income tax liability for the  
59 start-up period of the business not to exceed three  
60 years, and qualified business shall be entitled to an  
61 exemption from any such deferred tax if such business  
62 both employs at least seven persons on a full-time  
63 basis as of the due date of the deferred tax liability,  
64 and the qualified business maintains an average  
65 employment of at least seven full-time employees over  
66 the last two years of the three year start-up period.

67 Notwithstanding any other provision herein to the  
68 contrary, the amount of total credits and deferrals  
69 allowable under this section or section five, article

70 two-b, chapter five-b of this code, shall not exceed two  
71 and one-half million dollars in any one fiscal year for  
72 all eligible businesses: *Provided*, That the credits  
73 allowed by this section are non-refundable so that a  
74 taxpayer shall not claim a total credit amount that  
75 reduces the taxpayer's tax liability to less than zero.

**§18B-13-5. 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; <sup>SEA</sup>

34 (4) An accounting of the cost of all travel expenses,  
35 seminars, workshops and feasibility studies; and

36 (5) The extent to which the authority provided for in  
37 subsection (b) of this section has been exercised, with  
38 specificity as to the institution and faculty member  
39 involved in the program.

**ARTICLE 14. MISCELLANEOUS.**

**§18B-14-3. Southern West Virginia community college  
authorization to sell property; use of net  
proceeds.**

1 Notwithstanding the provisions of article one-a,  
2 chapter twenty of this code, southern West Virginia  
3 community college, with the approval of the board of  
4 directors, is hereby authorized and empowered to sell  
5 any surplus real property and deposit the net proceeds  
6 into a special revenue account to be utilized for the  
7 purchase of additional real property or for capital  
8 improvements: *Provided*, That prior to such action the  
9 board of directors shall have the property appraised by  
10 two licensed appraisers and shall not sell the property  
11 for less than the average of the two appraisals:  
12 *Provided, however*, That the net proceeds which  
13 exceed the funds needed for the purchase of real  
14 property or for capital improvements may be trans-  
15 ferred to other accounts or funds and redesignated for  
16 other purposes by appropriation of the Legislature.

**ARTICLE 17. LEGISLATIVE RULES.**

**§18B-17-2. Board of trustees.**

1 (a) The legislative rules filed in the state register on  
2 the third day of December, one thousand nine hun-  
3 dred ninety-one, modified by the board of trustees to  
4 meet the objections of the legislative oversight com-  
5 mission on education accountability and refiled in the  
6 state register on the twenty-first day of January, one  
7 thousand nine hundred ninety-two, relating to the  
8 board of trustees (report card), are authorized.

9 (b) The legislative rules filed in the state register on

10 the thirteenth day of July, one thousand nine hundred  
11 ninety-one, relating to the board of trustees (equal  
12 opportunity and affirmative action), are authorized.

13 (c) The legislative rules filed in the state register on  
14 the eighth day of September, one thousand nine  
15 hundred ninety-two, relating to the board of trustees  
16 (holidays), are authorized.

17 (d) The legislative rules filed in the state register on  
18 the third day of April, one thousand nine hundred  
19 ninety-two, relating to the board of trustees (alcoholic  
20 beverages on campuses), are authorized.

**§18B-17-3. Board of directors.**

1 (a) The legislative rules filed in the state register on  
2 the sixteenth day of December, one thousand nine  
3 hundred ninety-one, modified by the board of direc-  
4 tors to meet the objections of the legislative oversight  
5 commission on education accountability and refiled in  
6 the state register on the twenty-first day of January,  
7 one thousand nine hundred ninety-two, relating to the  
8 board of directors (report card), are authorized.

9 (b) The legislative rules filed in the state register on  
10 the twenty-seventh day of September, one thousand  
11 nine hundred ninety-one, relating to the board of  
12 directors (equal opportunity and affirmative action),  
13 are authorized.

14 (c) The legislative rules filed in the state register on  
15 the fourth day of December, one thousand nine  
16 hundred ninety-one, relating to the board of directors  
17 (holiday policy), are authorized.

18 (d) The legislative rules filed in the state register on  
19 the nineteenth day of March, one thousand nine  
20 hundred ninety-two, as modified and refiled in the  
21 state register on the tenth day of July, one thousand  
22 nine hundred ninety-two, relating to the board of  
23 directors (presidential appointments, responsibilities  
24 and evaluations), are authorized.

**CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND  
STATE AID.**

**ARTICLE 5. HIGHER EDUCATION GRANT PROGRAM.**

**§18C-5-1. Declaration of public need for grant assistance;  
establishment of grant program.**

1 The Legislature declares that although enrollments  
2 in institutions of higher education in this state and  
3 throughout the nation continue to increase at a rapid  
4 pace, and although the state now provides a limited  
5 grant program for students attending an institution of  
6 higher education in West Virginia, there continues to  
7 exist an underdevelopment of the state's human talent  
8 and resources because of the inability of many able  
9 but needy students to finance a higher educational  
10 program.

11 The Legislature further declares that the state can  
12 achieve its full economic and social potential only if  
13 every individual has the opportunity to contribute to  
14 the full extent of the individual's capabilities and only  
15 if the state assists in removing such financial barriers  
16 to the individual's educational goals as may remain  
17 after the individual has utilized all resources and work  
18 opportunities available to him.

19 It is therefore the policy of the Legislature and the  
20 purpose of this article to establish, within the limits of  
21 appropriations made therefor from time to time by the  
22 Legislature, a broad-scale state grant program  
23 designed to guarantee that the most able and needy  
24 students from all sectors of the state are given the  
25 opportunity to continue their program of self-improve-  
26 ment in an approved institution of higher education of  
27 their choice located in this state.

**§18C-5-2. Definitions.**

1 (a) "Approved institution of higher education"  
2 means a state institution of higher education as  
3 defined in section two, article one, chapter eighteen-b  
4 of this code, and Alderson-Broadus college, Appala-  
5 chian bible college, Bethany college, the college of  
6 West Virginia, Davis and Elkins college, Ohio Valley  
7 college, Salem-Teikyo college, the university of  
8 Charleston, West Virginia Wesleyan college and

9 Wheeling Jesuit college, all in West Virginia, and any  
10 other institution of higher education in this state,  
11 public or private, approved by the senior administrator.

12 (b) "Grant" or "grant program" means a grant or  
13 the grant program authorized and established by the  
14 provisions of this article.

15 (c) "Senior administrator" means the senior admin-  
16 istrator defined in section two, article one, chapter  
17 eighteen-b of this code.

**§18C-5-3. Grant program to be administered by senior  
administrator; higher education grant fund  
created.**

1 The grant program established and authorized by  
2 this article shall be administered by the senior admin-  
3 istrator. Moneys appropriated or otherwise available  
4 for such purpose shall be allocated by line item to an  
5 appropriate account.

6 In addition to an amount no less than the amount of  
7 funds available for the higher education grant pro-  
8 gram pursuant to the repealed sections of article  
9 twenty-two-b, chapter eighteen of this code prior to  
10 the effective date of this section, there may be approp-  
11 riated by the Legislature by line item, to the extent  
12 that funds may be available, an additional one and  
13 one-half million dollars per year for the next five  
14 years, beginning with the fiscal year beginning on the  
15 first day of July, one thousand nine hundred ninety-  
16 three.

**§18C-5-4. Powers and duties of senior administrator.**

1 Subject to the provisions of this article and within  
2 the limits of appropriations made by the Legislature,  
3 the senior administrator is authorized and empowered:  
4 (1) To prepare and supervise the issuance of public  
5 information concerning the grant program; (2) to  
6 prescribe the form and regulate the submission of  
7 applications for grants; (3) administer or contract for  
8 the administration of such examinations as may be  
9 prescribed by the senior administrator; (4) select  
10 qualified recipients of grants; (5) award grants; (6)

11 accept grants, gifts, bequests and devises of real and  
12 personal property for the purposes of the grant  
13 program; (7) administer federal and state financial  
14 loan programs; (8) cooperate with approved institu-  
15 tions of higher education in the state and their  
16 governing boards in the administration of the grant  
17 program; (9) make the final decision pertaining to  
18 residency of an applicant for grant or renewal of  
19 grant; (10) employ or engage such professional and  
20 administrative employees as may be necessary to assist  
21 the senior administrator in the performance of the  
22 duties and responsibilities, who shall serve at the will  
23 and pleasure and under the direction and control of  
24 the senior administrator; (11) employ or engage such  
25 clerical and other employees as may be necessary to  
26 assist the senior administrator in the performance of  
27 the duties and responsibilities, who shall be under the  
28 direction and control of the senior administrator; (12)  
29 prescribe the duties and fix the compensation of all  
30 such employees; and (13) promulgate reasonable rules  
31 and regulations not inconsistent with the provisions of  
32 this article relating to the administration of the grant  
33 program.

**§18C-5-5. Eligibility for a grant.**

1 A person shall be eligible for consideration for a  
2 grant if the person:

3 (1) Is a citizen of the United States;

4 (2) Has been a resident of the state for one year  
5 immediately preceding the date of application for a  
6 grant or a renewal of a grant;

7 (3) Meets the admission requirements of the  
8 approved institution of higher education to which  
9 admission is sought or meets the admission require-  
10 ments of a three-year registered nurse diploma pro-  
11 gram which is offered by a nonprofit West Virginia  
12 hospital and approved by the West Virginia board of  
13 examiners for registered professional nurses and is  
14 subsequently admitted;

15 (4) Satisfactorily meets the qualifications of financial

16 need and academic promise, as well as academic  
17 achievement, as established by the senior  
18 administrator.

**§18C-5-6. Recipients, awards and distribution of awards of grants; authority of senior administrator to enter into reciprocal agreements with other states concerning grants.**

1 The grant recipient shall be free to attend any  
2 approved institution of higher education in this state  
3 or any three-year registered nurse diploma program  
4 which is approved by the West Virginia board of  
5 examiners for registered professional nurses and  
6 which is offered at a nonprofit West Virginia hospital.

7 The institution is not required to accept the grant  
8 recipient for enrollment, but is free to exact com-  
9 pliance with its own admission requirements, stand-  
10 ards and policies.

11 Grants shall only be made to undergraduate stu-  
12 dents and to students enrolled in approved three-year  
13 registered nurse diploma programs, as provided in this  
14 article.

15 Each grant is renewable until the course of study is  
16 completed, but not to exceed an additional three  
17 academic years beyond the first year of the award.  
18 These may not necessarily be consecutive years, and  
19 the grant will be terminated if the student receives a  
20 degree in a shorter period of time. Qualifications for  
21 renewal will include maintaining satisfactory academ-  
22 ic standing, making normal progress toward comple-  
23 tion of the course of study and continued eligibility, as  
24 determined by the senior administrator.

25 Grant awards shall be made without regard to the  
26 applicant's race, creed, color, sex, national origin or  
27 ancestry; and in making grant awards, the senior  
28 administrator shall treat all approved institutions of  
29 higher education in a fair and equitable manner.

30 The senior administrator from time to time shall  
31 identify areas of professional, vocational and technical  
32 expertise that are, or will be, of critical need in this

33 state and, to the extent feasible, may direct grants to  
34 students that are pursuing instruction in those areas.

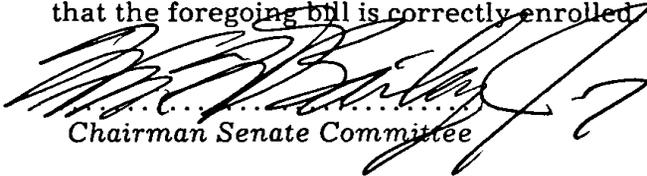
35 The senior administrator may enter into reciprocal  
36 agreements with state grant and grant program  
37 agencies in other states which provide financial  
38 assistance to their residents attending institutions of  
39 higher education located in West Virginia. In connec-  
40 tion therewith, the senior administrator may authorize  
41 residents of West Virginia to use financial assistance  
42 under this article to attend institutions of higher  
43 education in such other states. Residents of West  
44 Virginia requesting financial assistance to attend  
45 institutions of higher education located in any such  
46 states must meet all of the eligibility standards set  
47 forth in section five of this article.

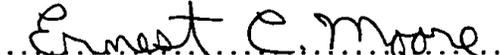
48 Grant awards shall be limited to the lesser of the  
49 payment of tuition and those related compulsory fees  
50 charged by an institution to all West Virginia under-  
51 graduate students or an amount equal to the average  
52 state general fund support for each full-time equiva-  
53 lent student at state institutions of higher education  
54 for the preceding academic year as calculated by the  
55 senior administrator. Payments of grants shall be  
56 made directly to the institution.

57 In the event that a grant recipient transfers from  
58 one approved institution of higher education or  
59 approved three-year registered nurse diploma pro-  
60 gram, to another approved institution of higher  
61 education or approved three-year registered nurse  
62 diploma program, the grant shall be transferable only  
63 with the approval of the senior administrator.

64 Should the recipient terminate enrollment for any  
65 reason during the academic year, the unused portion  
66 of the grant shall be returned by the institution to the  
67 appropriate governing board in accordance with the  
68 governing board's policy for issuing refunds, for  
69 transfer to the appropriate account and allocation for  
70 expenditure pursuant to the provisions of this article.

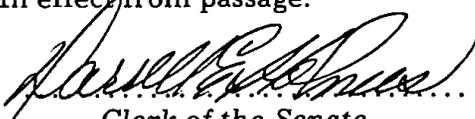
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

  
.....  
Chairman Senate Committee

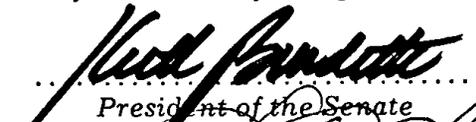
  
.....  
Chairman House Committee

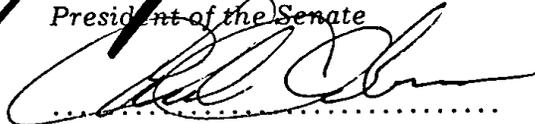
Originated in the Senate.

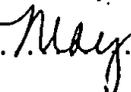
In effect from passage.

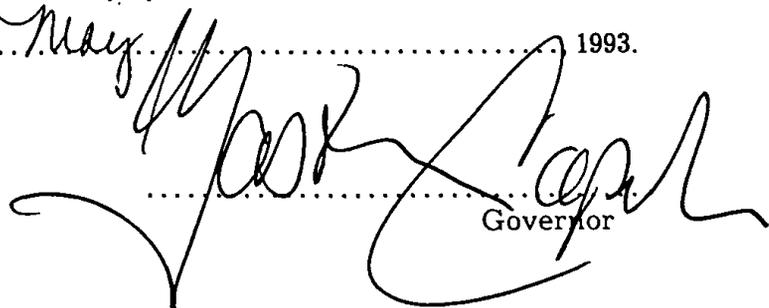
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within  this the   
day of  1993.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/29/93

Time 11:12am