WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED

SENATE BILL NO. 377

(Passed April 21, 1993)

In Effect from Passage
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.

The secretary shall examine the expenditure schedule of each spending unit, and if it conforms to the appropriations made by the Legislature, the requirements of this article, and is in accordance with sound fiscal policy, the secretary shall approve the schedule. In addition, the secretary shall give special consideration in the approval of expenditure schedules to accounts in which the appropriations consist predominantly of personal services funds so that the quarterly allotments of funds to the various spending units pursuant to section fifteen of this article are sufficient to pay such personnel costs in the quarter in which they are due.
The expenditure of the appropriations made to a spending unit shall be only in accordance with the approved expenditure schedule unless the schedule is amended with the consent of the secretary, or unless appropriations are reduced in accordance with the provisions of sections twenty to twenty-three, inclusive, of this article. The spending officer of a spending unit shall transmit to the legislative auditor a copy of each and every requested amendment to such schedule at the same time that such requested amendment is submitted to the secretary. The secretary shall send to the legislative auditor copies of any schedule amended with the secretary’s approval.

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

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

The secretary shall examine the requests, giving special consideration to accounts in which the appropriations consist predominantly of personal services funds so that the quarterly allotments of funds to the various spending units are sufficient to pay such personnel costs in the quarter in which they are due, and, if the secretary finds that the amounts requested are in accordance with the approved expenditure schedules and are in accordance with sound fiscal policy, the secretary shall submit the requests to the governor. The secretary shall also submit a summary statement showing the amounts expended under the budget for each preceding quarter of the fiscal year and the total amount requested for allotment during the ensuing quarter.

The governor shall consider the amount of requests for allotment and the collection of revenues. If the governor finds that the collection of revenue warrants the expenditure of the amount requested in the
allotment, the governor shall approve the allotment of funds for the ensuing quarter and send copies of the requests to the legislative auditor after approval. If the governor finds that the collection of revenue does not warrant the allotment of the requested amount, the governor may reduce the amount of allotments pending 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.

(a) The Legislature finds that the educational benefits of making a broader range of courses available to West Virginia students, and the economic benefits from continuing education and staff development for businesses, industry and the professions, are immeasurable and that distance learning technology offers an efficient means of delivering such education and personnel development courses. The Legislature further finds that distance learning technology requires a substantial financial investment and the acquisition and utilization of such technology should, therefore, be coordinated among the various affected agencies.

(b) To facilitate such coordination, there is hereby created a West Virginia distance learning coordinating council which shall be composed of one representative of each of the following: SatNet, EdNet, the educational broadcasting authority, the West Virginia library commission, the state department of education, the higher education central office, the department of administration's division of information systems and communications and the office of the secretary of education and the arts. The chair elected by the council shall serve a term of one year, at which time the council shall elect a new chair. A member of the council may not serve for more than two consecutive
The council shall meet at least quarterly and shall develop long-range plans to integrate the instructional telecommunications system, to coordinate distance learning in West Virginia and to clarify the roles of the agencies involved in the state's distance learning enterprise. The council shall submit an annual report to the governor and the Legislature, which includes its recommendations for achieving the best use of limited resources in the development and operation of a distance learning technology system.

(c) A goal of the council is the creation of a statewide technology system linking universities and colleges, schools, libraries and, eventually, homes with software, data bases and video learning capabilities. In pursuit of this goal, the council shall determine the most effective and efficient ways to integrate the capabilities of the state for producing, delivering and receiving electronic instruction and establish a comprehensive long-range plan to further the cooperation and coordination of the various educational and other agencies of the state, and the county boards of education, in establishing distance learning technology.

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

Appropriate guidelines for participation by school districts, state institutions of higher education, public libraries and public broadcasting stations, in the grant program, shall be established by the distance learning coordinating council subject to approval by the legislative oversight commission on education accountability. Such guidelines shall include application procedures and shall establish policies for awarding grants in the event that more grant applications are received than there are funds available to honor the applications in
any fiscal year. In allocating funds to applicants, the
council may give due consideration to revenues
available from all other sources. The state board of
education shall approve courses offered through this
program at the elementary and secondary education
level. The higher education governing boards shall
approve courses taught at the post-secondary level.

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

(f) Participation by a local school district, a state
institution of higher education, a public library or a
public broadcasting station in the program established
by this section shall be voluntary. No school district,
state institution of higher education, public library or
public broadcasting station receiving funds under this
program shall use those funds for any purpose other
than that for which they were intended. Any school
district, state institution of higher education, public
library or public broadcasting station shall be eligible
to receive funds under this program regardless of its curriculum, local wealth or previous contractual arrangements to receive satellite broadcast instruction.

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

Instructional programs developed under this section which are transmitted one-way through the airwaves or by cable shall be available to all residents of this state without charge or fee to the extent permitted by the West Virginia constitution. "Without charge or fee" shall not require the providing of equipment to transmit or receive telecommunications instruction or the providing of commercial cable service. If the instructional program involves two-way, interactive communication between the instructor and the participant, the district or institution operating the program may prescribe academic prerequisites and limit the number of persons who may enroll in the specific program and give preference to residents of the district or institutional attendance area who are age twenty-one or younger but shall not discriminate against any resident on any other basis. A fee may be charged which will be paid directly by the individual participant for the specific program, but the fee shall be equal for all such participants. If a subscription fee is charged by the originator of the program, the district or institution may pay the subscription fee for all participants from a grant under this section or from any other public or private fund legally authorized to be used for this purpose. Printed materials designed to facilitate or complement telecommunications programs or electronic reproduction thereof may be made available for loan by the school district, institution of higher education through the public library system or the curriculum technology resource center, subject to the normal rules and regulations of the lending system and in such quantities as may be approved by the
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.

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

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.


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

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

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

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

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

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

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

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

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

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

(B) College graduates should meet or exceed national and international standards for skill levels in reading, oral and written communications, mathemat-
ics, critical thinking, science and technology, research and human relations;

(C) College graduates should meet or exceed national and international standards for performance in their fields through national accreditation of programs and through outcomes assessment of graduates;

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

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

(B) A focus should be created on programs supportive of West Virginia employment opportunities and the emerging high technology industries;

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

(5) Resources should be used to their maximum potential and faculty and technology should be combined in a way that makes West Virginia higher education more productive than similar institutions in other states:

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

(B) Program duplication necessary for geographic access should be determined and unnecessary duplication should be eliminated;

(C) Systematic ongoing mechanisms should be established for each state institution of higher education to set goals, measure the extent to which those goals are met and use results of quantitative evaluation processes to improve institutional effectiveness;
(D) Institutional productivity and administrative efficiency standards should be established to ensure that state institutions of higher education are more productive and efficient than similar institutions in other states; and

(6) The compensation of faculty, staff and administrators should be established at competitive levels to attract and keep quality personnel at state institutions of higher education:

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

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

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

The board of trustees and the board of directors shall develop a plan for implementation of the legislative findings, directives, goals and objectives set forth in section one-a of this article and to ensure accountability in implementing said findings, directives, goals and objectives in consultation with the secretary of education and the arts, the president of the state board of education, the president of the West Virginia association of private colleges, the president of the joint commission for vocational-technical-occupational education and the president of the West Virginia economic development council. A written report of the plan required by this section shall be submitted to the governor and the legislative oversight commission on education accountability by the first day of December, one thousand nine hundred ninety-three.

§18B-1-2. Definitions.

The following words when used in this chapter and chapter eighteen-c of this code shall have the meaning hereafter ascribed to them unless the context clearly indicates a different meaning:
(a) "Governing board" or "board" means the university of West Virginia board of trustees or the board of directors of the state college system, whichever is applicable within the context of the institution or institutions referred to in this chapter or in other provisions of law;

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

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

(d) "Community colleges" means freestanding community colleges, branches or off-campus locations of state institutions of higher education within the state college system and programs offered at state institutions of higher education within the state college system which are two years or less in duration;

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

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

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

(h) "Post-secondary vocational education programs" means any college-level course or program beyond the high school level provided through an institution of higher education which results in or may result in the awarding of a two-year associate degree, under the jurisdiction of the board of directors;
(i) "Rule" or "rules" means a regulation, standard, policy or interpretation of general application and future effect;

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

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

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

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

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

(o) "University", "university of West Virginia" and "state university system" means the multi-campus, integrated university of the state, consisting of West Virginia university including West Virginia university at Parkersburg, Potomac state college of West Virginia university and the West Virginia university school of medicine; Marshall university including the Marshall university school of medicine; the West Virginia graduate college; and the West Virginia school of osteopathic medicine.

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

(a) The board of trustees and the board of directors,
created in articles two and three of this chapter, are under the jurisdiction of the department of education and the arts created in article one, chapter five-f of this code, and are subject to the supervision of the secretary of education and the arts. Rules adopted by the governing boards shall be subject to approval by the secretary of education and the arts. The budget submitted by each board pursuant to the provisions of section eight of this article shall be subject to approval of the secretary of the department of education and the arts, all pursuant to the provisions of article two, chapter five-f of this code.

(b) The secretary of education and the arts is responsible for the coordination of policies and purposes of the state university system and the state college system and shall provide for and facilitate sufficient interaction between the governing boards, and between the governing boards and the state board of education, to assure appropriate mission and program coordination and cooperation among: (1) The state university system; (2) the state college system, exclusive of the community colleges; (3) the community colleges, including free-standing community colleges, and community college components; and (4) the vocational-technical centers in the state, recognizing the inherent differences in the missions and capabilities of these four categories of institutions. The governing boards and the state board of education shall provide any and all information requested by the secretary of education and the arts and legislators in a timely manner.

(c) The secretary of education and the arts, the chancellors of the board of trustees and the board of directors and the state superintendent of schools shall develop standards and suggest implementation methods for a standardized test to be used to predict post-secondary educational success such as the test offered by the American college testing program. The test, hereinafter referred as the post-secondary academic success score or PASS, is to be administered to all students during the fall semester of the eighth
grade. The secretary of education and the arts, the
chancellors of the board of trustees and the board of
directors and the state superintendent of schools shall
submit a joint report outlining their findings to the
governor and the legislative oversight commission on
education accountability by the first day of December,
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
locations by means of electronic transmission and computer assisted instruction. The delivery system should make maximum use of the currently existing resources, facilities, equipment and personnel in the state's systems of public and higher education and other educational and administrative agencies and should be low-tuition, commuter-oriented, open door admissions, serving adults of all ages. The courses of instruction offered through such a system should be relevant to the needs of the target population as expressed in the major findings listed in subsection (a) of this section and should meet the several goals of helping students to prepare for college level work, to increase their likelihood of securing gainful employment given their other relevant life circumstances, to obtain higher education core curriculum course work that is universally accepted at all state institutions of higher education with the grade earned and to minimize the amount of additional course work they will be required to take at less convenient times and locations to achieve their educational goals. The delivery system should also include adequate student support services such as student advising, career counseling, library access and immediate interaction with peers and instructors.

(c) The secretary of education and the arts is responsible for establishing a three-year pilot program consisting of no more than eight sites within the state for the delivery of educational programs consistent with the goals established in this section. To assist in the development of this program, the secretary shall appoint an advisory committee comprised of persons from public education, higher education, the West Virginia distance learning coordinating council, the Legislature and the business community. In consultation with the advisory committee, the secretary shall contract with the appropriate governing board or other body to offer courses or programs of various levels and types to meet the objectives of this section. The contracts shall specify the pilot sites for offering the educational programs, the various technologies for program delivery, the types of courses to be offered,
the course instructors and site coordinators and their training, the fees to be charged, the institutions in the state willing to enroll the student participants, the collection of tuition and fees, a method for accounting for the funds collected and expended and other issues relevant to program administration. There is hereby established in the state treasury a special revolving fund within the account of the secretary of education and the arts into which appropriations, course fees, charitable contributions and other moneys received by the secretary for the purposes of the program shall be paid for expenditures in the operation of the pilot program. During each year of the pilot program, the secretary shall report to the governor and the Legislature on the progress of the program, whether it should be continued or discontinued, and, if continued, any recommended modifications in program scope and mission and any action which is necessary on behalf of the governor or the Legislature to improve the success of the program. At the end of the pilot program, the secretary shall make a final report to the governor and the Legislature as to whether the findings set forth in this section are being addressed through such an educational delivery system and shall recommend whether it should become permanent. If the secretary recommends that the delivery system should become permanent, the secretary shall also recommend specific structures for program support and administration, instructional development and objectives, technology, student support services and other relevant policy issues.

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

On and after the first day of July, one thousand nine hundred eighty-nine, the governing boards shall determine, control, supervise and manage all of the policies and affairs of the state institutions of higher education under their jurisdiction and shall exercise and perform all such powers, duties and authorities respecting those institutions as were previously exercised and performed by the West Virginia board of
The governing boards have the general determination, control, supervision and management of the financial, business and educational policies and affairs of all state institutions of higher education under their jurisdiction. The board of trustees and the board of directors shall seek the approval of the West Virginia Legislature before either governing board takes action that would result in the creation or closing of a state institution of higher education.

Except as otherwise provided by law, each board's responsibilities shall include, but shall not be limited to, the making of studies and recommendations respecting higher education in West Virginia; allocating among the state institutions of higher education under their jurisdiction specific functions and responsibilities; submitting budget requests for such institutions; and equitably allocating available state appropriated funds between the boards and among such institutions in accordance with the resource allocation model and policies required by section two, article five of this chapter.

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


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

(1) Determine, control, supervise and manage the financial, business and educational policies and affairs of the state institutions of higher education under its
(2) Prepare a master plan for the state institutions of higher education under its jurisdiction, setting forth the goals, missions, degree offerings, resource requirements, physical plant needs, state personnel needs, enrollment levels and other planning determinates and projections necessary in such a plan to assure that the needs of the state for a quality system of higher education are addressed: Provided, That the master plan for post-secondary vocational education is subject to approval by the joint commission for vocational-technical-occupational education. The plan shall also address the roles and missions of private post-secondary education providers in the state. Each board shall involve the executive and legislative branches of state government and the general public in the development of all segments of the plan for post-secondary education in the state. The plan shall be established for periods of not less than five nor more than ten years and shall be periodically revised as necessary, including the addition or deletion of degree programs as, in the discretion of the boards, may be necessary. Whenever a state institution of higher education desires to establish a new degree program, such program proposal shall not be implemented until the same is filed with both governing boards. Upon objection thereto within sixty days by either governing board, such program proposal shall be filed with the secretary of education and the arts, who shall approve or disapprove such proposal within one year of the filing of said program proposal;

(3) Prescribe and allocate among the state institutions of higher education under its jurisdiction, in accordance with its master plan, specific functions and responsibilities to meet the higher education needs of the state and to avoid unnecessary duplication;

(4) Consult with the executive branch and the Legislature in the establishment of funding parameters, priorities and goals;

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

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

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

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

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

(10) Review, at least every five years, all academic programs offered at the state institutions of higher education under its jurisdiction. The review shall
address the viability, adequacy and necessity of the programs in relation to its master plan and the educational and work force needs of the state. As a part of such review, each governing board shall require each of its institutions to conduct periodic studies of its graduates and their employers to determine placement patterns and the effectiveness of the educational experience. Where appropriate, these studies should make use of the studies required of many academic disciplines by their accrediting bodies. The governing boards shall also ensure that the sequence and availability of academic programs and courses is such that students have the maximum opportunity to complete programs in the time frame normally associated with program completion, that the needs of nontraditional college age students are appropriately addressed, and that core course work completed at any state institution of higher education is transferable to another state institution of higher education for credit with the grade earned. Notwithstanding any other provision of this code to the contrary, after the effective date of this section the appropriate governing board shall have the exclusive authority to approve the teacher education programs offered in the institutions under their control. In order to permit graduates of teacher education programs to receive a degree from a nationally accredited program and in order to prevent expensive duplication of program accreditation, the boards may select and utilize one nationally recognized teacher education program accreditation standard as the appropriate standard for program evaluation;

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

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

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

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

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

(16) Conduct written performance evaluations of each institution's president in every fourth year of employment as president, recognizing unique characteristics of the institution and utilizing institutional personnel, institutional boards of advisors, staff of the appropriate governing board and persons knowledgeable in higher education matters who are otherwise employed by a governing board;

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

(18) The governing boards shall have the power and authority to enter into contracts or consortium agreements with the public schools, private schools or private industry to provide technical, vocational, college preparatory, remedial and customized training courses at locations either on campuses of public institutions of higher education or at off-campus locations in such institutions' regional educational service areas. To accomplish this goal, the boards are permitted to share resources among the various groups in the community. The governing boards shall promulgate uniform legislative rules providing for entering into said contracts and consortium agreements and for determining and granting credit for work experience for courses offered by the consortium.
(b) The power, herein given to each governing board
to prescribe and allocate among the state institutions
of higher education under its jurisdiction specific
functions and responsibilities to meet the higher
educational needs of the state and avoid unnecessary
duplication, shall not be restricted by any provision of
law assigning specified functions and responsibilities to
designated state institutions of higher education, and
such power shall supersede any such provision of law:
Provided, That each governing board may delegate,
with prescribed standards and limitations, such part of
its power and control over the business affairs of a
particular state institution of higher education to the
president or other administrative head of such state
institution of higher education in any case where it
deems such delegation necessary and prudent in order
to enable such institution to function in a proper and
expeditious manner: Provided, however, That such
delegation shall not be interpreted to include classifi­
cation of employees, lawful appeals made by students
in accordance with the appropriate governing board's
policy, lawful appeals made by faculty or staff or fina
review of new or established academic or othe
programs. Any such delegation of power and contrc
may be rescinded by the appropriate governing board
at any time, in whole or in part.

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

(d) Each governing board and/or an individual
appointed by the president of each institution shall
consult, cooperate and work with the state treasurer
and the state auditor to develop an efficient and cost-
effective system for the financial management and
expenditure of special revenue and appropriated state
funds for higher education that ensures that properly
submitted requests for payment be paid within fifteen
days of receipt in the state auditor's office. The system
shall be established and implemented as soon as
practical and the governing boards shall report to the
legislative oversight commission on education account-
ability prior to the first day of January, one thousand
nine hundred ninety-four, regarding the efficacy of
the system.

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

(a) The board of trustees shall consist of seventeen
persons, of whom one shall be the chancellor of the
board of directors of the state college system, ex
officio, who shall not be entitled to vote; one shall be
the state superintendent of schools, ex officio, who
shall not be entitled to vote; one shall be the chairman
of the advisory council of students, ex officio, who
shall be entitled to vote; one shall be the chairman of
the advisory council of faculty, ex officio, who shall be
entitled to vote; and one shall be the chairman of the
advisory council of classified employees, ex officio,
who shall be entitled to vote. The other twelve
trustees shall be citizens of the state, appointed by the
governor, by and with the advice and consent of the
Senate.

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

Except for the ex officio trustees, no person shall be
eligible for appointment to membership on the board
of trustees who is an officer, employee or member of
an advisory board of any state college or university, an
officer or member of any political party executive
committee, the holder of any other public office or
public employment under the government of this state
or any of its political subdivisions or an appointee or
employee of the board of trustees or the board of
directors: Provided, That if there are no ethical
restrictions under state or federal law, a federal
employee may serve as a member of the board of
trustees. Of the twelve trustees appointed by the
governor from the public at large, not more than six
thereof shall belong to the same political party and at
least two trustees shall be appointed from each
congressional district.

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

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

The terms of the trustees appointed by the governor
shall be for overlapping terms of six years, except, of
the original appointments, four shall be appointed to
terms of two years, four shall be appointed to terms of
four years and four shall be appointed to terms of six
years. Each subsequent appointment which is not for
the purpose of filling a vacancy in an unexpired term
shall be for a term of six years.
The governor shall appoint a trustee to fill any vacancy among the twelve trustees appointed by the governor, by and with the advice and consent of the Senate, which trustee appointed to fill such vacancy shall serve for the unexpired term of the vacating trustee. The governor shall fill the vacancy within sixty days of the occurrence of the vacancy.

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

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

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

(d) No trustee appointed by the governor shall be removed from office by the governor except for official misconduct, incompetence, neglect of duty or gross immorality, and then only in the manner prescribed by law for the removal of the state elective officers by the governor.


(a) The trustees shall govern the university of West Virginia. The trustees shall develop a master educational plan for the university system in the state, establish research policies for the several institutions within the university system and shall oversee gradu-
ate, professional and medical education at the appropriate institutions of higher education under their jurisdiction to the end of avoiding duplication in advanced study, specialty institutes and research.

(b) The board of trustees shall adopt a faculty salary program with an overall goal of attaining salaries equal to the average faculty salaries within similar groups of disciplines and program levels at comparable peer institutions within member states of the southern regional educational board Four-Year 1 at West Virginia university; Four-Year 3 at Marshall university; and appropriate levels at the West Virginia graduate college, Potomac state college of West Virginia university, West Virginia university at Parkersburg and the school of osteopathic medicine as determined by the board of trustees. It is the intent of the Legislature, limited by the extent of appropriations provided specifically therefor, to provide the board of trustees with sufficient funds to meet this goal by fiscal year one thousand nine hundred ninety-six.


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

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

(2) Providing a system for the comprehensive interdisciplinary diagnosis, treatment and follow-up of children and young adults with special needs and their families;

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

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

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

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

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

(8) Assuring interdisciplinary, interagency cooperation;

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

(10) Establishing a statewide comprehensive diagnostic support team and advisory boards at each center composed of agency representatives, physicians, education providers, center personnel, parents and other; and

(11) Facilitating significant parent and family participation, including parents as members of the statewide team and representing a majority of the membership of each center's advisory boards.

(b) Subject to appropriations by the Legislature, the board of trustees is authorized and directed to establish at least four comprehensive child development sites at existing university health science centers located at Morgantown, Charleston, Huntington and Lewisburg. Planning of at least these four centers and the establishment of advisory boards shall be completed by the first day of July, one thousand nine hundred ninety-three. The board of trustees shall establish at least these four sites prior to the first day of January, one thousand nine hundred ninety-four.

The board of trustees may enter into a contractual relationship with each child development center,
which shall be in accordance with laws that apply to
publicly funded partnerships with private, nonprofit
tentities and the provisions of section three, article five
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 reappointment; oath of office; removal from office.

(a) The board of directors of the state college system
shall consist of seventeen persons, of whom one shall
be the chancellor of the university of West Virginia
board of trustees, ex officio, who shall not be entitled
to vote; one shall be the state superintendent of
schools, ex officio, who shall not be entitled to vote;
one shall be the chairman of the advisory council of
students, ex officio, who shall be entitled to vote; one
shall be the chairman of the advisory council of
faculty, ex officio, who shall be entitled to vote; and
one shall be the chairman of the advisory council of
classified employees, ex officio, who shall be entitled to
vote. The other twelve directors shall be citizens of the
state, appointed by the governor, by and with the
advice and consent of the Senate.

Each of the directors appointed to the board by the
governor shall represent the public interest and shall
be especially qualified in the field of higher education
by virtue of the person's knowledge, learning, experience or interest in the field.

Except for the ex officio directors, no person shall be
eligible for appointment to membership on the board
of directors who is an officer, employee or member of
an advisory board of any state college or university, an
officer or member of any political party executive
committee, the holder of any other public office or
public employment under the government of this state
or any of its political subdivisions, or an appointee or
employee of the board of trustees or board of directors:

Provided, That if there are no ethical restrictions
under state or federal law, a federal employee may
serve as a member of the board of directors. Of the
twelve directors appointed by the governor from the
public at large, not more than six thereof shall belong
to the same political party and at least two directors of
the board shall be appointed from each congressional
district.

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

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

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

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

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

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

(d) No director appointed by the governor shall be removed from office by the governor except for official misconduct, incompetence, neglect of duty or gross immorality, and then only in the manner prescribed by law for the removal by the governor of the state elective officers.

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

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

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

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

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

§18B-3-4. Community colleges.
(a) Effective the first day of July, one thousand nine hundred eighty-nine, the following institutions are hereby established or continued as freestanding community colleges: Southern West Virginia community college and West Virginia northern community college. Such freestanding community colleges shall not be operated as branches or off-campus locations of any other state institution of higher education.

(b) The directors, in accordance with article two-b, chapter eighteen of this code, shall cooperate with the state board of education, the state council of vocational-technical education and the joint commission for vocational-technical-occupational education to develop a comprehensive system of academic, vocational, technical and career development programs to serve the educational needs of adults for college preparatory, two-year associate degree, continuing education, work force training and retraining, and other such programs within the state. The board of directors shall delegate such authority as they deem prudent to the community college presidents, or other administrative heads, to work with campus level advisory committees to assess the work force needs of business and industry within their service areas, regularly review and revise curricula to ensure that the work force needs are met, develop new programs and phase out or modify existing programs as appropriate to meet such needs, provide professional development opportunities for faculty and staff, establish cooperative programs and student internships with business and industry, streamline procedures for designing and implementing customized training programs and to accomplish such other complements of a quality comprehensive community college. In developing such a system, the various educational agencies shall establish cooperative relationships to utilize existing community colleges and programs, public school vocational centers and other existing facilities to serve the identified needs within the service area. The community colleges, including freestanding community colleges, shall be organized into eight community college service 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
directors may enter into memoranda of agreements with such governmental bodies, corporations or persons for the use or acceptance of local facilities and/or the acceptance of grants or contributions toward the cost of the acquisition or construction of such facilities. Such local governmental bodies may convey capital improvements, or lease the same without monetary consideration, to the board of directors for the use by the community college, and the board of directors may accept such facilities, or the use or lease thereof, and grants or contributions for such purposes from such governmental bodies, the federal government or any corporation or person.

(f) To facilitate the administration, operation and financing of programs in shared facilities of the state college system or the university of West Virginia system and a county board or boards of education, the affected governing board and county board or boards of education may appoint a joint administrative board consisting of five members to be appointed as follows: The county board of education shall appoint two members in consultation with the county superintendent of schools; the appropriate governing board shall appoint two members in consultation with the president of the affected state institution of higher education; and one at-large member, who shall chair the joint administrative board, shall be appointed by mutual agreement of the respective boards in consultation with their superintendent and president. When two or more county boards of education are participating in such shared program, such county board appointments shall be made by mutual agreement of each of the participating county boards in consultation with their respective superintendents. Members shall serve for staggered terms of three years. With respect to initial appointments, one member appointed by the county board or boards of education and one member appointed by the governing board shall serve for one year, one member appointed by the county board or boards of education and one member appointed by the governing board shall serve for two years, and the at-large member shall serve for three years. Subsequent
appointments shall be for three years. A member may not serve more than two consecutive terms. Members shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of their duties as board members from funds allocated to the shared facility, except that members who are employed by a board of education, governing board or state institution of higher education shall be reimbursed by their employer.

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

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

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

(a) Seven individuals who shall be representatives from business, industry and agriculture, including one member representing small business concerns, one member of whom shall represent the governor's office of community and industrial development, one member of whom shall represent proprietary schools and one member of whom shall represent labor organizations. In selecting private sector individuals under this subdivision, the governor shall give due consideration to the appointment of individuals who serve on a private industry council or other appropriate state agencies.

(b) Six individuals, three of whom shall be representatives of secondary vocational-technical-occupational education appointed by the governor with advice from the state superintendent of schools and three of whom shall be representatives of post-secondary vocational-technical-occupational education appointed by the governor, with advice from the chancellor of the board of directors.

In addition to the members appointed by the governor, the state superintendent of schools and the chancellor of the board of directors shall serve as an ex officio member.
Members of the commission shall serve for overlapping terms of four years, except that the original appointments to the commission shall be for staggered terms allocated in the following manner: One member recommended for appointment by the chancellor, one member recommended for appointment by the state superintendent of schools and two members appointed by the governor for terms of two years; one member recommended for appointment by the chancellor, one member recommended for appointment by the state superintendent of schools and two members appointed by the governor for terms of three years; and one member recommended for appointment by the state superintendent of schools, one member recommended for appointment by the chancellor and three members 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.

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

The Legislature further finds that real and perceived barriers within West Virginia's education systems hamper West Virginians from achieving their educational goals and limit citizens' economic opportunities. To overcome these barriers, the education providers must address issues such as cost and availability of courses at locations and times convenient to
students with families and jobs, as well as adequate
preparation.

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

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

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

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

§18B-3C-2. Governor's council on higher and other post-
secondary education established.
There is hereby created the governor's council on higher and other post-secondary education, hereinafter referred to as the "HOPE council" or the "council". In addition to such other persons as the governor may appoint to the HOPE council, the council shall include the secretary of education and the arts, the chairs of each of the higher education governing boards, the president of the state board of education, the president of the association of independent colleges, the president of the joint commission on vocational-technical-occupational education, the president of the council on economic development and the chairs of the education committees of both the Senate and the House of Delegates, both of whom shall serve in an advisory capacity only.

The HOPE council shall be chaired by the governor and shall convene at least quarterly. The HOPE council shall establish bylaws which govern its decision making.

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

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

(1) Make such budget recommendations as may be necessary for financing the work coordinated or facilitated by the council, such recommendation to be submitted to the governor for inclusion in the executive budget in one or more appropriate existing accounts;

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

(3) Report annually to the Legislature and to such other entities as the HOPE council may deem appropriate on issues relating to higher and other post-secondary education and develop a means of communication with education providers and advisory councils and with community members and business leaders.
leaders who are involved in activities which further
the goals, objectives and duties set forth in this article;

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

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

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

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

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

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

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

(a) The HOPE council shall analyze the accounts in
the state budget that address or impact upon higher
education and other post-secondary educational oppor-
tunities, review budgetary needs and revenue sources
and make recommendations regarding the governor's proposed budget and the redirection of resources. In making such recommendations, the HOPE council shall educate themselves on the availability of and eligibility for federal, local and private funding, with the goal of maximizing federal, local and private revenues for enhancing higher education and other post-secondary educational opportunities.

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

c) The HOPE council shall recommend fiscal incentives for institutions offering higher and other post-secondary education that adopt and implement policies and programs that result in substantial cost savings. Any resulting savings shall be identified, deposited in a special revenue account and expended in accordance with legislative appropriation: Provided, That any resulting savings shall be retained by the school, state institution of higher education, board, commission or other public entity responsible for the savings: Provided, however, That the governing boards may redirect no more than fifty percent of savings identified by specific institutions of higher education if the appropriate governing board decides that the savings should not be retained by the institution: Provided further, That any savings accruing to accounts which are subject to appropriation by the Legislature shall remain in said appropriated accounts and may be expended only upon subsequent appropriation by the Legislature.

§18B-3C-5. Increased enrollment.

(a) The HOPE council shall work to increase all West Virginians' preparedness for, awareness of, interest in and access to higher and other post-secondary educa-
tion through effective means that include, but are not limited to, recommending or coordinating:

(1) Marketing programs and other means of disseminating information illustrating the benefits of higher and other post-secondary education, including information regarding lifetime earning potential projections and specific job opportunities which require higher or other post-secondary education;

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

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

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

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

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

(b) As to students currently enrolled in elementary and secondary school programs, the council shall work
to increase their preparedness for, awareness of, interest in and access to higher and other post-secondary education through effective means that include, but are not limited to, facilitating:

1. Having college student volunteers tutor in the elementary and secondary schools;

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

3. Emphasizing strong basis skills in math, science and communication, together with total wellness concepts that recognize the link between good physical health and mental aptitude;

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

5. Developing and signing onto a high school curriculum plan for each eighth grade student that steers each student into appropriate career directions without setting up limitations and educational and career barriers for any student;

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

7. Developing an early warning system for elementary and secondary school students to identify academic deficiencies, which includes an opportunity for each student to be evaluated and assesses each student's progress regarding potential entry into post-secondary education by each student's tenth grade year;

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

9. Providing information on financing post-secondary education to each sixth grade student;
(10) Extending by the one thousand nine hundred ninety-three — ninety-four school year to students entering the ninth grade the warranty of proficiency that is given in the form of a certificate of proficiency in basic skills to public school system graduates that enables them to return to the public school system to receive additional schooling in the areas where proficiency is lacking;

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

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

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

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

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

(1) Outreach in familiar environments by community organizations and by employment services and public assistance organizations;

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

(3) Provision of child care services;

(4) College recruitment programs for retired military personnel;
§18B-3C-6. Student financing and cost of providing higher and other post-secondary education.

(a) In addition to other provisions in this article and code relating to student financing of higher and other post-secondary education, the HOPE council shall address issues regarding the cost of higher and other post-secondary education in an attempt to render such education more affordable and shall utilize effective means that include, but are not limited to:

(1) Recommending increases in available funds subject to legislative appropriation for grants and loans, including the higher education grant program created pursuant to article five, chapter eighteen-c of this code;
(2) Encouraging new student aid funded primarily from local community resources in return for the future performance of public service jobs by students receiving such aid;

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

(4) Publicizing the availability of unsubsidized guaranteed loans;

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

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

(7) Assisting the governing boards with the development of flexible means for the payment of tuition and fees, including installment payment plans, and payment by credit card or other commonly accepted form of credit;

(8) Assisting the governing boards with the development of policies which minimize textbook changes, utilize textbooks system-wide and statewide to the extent possible and require that each campus implement a textbook exchange program, which program shall be extended system-wide and statewide; and

(9) Exploring ways that students can earn money while having higher and other post-secondary educational opportunities.
(b) In addition to other provisions in this article and
code relating to fiscal efficiency and accountability in
the provision of higher and other post-secondary
education, the HOPE council shall address issues
regarding the cost of higher and other post-secondary
education in an attempt to reduce the cost of providing
such education and shall utilize effective means that
include, but are not limited to:

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

(2) As regards the general education core curricu-
lum, facilitating the establishment of standards and
strategies for assessing student learning of the technol-
ogy-based instruction, including standards for mini-
imum competencies in basic skill areas, higher order
thinking skills, and general knowledge, utilizing the
college assessment of academic proficiency (CAAP)
component of the educational planning and assessment
system (EPAS) offered by American college testing
(Act); and

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

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

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

(1) Standard systems for assessing students and their
proficiency for entrance and placement in either
college-level credit courses or non-credit development courses and periodic evaluations of these systems;

(2) Procedures to monitor individual student progress and assess student proficiencies during the second year of enrollment;

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

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

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

(6) Transferability of course work credits, especially core course work credits, among the state institutions of higher education in each system, between the systems and with private colleges and universities, including transferability of core course work completed at any state institution of higher education to another state institution of higher education at the grade earned.

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

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

(2) Encouragement to each student to complete the associate degree even if that student intends to earn a higher education bachelor's degree through appropriate counseling services;

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

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

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

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

(2) Competitive grants administered by the joint commission on vocational-technical-occupational education as set forth in article three-a of this chapter, with priority given to grants intended to match state and federal funds for expansion of technical preparation programs; and
(3) Definitions regarding expectations for secondary and associate degree levels programs and the successful completion thereof.

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

(1) Utilizing campus-level, system-wide and state-wide advisory groups, assess work force, business and industry and market needs; prepare students for specialized and other careers that meet these needs; regularly review and revise programs and curricula designed to train for specialized and other careers that meet the work force needs; and develop new programs and phase out or modify existing programs as appropriate to meet work force, business and industry and market needs;

(2) Emphasizing science and technology courses;

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

(4) Facilitating the study of the placement of the patterns of students receiving a general education degree to assess the effectiveness of the general education experience, using studies required of accrediting bodies;

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

(6) Recommending ways to streamline procedures for designing and implementing customized training programs to meeting the needs of employers for
specific programs of limited duration.

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

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

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

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

(4) Periodically assessing employee supply and job demands in order to make recommendations regarding the adjustment of programs to accommodate employment needs and produce appropriate number of graduates;

(5) Assisting with the development of systems for enrollment management so that the number of students corresponds to the demand for graduates in that area of training; and

(6) Recommending increases in admission and graduation standards in programs producing too many graduates.

(f) The HOPE council shall facilitate the provision of evaluative feedback to the public and private secondary schools in this state to determine the effectiveness of the educational experience and the performance of their alumni through periodic studies of its graduates and reports to the schools, which feedback shall include information relating to:

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

(2) Student performance levels; and

(3) Job offers and job placement to the extent such
(g) The HOPE council shall facilitate the provision of evaluative feedback to higher education institutions and other post-secondary schools in this state to determine the effectiveness of the educational experience and the job placement of their alumni through periodic studies of its graduates and reports to the schools, which feedback shall, where appropriate, make use of studies required of many academic disciplines by their accrediting bodies and shall include information relating to:

1. The graduates' general readiness for additional higher and other post-secondary educational experiences or for entry into the work force;
2. Job offers and job placement; and
3. General evaluative information regarding the graduates' employment performance levels.

§18B-3C-8. Interaction among the state's education professionals.

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

1. Communications and academic alliances among educators in similar academic fields, especially among middle and high school counselors and higher education personnel in student advising roles, regarding academic standards, expectations and needs; and
2. Strategies to ensure that school counselors are well informed about the efforts of the council to help students prepare for, be aware of and interested in and have access to higher education and other post-secondary educational opportunities.

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

19 (1) Administration of community colleges and technical schools in a single system;
20 (2) Post-baccalaureate courses for teachers that are 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 the state institutions of higher education to work with educational professionals in the public and private elementary and secondary schools to increase training, education and awareness regarding individuals with disabilities and to develop and implement the adolescent plan for transition services.

8 (b) The HOPE council shall encourage schools and educational institutions to solicit input, advice and consultation regarding issues that impact individuals with disabilities through an advisory disability council established at the schools and institutions. Membership on the disability council should include individuals with disabilities, teachers and faculty members, parents, agency representatives, principals or other administrative personnel, counselors and others whose input would be helpful to the counsel. The HOPE council shall encourage that each school or institution with an advisory council make every effort to coordinate with existing community networks and give them appropriate representation on the council.

22 (c) The HOPE council shall make recommendations regarding teacher education training to enable future teachers to meet the unique educational needs of individuals with disabilities.

26 (d) The HOPE council shall coordinate the dissemination of information about programs, services and activities for individuals with disabilities and shall make recommendations to facilitate the development of a public relations program regarding services available for individuals with disabilities.

32 (e) The HOPE council shall recommend funding
sources for services and equipment for individuals with disabilities and shall facilitate written agreements between or among agencies and foundations that provide direct or support services to individuals with disabilities.

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

(g) The HOPE council shall encourage the development of an orientation program for education professionals, students and parents concerning student disabilities and availability of services.

(h) The HOPE council shall encourage education personnel to assist students with disabilities by monitoring the performance of students, making referrals for counseling and services and developing a system that provides students on probation with counseling and assessment services.

ARTICLE 4. GENERAL ADMINISTRATION.

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

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

(b) Each governing board shall employ a chancellor who shall serve at the will and pleasure of the employing board and shall assist the governing board
in the performance of its duties and responsibilities. No chancellor may hold or retain any other administrative position within the system of higher education while employed as chancellor. Each chancellor is responsible for carrying out the directives of the governing board by which employed and shall work with such board in developing policy options. For the purpose of developing or evaluating policy options, the chancellors may request the assistance of the presidents of the institutions under their jurisdiction and their staffs. The respective chancellors shall jointly agree to, and shall hire, one senior administrator who shall serve at their will and pleasure in accordance with section two of this article.

(c) The director of health shall serve as the vice chancellor for health affairs, who shall coordinate the West Virginia university school of medicine, the Marshall university school of medicine and the West Virginia school of osteopathic medicine. The vice chancellor for health affairs shall conduct a special study of the West Virginia university school of medicine, the Marshall university school of medicine and the West Virginia school of osteopathic medicine to determine the role and mission of said institutions in the reorganized system of higher education in the state. The special study shall include, but is not limited to, coordinating medical education, training and delivery of health services in the state; preparing nurse midwives, nurse practitioners, medical technologists and other members of the allied health professions; and providing for rural health care. The vice chancellor shall submit a report on said study to the governor and to the Legislature by the first day of December, one thousand nine hundred eighty-nine.

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

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

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

(b) The senior administrator may employ and dis-
charge, and shall supervise, such professional, admini-
strative, clerical and other employees as may be
necessary to these duties and shall delineate staff
responsibilities as deemed desirable and appropriate.
The senior administrator shall fix the compensation
and emoluments of such employees: Provided, That
effective the first day of July, one thousand nine
hundred ninety, those employees whose job duties
meet criteria listed in the system of job classifications
as stated in article nine of this chapter shall be
accorded the job title, compensation and rights estab-
lished in said article as well as all other rights and
privileges accorded classified employees by the provi-
sions of this code.

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

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

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

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

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

(h) Any program or service authorized or required
to be performed by the governing boards and not
specifically assigned to the board of trustees or the
board of directors may be administered by the senior
administrator. Such program or service may include,
but shall not be limited to, telecommunications activ-
ities and other programs and services provided for
under grants and contracts from federal and other
external funding sources.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

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

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

At such time as budget information for the next
fiscal year shall be due, each year the governing
boards shall make allocation decisions for the upcom-
ing fiscal year in accordance with the model then in
effect and shall inform the secretary of education and
the arts of the division of the recommended appropriate
ation for higher education for submission to the
appropriate state agency for incorporation in the
executive budget. The governing boards shall provide
such other information as may be requested by the
secretary of education and the arts to support the
allocation division. Prior to the first day of January of
each year the governing boards shall present this and
any other appropriate information to the Legislature
to support the proposed allocation of appropriation as
between the governing boards.

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

(1) Full-time equivalent enrollment;

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

(3) Other relevant factors.

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

Upon approval of the resource allocation policy, each
governing board, prior to the first day of January of
each year, shall present information to the secretary of education and the arts and the Legislature which sets forth the allocation decisions made by the respective governing boards for the then current fiscal year based on the policy then in effect, and the allocation decisions proposed for the next year, based on the policy in effect for the next succeeding fiscal year.

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

For fiscal year one thousand nine hundred ninety-four, all funds that are in excess of the funds received by the governing boards for expenditure by the state institutions of higher education for fiscal year one thousand nine hundred ninety-three shall be allocated in accordance with the governing boards' resource allocation model and each governing board's institutional resource allocation policy to the extent that a policy is in place, whether or not the policy has been approved in accordance with the provisions of subsection (b) of this section.

(d) Beginning with fiscal year one thousand nine hundred ninety-five, each governing board shall apply its resource allocation policy to existing base budgets in order to effect an equalization of the institutional state funding differences at twenty percent per year over a five-year period until such time as the percentage of institutional differences as determined by the resource allocation policy for that system are equalized. After a five-year phase-in period, all appropriations to the institutional accounts of the respective governing boards shall be allocated to their respective institutions proportional to such amounts as are indicated by application of the resource allocation
policy for that system.

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

(f) Any tuition and registration fee collections paid into tuition and registration fee special capital improvement funds and special revenue bond funds which accrue in excess of the amounts necessary to protect the interests of all holders of obligations for which such fees were pledged by the board of regents and shall remain pledged under the governing boards, shall be allocated to each governing board in proportion to the amounts of such fees collected through the institutions under its jurisdiction and shall be deposited in special capital improvement funds in the state treasury under the name of the governing board for expenditure for capital improvements at the institutions 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.

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

(1) The president or other administrative head of a state institution of higher education submits a written request to the appropriate governing board. The appropriate governing board approves the request for the transfer and submits a written request for the transfer to the secretary of education and the arts. The legislative auditor and the legislative oversight com-
mission on education accountability are to be furnished a copy of the request;

(2) The secretary of education and the arts, after consultation with the appropriate governing board, gives written approval to a request for a transfer and follows such procedures as may be required by the secretary of administration, the auditor and the treasurer to effect the transfer prior to any expenditure of the moneys so transferred;

(3) Such a transfer does not:

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

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

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

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

(4) Not more than five percent of the total allocation or appropriation in any general revenue account of a state institution of higher education may be transferred between the items of allocation or appropriation thereof or between the accounts established for such institution;
(5) The transfer of moneys in a special account established for a particular purpose into another account for expenditure for another purpose shall not exceed such amounts as are determined by the president or other administrative head of the institution to be in excess of that reasonably required to accomplish the purposes for which the account was established, unless such excess balances are insufficient to provide the amounts necessary for a temporary transfer in the case of a quarterly allotment which is insufficient to meet the appropriated personal services budget;

(6) Funds in any general or special account established for a specific state institution of higher education shall not be transferred pursuant to this section for use by another state institution of higher education.

(b) Notwithstanding the procedures and restrictions set forth in subsection (a) of this section, except to the extent that the section explicitly relates to transfers due to quarterly allotment insufficiencies, and notwithstanding any other provision of this code to the contrary, if a quarterly allocation of appropriations from the general revenue fund to the respective governing boards is insufficient to meet the cash flow needs within their respective systems to meet their payroll requirements, the boards may authorize the institutions to transfer funds from the various special revenue accounts under their jurisdiction to meet these needs, except funds whose use is governed by bonding covenants: Provided, That the legislative auditor shall be notified by the institution at the time of transfer and shall be provided whatever documentation that may be required to maintain records of the amounts transferred and subsequently restored: Provided, however, That the amounts of funds so transferred shall be restored to the accounts from which the transfers were made by the end of the fiscal year in which the transfers occurred: Provided further, That if the records in the office of the legislative auditor indicate any amounts transferred have not been restored by the end of the fiscal year, the legislative auditor shall notify the secretary of admin-
istration, auditor and treasurer, and thereafter no funds appropriated or allocated to the institution shall be encumbered or expended until such amounts are replaced: *And provided further, That the respective spending units have first pursued appropriate administrative remedies to avoid anticipated cash flow shortages: And provided further, That nothing herein restricts the ability of the boards to respond to reductions of appropriations imposed in accordance with article two, chapter five-a of this code within the restoration period.*

(c) If, due to increased efficiency in operations, a state institution of higher education accumulates balances in any of its accounts, or accounts established for the institution by its governing board, which are in excess of the amounts needed to accomplish the purposes for which the accounts were established, either general or special revenue, the institution may employ the transfer provisions established in subdivisions (1) and (2), subsection (a) of this section to transfer such excess balances into a special efficiency surplus revolving fund which shall be created in the state treasury for the institution and which shall be carried forward into the subsequent fiscal years: *Provided, That expenditures from any special efficiency surplus fund shall only be made upon line item appropriation by the Legislature. In the case of such transfers, the president shall, in addition to the request for a transfer, also submit to the secretary of education and the arts, the appropriate governing board, the legislative auditor and the legislative oversight commission on education accountability, documentation of the efficiencies accomplished which resulted in the excess balance. Funds transferred into the special surplus fund of an institution shall be budgeted by the president or other administrative head of the institution in consultation with the faculty senate, classified staff and student government organization to meet the highest academic priorities of the institution: Provided, however, That such funds may not be used to support a continuing operation or expense unless the efficiencies which resulted in such
funds becoming available are likewise continuing:

Provided further, That the restrictions on fund transfers set forth in subdivisions (3), (4) and (5) of said subsection of this section shall not apply to transfers to the efficiency surplus revolving fund: And provided further, That the restriction set forth in subdivision (6) of said subsection shall apply to such transfers.

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

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

ARTICLE 6. OTHER BOARDS AND ADVISORY COUNCILS.

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

(a) There shall be established at each state institution of higher education, hereinafter referred to as the "institution", excluding centers and branches thereof, an institutional board of advisors. The board of advisors shall consist of eleven members, including an administrative officer of the institution appointed by the president of the institution; a full-time member of the faculty with the rank of instructor or above duly elected by the faculty; a member of the student body in good academic standing, enrolled for college credit work and duly elected by the student body; a member of the institutional classified staff duly elected by the classified staff; and, appointed by the appropriate governing board, seven lay citizens of the state who have demonstrated a sincere interest in and concern for the welfare of that institution and who are representative of its population and fields of study, includ-
ing at least two alumni of the institution. Of the seven lay citizen members, no more than four may be of the same political party.

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

Each board of advisors shall hold a regular meeting at least quarterly, commencing in July of each year. Additional meetings may be held upon the call of the chairman, president of the institution or upon the written request of at least four members. A majority of the members shall constitute a quorum for conducting the business of the board of advisors.

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

The president of the institution shall make available resources of the institution for conducting the business of the board of advisors. The members of the board of advisors shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties under this section upon presentation of an itemized sworn statement thereof. All expenses incurred by the board of advisors and the institution under this section shall be paid from funds allocated to the institution for such purpose.

(c) The board of advisors shall review, prior to the submission by the president to its governing board, all
proposals of the institution in the areas of mission, academic programs, budget, capital facilities and such other matters as requested by the president of the institution or its governing board or otherwise assigned to it by law. The board of advisors shall comment on each such proposal in writing, with such recommendations for concurrence therein or revision or rejection thereof as it deems proper. Such written comments and recommendations shall accompany the proposal to the governing board and the governing board shall include such comments and recommendations in its consideration of and action on the proposal. The governing board shall promptly acknowledge receipt of the comments and recommendations and shall notify the board of advisors in writing of any action taken thereon.

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

(e) The board of advisors shall provide advice and assistance to the president in establishing closer connections between higher education and business, labor, government, community and economic development organizations to give students greater opportunities to experience the world of work, such as business and community service internships, apprenticeships and co-operative programs; to communicate better and serve the current work force and work force development needs of their service area, including the needs of nontraditional students for college-level skills upgrading and retraining and the needs of employers for specific programs of limited duration; and to assess the performance of institution's graduates and assist in job placement. The administrative officer of the institution serving on the advisory council may be assigned the responsibility for coordinating the institution's activities related to economic development.

(f) Upon the occurrence of a vacancy in the office of president of the institution, the board of advisors shall serve as a search and screening committee for candi-
dates to fill the vacancy under guidelines established by its governing board. When serving as a search and screening committee, the board of advisors and its governing board are each authorized to appoint up to three additional persons to serve on the committee as long as the search and screening process is in effect. The three additional appointees of the board of advisors shall be faculty members of the institution. Only for the purposes of the search and screening process, such additional members shall possess the same powers and rights as the regular members of the board of advisors, including reimbursement for all reasonable and necessary expenses actually incurred. Following the search and screening process, the committee shall submit the names of at least three candidates to the governing board for consideration and appointment. If the governing board rejects all candidates so submitted, the committee shall submit the names of at least three additional candidates, and this process shall be repeated until the governing board appoints one of the candidates so submitted. The governing board shall provide all necessary staff assistance to the board of advisors in its role as a 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.

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

(b) All decisions by the appropriate governing board or their agents at state institutions of higher education concerning reductions in work force of full-time
classified personnel, whether by temporary furlough or permanent termination, shall be made in accordance with this section. For layoffs by classification for reason of lack of funds or work, or abolition of position or material changes in duties or organization and for recall of employees so laid off, consideration shall be given to an employee's seniority as measured by permanent employment in the service of the state system of higher education. In the event that the institution wishes to lay off a more senior employee, the institution must demonstrate that the senior employee cannot perform any other job duties held by less senior employees of that institution in the same job class or any other equivalent or lower job class for which the senior employee is qualified: Provided, That if an employee refuses to accept a position in a lower job class, such employee shall retain all rights of recall hereinafter provided. If two or more employees accumulate identical seniority, the priority shall be determined by a random selection system established by the employees and approved by the institution.

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

The institution shall be required to notify all employees maintaining active listings on the preferred
recall list of all position openings that from time to time exist. Such notice shall be sent by certified mail to the last known address of the employee. It shall be the duty of each employee listed to notify the institution of any change in address and to timely renew the listing with the institution. No position openings shall be filled by the institution, whether temporary or permanent, until all employees on the preferred recall list have been properly notified of existing vacancies and have been given an opportunity to accept reemployment.

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

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

(a) Each state institution of higher education shall have the authority to establish and operate a faculty and classified employee continuing education and development program under rules adopted by the appropriate governing board. Funds allocated or made available may be used to compensate and pay expenses
for faculty or classified employees who are pursuing additional academic study or training to better equip themselves for their duties at the state institutions of higher education.

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

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

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

(b) Before the first day of January, one thousand nine hundred ninety-four, each governing board, with the advice and assistance of the staff councils and other groups representing classified employees, shall establish a policy pursuant to the provisions of article three-a, chapter twenty-nine-a of this code regarding the role of part-time classified employees at state institutions of higher education. Such policy shall discourage the hiring of part-time employees solely to 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
changes in an employee's work schedule; that maintains reasonable continuity in working schedules and conditions for employees; and that requires institutions to consider feasible and innovative ways to most efficiently utilize the institution's classified employees, such innovations to include flexibility in employee scheduling, job-sharing and four-day work weeks.

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

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

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

ARTICLE 8. HIGHER EDUCATION FULL-TIME FACULTY SALARIES.

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

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

(b) Each full-time faculty member employed as of
the effective date of this section shall receive for full-
time employment at the same academic rank during
the academic year one thousand nine hundred ninety-
three — ninety-four, and thereafter, a salary which is
no less than the salary being paid such faculty mem-
ber for the academic year one thousand nine hundred
ninety-two — ninety-three. No full-time faculty mem-
ber shall receive a salary which is less than the salary
for zero years of experience for the appropriate
academic rank as set forth in section two of this
article.

(c) Effective the first day of July, one thousand nine
hundred ninety-three, subject to appropriation by the
Legislature therefor, each full-time faculty member
shall receive an annual salary increase of two thou-
sand dollars. The Legislature may by general appropi-
ation, or the secretary of the department of education
and the arts may allocate through authority set forth
under the provisions of chapter five-f of this code,
funds to be distributed for the purpose of accommodat-
ing market and equity conditions within the system.
Any remaining funds shall be applied in accordance
with the provisions of subsection (d) of this section.

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

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

(f) Upon promotion in rank, placement on the
minimum salary schedule shall be such as to provide
a salary increase of at least ten percent and shall be at
least the amount prescribed for the appropriate
academic rank to which promoted at zero years of
experience.
§18B-8-3a. Institutional salary policies; distribution of faculty salary increases; distribution of non-classified administrative salary increases.

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

1. Each full-time faculty member receives at least the amount indicated by the minimum salary schedules pursuant to section two of this article;

2. Each full-time faculty member within a discipline group, receives a salary which is competitive with those in similar disciplines at peer institutions;

3. Faculty are recognized for outstanding performance;

4. Equity among salaries is maintained; and

5. The institution's faculty are effectively involved in the administration of the campus-level faculty salary policy.

(b) To the extent of legislative appropriation therefor, for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-four, an amount averaging one thousand dollars per full-time faculty member is recommended to be appropriated and distributed in that fiscal year for salary increases for full-time faculty members, and, for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-five, an amount averaging two thousand dollars per full-time faculty member is recommended to be appropriated and distributed in that fiscal year for salary increases for full-time faculty members, such distribution to be in accordance with the resource allocation policies developed pursuant to the provisions of section two, article five of this chapter and the salary policies required in subsection (a) of this section.
(c) Subject to appropriation by the Legislature therefor, each full-time nonclassified administrative staff person shall be granted an annual salary increase for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-three, of one thousand five hundred dollars; for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-four, seven hundred fifty dollars and for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-five, one 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.

(a) Before the first day of January, one thousand nine hundred ninety-four, the governing boards shall establish by rule and implement an equitable system of job classifications, with the advice and assistance of staff councils and other groups representing classified employees, each classification to consist of related job titles and corresponding job descriptions for each position within a classification, together with the designation of an appropriate pay grade for each job title, which system shall be the same for corresponding positions in institutions under both boards: Provided, That before implementing the classification system, each classified employee is given an opportunity in a public hearing setting to address decisions affecting his or her classification assignment and pay scale. The system of job classifications shall be submitted to the secretary of education and the arts for review and approval prior to implementation.

By such date and with consideration to recommendations of the institutions, the appropriate governing board shall furnish each classified employee written confirmation of the assignment to the appropriate classification, job title and pay grade and of the proper placement on a salary schedule. Such assignment may
be appealed in accordance with article twenty-nine, chapter eighteen of this code and all agencies are directed to expedite and give priority to grievances regarding the employee's initial assignment under the terms of this section. *Provided,* That nothing herein shall nullify or void any personnel classification system in effect immediately prior to the first day of July, one thousand nine hundred eighty-nine.

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

(c) The Legislature finds that an emergency situation exists and therefore, the governing boards are hereby authorized to establish by emergency rule, under the procedures of article three-a, chapter twenty-nine-a of this code, a rule to implement the provisions of this article, after approval by the legislative oversight commission on education accountability, which shall receive said proposed rule by the first day of November, one thousand nine hundred ninety-three. Upon approval of such emergency rule by the legislative oversight commission on education accountability, and the effective date of the implementation of said rule, the salary schedule set out in section three of this article shall be deemed null and void and without the force and effect of law. Any other provisions of this article inconsistent with said rule shall be deemed null and void and without the force and effect of law. Any other provisions of this article inconsistent with said rule shall be deemed null and void upon lawful implementation of the rule. *Provided,* That nothing in this subsection shall be interpreted to require that the Legislature appropriate any additional funds for such implementation.

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

(a) Each classified employee who is employed by a
governing board on the first day of July, one thousand nine hundred ninety-three, shall receive for the same employment at the same pay grade during the fiscal year commencing on such date and thereafter, subject to an appropriation by the Legislature therefor, and in addition to the experience increment increase provided for in subsection (b) of this section, a monthly salary which is at least one hundred twenty-five dollars more than the final base monthly salary paid such classified employee for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-two, to be paid in equal installments within the regular pay periods and to be prorated for classified employees working less than thirty-seven and one-half hours per week.

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

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

(d) Any funds remaining after increasing the monthly salary of each classified employee to at least the minimum amount prescribed for the appropriate pay grade at zero years of experience shall be used to place classified employees on the salary schedule at their appropriate years of experience: Provided, That such amount may be reduced proportionately based upon the amount of funds available for such purpose.

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

(f) The current monthly salary of any classified employee may not be reduced by the provisions of this article nor by any other action inconsistent with the provisions of this article, and nothing in this article shall be construed to prohibit promotion of any classified employee to a job title carrying a higher pay grade if such promotion is in accordance with the provisions of this article and the personnel classification system established by the appropriate governing board.

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

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

(1) Each classified employee receives at least the
amount indicated by the minimum salary schedules pursuant to section three of this article;

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

(3) Classified employees are recognized for outstanding performance;

(4) Equity among salaries is maintained; and

(5) The institution's classified employees are effectively involved in the administration of the campus-level classified employee salary policy.

(b) Subject to an appropriation by the Legislature therefor, for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-four, an amount equal to seven hundred fifty dollars per full-time classified employee is recommended to be appropriated and distributed in that fiscal year for salary increases for classified employees, and, for the fiscal year commencing on the first day of July, one thousand nine hundred ninety-five, an amount equal to one thousand five hundred dollars per full-time classified employee is recommended to be appropriated and distributed in that fiscal year for salary increases for classified employees, such distribution to be in accordance with the resource allocation policies developed pursuant to the provisions of section two, article five of this chapter and the salary policies required in subsection (a) of this section: Provided, That nothing in this section shall be construed to prohibit future salary increases for classified employees determined to be at the maximum for their pay grade under any new classification system promulgated in accordance with subsection (b), section four of this article and in accordance with policies which shall be adopted by each governing board relating to salary increases for classified employees determined to be at maximum salary: Provided, however, That such policies shall provide that, when
there is a system-wide, mandated salary increase, those employees determined to be at the maximum shall receive a percentage or across-the-board salary increase in an amount equal to not less than one-half of the percentage or across-the-board increase granted to the employee within the same pay grade receiving 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.

(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories of students enrolling at each state institution of higher education under its jurisdiction and may include among such fees any one or more of the following: (1) Health service fees; (2) infirmary fees; (3) student activities, recreational, athletic and extracurricular fees, which said fees may be used to finance a student's attorney to perform legal services for students in civil matters at such institutions: Provided, That such legal services shall be limited to only those types of cases, programs or services approved by the administrative head of such institution where such legal services are to be performed; and (4) graduate center fees and branch college fees, or either, if the establishment and operations of graduate centers or branch colleges are otherwise authorized by law. All fees collected at any graduate center or at any branch college shall be paid into special funds and shall be used solely for the maintenance and operation of the graduate center or branch college at which they were collected: Provided, however, That the governing boards shall use the median of the average tuition and required fees at similarly classified institutions in member states of the southern regional education board as a goal in establishing tuition and required fee levels for residents at state institutions of higher education under their jurisdiction: Provided further, That the governing boards shall use the actual instructional cost as the same shall be determined in accor-
dance with board rule, in establishing nonresident undergraduate fees, with the goal of having tuition and fees cover the actual cost by fiscal year one thousand nine hundred ninety-six: And provided further, That students enrolled in undergraduate courses offered at off-campus locations shall pay an off-campus instruction fee and shall not pay the athletic fee and the student activity fee. The off-campus instruction fee shall be used solely for the support of off-campus courses offered by the institution. Off-campus locations for each institution shall be defined by the appropriate governing board. The schedule of all fees, and any changes therein, shall be entered in the minutes of the meeting of the appropriate governing board, and the board shall file with the legislative auditor a certified copy of such schedule and changes.

(b) In addition to the fees mentioned in the preceding paragraph, each governing board may impose and collect a student union building fee. All such building fees collected at an institution shall be paid into a special student union building fund for such institution, which is hereby created in the state treasury, and shall be used only for the construction, operation and maintenance of a student union building or a combination student union and dining hall building or for the payment of the principal of and interest on any bond issued to finance part or all of the construction of a student union building or a combination student union and dining hall building or the renovation of an existing structure for use as a student union building or a combination student union and dining hall building, all as more fully provided in section ten of this article. Any moneys in such funds not immediately needed for such purposes may be invested in any such bonds or other securities as are now or hereafter authorized as proper investments for state funds.

(c) The boards shall establish the rates to be charged full-time students enrolled during a regular academic term. For fee purposes a full-time undergraduate student shall be one enrolled for twelve or more credit
hours in a regular term, and a full-time graduate student shall be one enrolled for nine or more credit hours in a regular term. Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour, and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

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

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

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

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

(3) If a governing board determines that any student was adversely, financially affected by a legal work stoppage that commenced on or after the first day of January, one thousand nine hundred ninety-three, it may allow the student an additional six months to pay the fees for any academic term: Provided, That the governing board shall determine if a student was adversely, financially affected on a case-by-case basis.
(e) The governing boards shall establish legislative rules regarding the refund of any fees upon the voluntary or involuntary withdrawal from classes of any student which rules shall comply with all applicable state and federal law and shall be uniformly applied throughout the systems.

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

(g) In addition to the fees mentioned in the preceding subsections, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student controlled public interest research group: Provided, That the students at such institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government: Provided, however, That such fees shall not be used to finance litigation against the institution.


The appropriate governing board of each state institution of higher education shall have the authority to establish and operate a book store at the institution. The book store shall be operated for the use of the institution itself, including each of its schools and departments, in making purchases of books, stationery and other school and office supplies generally carried in college stores, and for the benefit of students and faculty members in purchasing such products for their own use, but no sales shall be made to the general public. The prices to be charged the institution, the students and the faculty for such products shall be fixed by the governing board, shall not be less than the prices fixed by any fair trade agreements, and shall in all cases include in addition to the purchase price paid
by the book store a sufficient handling charge to cover all expenses incurred for personal and other services, supplies and equipment, storage, and other operating expenses, to the end that the prices charged shall be commensurate with the total cost to the state of operating the book store.

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

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

Moneys derived from the operation of the book store shall be used first to replenish the stock of goods and to pay the costs of operating and maintaining the store. From any balance in the Marshall university book store fund not needed for operation and maintenance and replenishing the stock of goods, the governing board of that institution shall have authority to expend a sum not to exceed two hundred thousand dollars for the construction of quarters to house the book store in the university center at Marshall university. Until such quarters for housing the book store are completed, the governing board of Marshall university and the governor shall take this authorization into account in fixing the amount of the revolving fund for the Marshall university book store.

ARTICLE 13. HIGHER EDUCATION-INDUSTRY PARTNERSHIPS.

§18B-13-1. Legislative purpose.

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

It is the purpose of the Legislature to have as the state's goals the movement of the state of West Virginia into the forefront of science and technology by the year two thousand; the attraction of business, federal contracts and industry; and the creation of jobs for the people of this state, through applied science and technology and partnership programs.


Institutions of higher education shall develop a plan to engage in collaborative projects designed to assist business to adapt or develop new technology under this article.


The West Virginia state development council in consultation with the higher education governing boards is hereby authorized and directed to develop a strategic comprehensive plan and grant program to attract new science and high technology industries, to retain and expand current state industries through technology and other processes and to increase research grants, contracts, matching funds and procurement arrangements from the federal government, private industry and other agencies. Such initial, and 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
development authority, to issue special High-Tech 2000
bonds for the purpose of this section, including, but
not limited to, special project revenue bonds and
special user bonds limited to the actual cost of con-
struction and start-up of any qualifying and approved
research park or zone or technology centers, and
improvements necessary thereto, pursuant to article
twelve-b, chapter eighteen of this code.

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

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

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

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

Notwithstanding any other provision herein to the
contrary, the amount of total credits and deferrals
allowable under this section or section five, article
two-b, chapter five-b of this code, shall not exceed two
and one-half million dollars in any one fiscal year for
all eligible businesses: Provided, That the credits
allowed by this section are non-refundable so that a
taxpayer shall not claim a total credit amount that
reduces the taxpayer's tax liability to less than zero.

§18B-13-5. Use of state property and equipment; faculty.

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

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

(c) The Legislature finds that cooperation, communi-
cation and coordination are integral components of
higher education's involvement in economic develop-
ment. In order to proceed in a manner that is cost
effective and time efficient, it shall be the duty of the
governing boards to review and coordinate such
aspects of the programs administered by the governing
boards. Such review and coordination shall not operate
so as to adversely affect sources of funding nor shall it
affect any statutory characterization of any program as
an independent entity. The governing boards shall
report on an annual basis to the Legislature and the
governor. The report shall contain the following
information:

(1) The number of seminars and workshops
conducted;

(2) The subject matter addressed in each seminar
and workshop;

(3) The number of feasibility studies conducted and
the subject matter contained in each study; 

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

(5) The extent to which the authority provided for in subsection (b) of this section has been exercised, with specificity as to the institution and faculty member 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, chapter twenty of this code, southern West Virginia community college, with the approval of the board of directors, is hereby authorized and empowered to sell any surplus real property and deposit the net proceeds into a special revenue account to be utilized for the purchase of additional real property or for capital improvements: Provided, That prior to such action the board of directors shall have the property appraised by two licensed appraisers and shall not sell the property for less than the average of the two appraisals: Provided, however, That the net proceeds which exceed the funds needed for the purchase of real property or for capital improvements may be transferred to other accounts or funds and redesignated for 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 the third day of December, one thousand nine hundred ninety-one, modified by the board of trustees to meet the objections of the legislative oversight commission on education accountability and refiled in the state register on the twenty-first day of January, one thousand nine hundred ninety-two, relating to the board of trustees (report card), are authorized.

(b) The legislative rules filed in the state register on
the thirteenth day of July, one thousand nine hundred ninety-one, relating to the board of trustees (equal opportunity and affirmative action), are authorized.

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

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

§18B-17-3. Board of directors.

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

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

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

(d) The legislative rules filed in the state register on the nineteenth day of March, one thousand nine hundred ninety-two, as modified and refiled in the state register on the tenth day of July, one thousand nine hundred ninety-two, relating to the board of directors (presidential appointments, responsibilities 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 in institutions of higher education in this state and throughout the nation continue to increase at a rapid pace, and although the state now provides a limited grant program for students attending an institution of higher education in West Virginia, there continues to exist an underdevelopment of the state's human talent and resources because of the inability of many able but needy students to finance a higher educational program.

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

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

§18C-5-2. Definitions.

(a) "Approved institution of higher education" means a state institution of higher education as defined in section two, article one, chapter eighteen-b of this code, and Alderson-Broaddus college, Appalachian bible college, Bethany college, the college of West Virginia, Davis and Elkins college, Ohio Valley college, Salem-Teikyo college, the university of Charleston, West Virginia Wesleyan college and
Wheeling Jesuit college, all in West Virginia, and any other institution of higher education in this state, public or private, approved by the senior administrator.

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

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

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

The grant program established and authorized by this article shall be administered by the senior administrator. Moneys appropriated or otherwise available for such purpose shall be allocated by line item to an appropriate account.

In addition to an amount no less than the amount of funds available for the higher education grant program pursuant to the repealed sections of article twenty-two-b, chapter eighteen of this code prior to the effective date of this section, there may be appropriated by the Legislature by line item, to the extent that funds may be available, an additional one and one-half million dollars per year for the next five years, beginning with the fiscal year beginning on the first day of July, one thousand nine hundred ninety-three.

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

Subject to the provisions of this article and within the limits of appropriations made by the Legislature, the senior administrator is authorized and empowered: (1) To prepare and supervise the issuance of public information concerning the grant program; (2) to prescribe the form and regulate the submission of applications for grants; (3) administer or contract for the administration of such examinations as may be prescribed by the senior administrator; (4) select qualified recipients of grants; (5) award grants; (6)
accept grants, gifts, bequests and devises of real and personal property for the purposes of the grant program; (7) administer federal and state financial loan programs; (8) cooperate with approved institutions of higher education in the state and their governing boards in the administration of the grant program; (9) make the final decision pertaining to residency of an applicant for grant or renewal of grant; (10) employ or engage such professional and administrative employees as may be necessary to assist the senior administrator in the performance of the duties and responsibilities, who shall serve at the will and pleasure and under the direction and control of the senior administrator; (11) employ or engage such clerical and other employees as may be necessary to assist the senior administrator in the performance of the duties and responsibilities, who shall be under the direction and control of the senior administrator; (12) prescribe the duties and fix the compensation of all such employees; and (13) promulgate reasonable rules and regulations not inconsistent with the provisions of this article relating to the administration of the grant program.

§18C-5-5. Eligibility for a grant.

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

1. (1) Is a citizen of the United States;
2. (2) Has been a resident of the state for one year immediately preceding the date of application for a grant or a renewal of a grant;
3. (3) Meets the admission requirements of the approved institution of higher education to which admission is sought or meets the admission requirements of a three-year registered nurse diploma program which is offered by a nonprofit West Virginia hospital and approved by the West Virginia board of examiners for registered professional nurses and is subsequently admitted;
4. (4) Satisfactorily meets the qualifications of financial
need and academic promise, as well as academic
achievement, as established by the senior
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.

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

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

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

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

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

The senior administrator from time to time shall
identify areas of professional, vocational and technical
expertise that are, or will be, of critical need in this
state and, to the extent feasible, may direct grants to
students that are pursuing instruction in those areas.

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

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

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

Should the recipient terminate enrollment for any
reason during the academic year, the unused portion
of the grant shall be returned by the institution to the
appropriate governing board in accordance with the
governing board's policy for issuing refunds, for
transfer to the appropriate account and allocation for
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

Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 12th day of May, 1993.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/24/93
Time 11:12a.m.