WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED

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

(By Senator __________, President, and
Vice President, by Request of the Executive)

PASSED April 10, 1993

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 377

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

[Passed April 10, 1993; in effect from passage.]

AN ACT to repeal section ten, article one, of chapter eighteen-b of the code of West Virginia one thousand nine hundred thirty-one, as amended; 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 seven-a, chapter eighteen of said code by adding thereto a new section, designated section fourteen-b; to amend and reenact sections two, five, seven and eight, article one, chapter eighteen-b of said code; to further amend said article by adding thereto three new sections, designated sections one-a, one-b and five-a; 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; to amend chapter eighteen-c of said code by adding thereto a new article, designated article five, all relating to 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; providing retirement benefits for certain board of regents employees; stating legislative intent and goals regarding distance learning; placing secretary of education and arts on council; placing council under jurisdiction of secretary of education and arts; allowing term extension of chair of council; transferring funds of distance learning coordinating council to secretary of education and arts; providing for expenditure of appropriations to distance learning fund; prioritizing use of funds; providing that state board of education approve rather than accredit
distance courses; authorizing pilot program; authorizing comparable fees if enrolled for credit; redefining community college terms; requiring governing boards and state board of education to provide secretary of education and arts with requested information in timely manner; requiring elimination of certain courses and notification thereof; requiring presidential performance evaluations to be written; 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; 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; 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; requiring community college components within university system to coordinate; requiring that funds, including special fees, collected at freestanding community colleges remain with those community colleges; creating governor's council on higher and other postsecondary education; 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, and nonclassified employees subject to appropriations; 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; 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; allowing classified employees at maximum salary to receive limited salary increase; stating goal for level of tuition and required fees for resident and nonresident students at state institutions of higher education; defining full-time enrollment for fee purposes; providing alternative methods for payment of fees; requiring boards to adopt standardized refund policy; requiring penalties, by rule, for excessive course registration; requiring boards to consider fee waivers in exchange for service to institution; requiring stated textbook policies in order to minimize costs; streamlining provision regarding higher education-industry partnerships; limiting tax credits and deferrals; requir-
ing certain reports; authorizing southern West Virginia community college to sell property as set forth; recodifying higher education grant program and requiring additional one and one-half million appropriation each year for five years to that grant program; and deleting or updating outdated code provisions.

Be it enacted by the Legislature of West Virginia:

That section ten, article one, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, 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 seven-a, chapter eighteen of said code be amended by adding thereto a new section, designated section fourteen-b; that sections two, five, seven and eight, article one, chapter eighteen-b of said code be amended and reenacted; that said article be further amended by adding thereto three new sections, designated one-a, one-b and five-a; 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 section, designated section 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; that chapter eighteen-c of said code be amended by adding thereto a new article, designated article five, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 2. FINANCE DIVISION.

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

1 The secretary shall examine the expenditure 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.

2 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.

14 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.

1 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.

2 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.

3 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;
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 terms as chair, except by unanimous vote of the council.

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 soft-
ware, 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 com-
prehensive long-range plan to further the cooperation 
and coordination of the various educational and other 
agencies of the state, and the county boards of educa-
tion, 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 legisla-
tive 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 professional 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 kindergarten 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 governing body of the district or institution.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

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

§18-7A-14b. Full participation in retirement system of certain former Board of Regents employees.

Notwithstanding section fourteen-a of this article or any other provision of law to the contrary, any person who was a member of the retirement system on February twelve, one thousand nine hundred seventy, who, as an employee of the West Virginia board of regents, was not limited in the amount paid into the retirement system, paid into the system the full amount provided by law for members of the retirement system, and was not an employee of the board of regents who was limited in the amount which could be paid from July one, one thousand nine hundred sixty-three, to July one, one thousand nine hundred seventy, shall be considered a full participant in that retirement system, shall be paid a retirement benefit comparable to the benefit being received by other members of the retirement system who paid the full amount provided by law, and shall be entitled to retirement, death and all other benefits to the same extent as any member of the retirement system who paid the full amount provided by law may be entitled.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

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 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.

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, mathematics, 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 legisla-

tive findings, directives, goals and objectives set forth
in section one-a of this article and to ensure account-
tability in implementing said findings, directives, goals
and objectives in consultation with the secretary of
education and the arts, 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 uni-
versity 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 com-
munity colleges, branches or off-campus locations of
state institutions of higher education within the state
college system, and programs offered at state institu-
tions 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), (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 four;

(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
§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 tenth 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.

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

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

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

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

(b) Such a delivery system should employ the best
available technology and qualified instructors to
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 employ-
ment 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 specif-
ic 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 exer-
cised and performed by the West Virginia board of
regents.

The governing boards have the general determina-
tion, 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; allocat-
ing among the state institutions of higher education
under their jurisdiction specific functions and respon-
sibilities; submitting budget requests for such institu-
tions; and equitably allocating available state approp-
riated funds between the boards and among such
institutions in accordance with the resource allocation
model and policies required by section two, article five
30 of this chapter.

31 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.


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

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

7 (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 preparation 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
(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 not 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 agree-
ments 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 agree-
ments 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 final
review of new or established academic or other
programs. Any such delegation of power and control 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 departments 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 accountability 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 personnel transaction shall be accompanied by the appropriate standardized system or forms which will be submitted to the respective governing boards, secretary of education and the arts, department of finance and administration and the legislative oversight
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, experience 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 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 four of the constitu-
tion 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 pres-
ccribed 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 educa-
tional 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 appro-
priate 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 Univer-
sity; and appropriate levels at the West Virginia
Graduate College, Potomac State College of West
Virginia University, West Virginia University at Par-
kersburg 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 appropri-
tations 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.

§18B-2-8. Consortium of comprehensive child development
centers; establishment and operation of a
consortium of comprehensive child develop-
ment centers.
(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 services. 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 entities 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
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 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 July one, 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 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 director, each director shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article four 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
(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 appro-
priate to meet such needs, provide professional devel-
opment 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 regional educational
service agencies established by the state board of
education pursuant to section twenty-six, article two of
chapter eighteen of said code: Provided, That any
community college and the branches thereof existing
on the effective date of this section may be located in
more than one community college service area created
pursuant to this section and shall not be affected by
such service area boundary.

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

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

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

(e) The board of directors may allocate funds from
the appropriations for the state college system for the
operation and capital improvement of any community
college continued, established or designated under
authority of this section and may accept federal grants
and funds from county boards of education, other local
governmental bodies, corporations or persons. The
directors may enter into memoranda of agreements
with such governmental bodies, corporations or per-
sons 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 superinten-
dent of schools; the appropriate governing board shall
appoint two members in consultation with the presi-
dent 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.

1. 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 POSTSECONDARY 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 postsecondary educa-
tion. 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 postsecondary 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 postsecondary 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 postsecondary 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 workforce preparation.

The Legislature further intends, by this article, to extend postsecondary and higher educational opportunities 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.

(b) 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 advi-
sory, 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 postsecondary 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 presi-
dent 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
delelegates, 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 deci-
sion 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 postsecondary education, and develop a means of communication with education providers and advisory councils and with community members and business 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 education, the distance learning coordinating council, and other boards, agencies and entities involved in activities which further the goals, objectives 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 postsecondary 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
(b) 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 certification 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 postsecondary education.

(a) The HOPE council shall analyze the accounts in the state budget that address or impact upon higher education and other postsecondary educational opportunities, 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 postsecondary 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 postsecondary 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 postsecondary education 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 postsecondary education, including information regarding lifetime earning potential projections and specific job opportunities which require higher or other postsecondary education;

(2) Clear definitions of expectations and needs regarding academic competencies required for success in higher and other postsecondary 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 postsecondary education and to simplify the admissions process;

(5) Public information whereby citizens can receive information on higher and other postsecondary education which may include television programs, public service announcements and any other effective means
of providing information on, communicating or promoting higher and other postsecondary 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;

(6) Support, assistance and encouragement to currently enrolled students and other citizens, especially in minority or other groups under-represented in the postsecondary student population, who may need same to begin or return to higher or other postsecondary 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 postsecondary 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
(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 postsecondary 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 postsecondary education to each sixth grade student;

(10) Extending by the nineteen 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;

(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 postsecondary 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 workforce for four or more years;

(3) Provision of child care services;

(4) College recruitment programs for retired military personnel;

(5) Advisory groups of employees and trade councils;

(6) Institution of courses attractive and available to business and industry employees and employers who require advanced training or retraining;

(7) Funding for rapid responses to the needs of business and industry, making courses available when needed and where needed without developing permanent programs, in an amount to be appropriated by the Legislature to the West Virginia Development Office for a competitive grant program;

(8) Courses at locations and times convenient for students with families and/or jobs, such as modular courses in non-traditional formats and at non-traditional times such as on weekends;

(9) Work toward an amendment of federal law to allow unemployed workers to become full-time students without losing benefits;

(10) Sensitivity training for faculty, staff and students regarding cultural diversity; and

(11) Coordinating in-service training for all faculty and staff to inform them of the requirements of Public Law 101-336, the Americans with disabilities act, and any amendments thereto, to sensitize them to the needs of individuals with disabilities.
§18B-3C-6. Student financing and cost of providing higher and other postsecondary education.

(a) In addition to other provisions in this article and code relating to student financing of higher and other postsecondary education, the HOPE council shall address issues regarding the cost of higher and other postsecondary 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 postsecondary 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 postsecondary education, the HOPE council shall address issues regarding the cost of higher and other postsecondary 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 curriculum, facilitating the establishment of standards and strategies for assessing student learning of the technology-based instruction, including standards for minimum 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
(3) Recommending the elimination of unnecessary duplicate programs and courses.

§18B-3C-7. Succeeding in higher and other postsecondary 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 postsecondary 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 timeframe
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 postsecondary educational programs in completing such programs, such policies and programs to include but not be limited to:

(1) A smooth transition from secondary and postsecondary 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;

(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 postsecondary 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 edu-
cation 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 prepara-
tion programs; and

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

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

(1) Utilizing campus-level, system-wide and state-
wide advisory groups, assess workforce, 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 workforce needs; and develop new programs
and phase out or modify existing programs as approp-
riate to meet workforce, 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 national 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;

(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 postsecondary 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 workforce 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;

(6) Recommending increases in admission and grad-
uation 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 postsecondary educational experiences;

(2) Student performance levels; and

(3) Job offers and job placement to the extent such information is available.

(g) The HOPE council shall facilitate the provision of evaluative feedback to higher education institutions and other postsecondary 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 postsecondary educational experiences or for entry into the workforce;

(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, postsecondary 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 educa-
tion personnel in student advising roles, regarding
academic standards, expectations and needs;

(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 postse-
condary educational opportunities;

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

(1) Administration of community colleges and tech-
nical schools in a single system;

(2) Post-baccalaureate courses for teachers that are
more subject-matter based; and

(3) Professional development opportunities.

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

(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 adoles-
cent plan for transition services.

(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.

(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.

(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.

(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 postsecondary 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 discharge, and shall supervise, such professional, administrative, 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 established in said article as well as all other rights and privileges accorded classified employees by the provisions 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 administer, 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 responsibility 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 responsibility 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 activities 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 modifications 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 upcoming 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 appropriation 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 jurisdiction 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 information 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 subsec-
tion (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 commission 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 administration, 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 subsection (a) paragraphs (1) and (2) 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 subsection (a) paragraphs (3), (4) and (5) of this section shall not apply to transfers to the efficiency surplus revolving fund: And provided further, That the restriction set forth in subsection (a) paragraph (6) of this section 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, including 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
84 and community service internships, apprenticeships
85 and co-operative programs; to communicate better and
86 serve the current work force and work force develop-
87 ment needs of their service area, including the needs
88 of nontraditional students for college-level skills
89 upgrading and retraining and the needs of employers
90 for specific programs of limited duration; and to assess
91 the performance of institution’s graduates and assist in
92 job placement. The administrative officer of the
93 institution serving on the advisory council may be
94 assigned the responsibility for coordinating the institu-
95 tion’s activities related to economic development.

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

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

(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 institu-
tion 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 consent 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 consent 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 employees and shall provide all qualified classified employees with nine-month or ten-month contracts with the opportunity to accept part-time or full-time summer employment before new persons are hired for the part-time or full-time employment.

§18B-7-7. Professional productivity.

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 productivity of faculty and administrators, which policy shall require faculty productivity that is ten percent more than the average of similar institutions in other states by the fiscal year one thousand ninety-five, such productivity to be based on the average number of student credit hours taught, and administrative productivity that is ten percent more than the average of similar institutions in other states by the fiscal year one thousand ninety-five.

§18B-7-8. Campus administrators.

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 requiring all campus administrators holding faculty rank to teach at least one course during each eighteen-month employment period or to perform on-going research in lieu of teaching.

§18B-7-9. Employment innovations.

Before the first day of January, one thousand nine hundred ninety-four, each governing board, with the advice and consent 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 that discourages 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 the availability of funds therefor, each 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.

(b) Subject to the availability of funds therefor, each non-faculty cooperative extension worker employed pursuant to the provisions of section one, article eight, chapter nineteen of this code shall be granted an annual salary increase of one thousand five hundred 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, such salary increases to be prorated for part-time, non-faculty cooperative extension employees.
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 member for the academic year one thousand nine hundred ninety-two — ninety-three. No full-time faculty member 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 thousand dollars. The Legislature may by general appropriation, 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 accommodating 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 sche-
§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 funds are made available by appropriation by the Legislature therefor, for the fiscal year beginning with 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 salaries for full-time faculty members, and, for the fiscal year beginning with 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 salaries 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 the availability of funds therefor, each full-time nonclassified administrative staff person shall be granted an annual salary increase in 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. The pro-rated amount shall be granted for less than full-time employment.

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 correspond-
ing 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 of 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) Funds shall be appropriated for classified staff salary increases in fiscal year one thousand nine hundred ninety-four. With respect to funds appropriated, the governing boards shall grant an across-the-board salary increase of fifteen hundred dollars plus benefits for each full-time member of the classified staff, pro rated for less than full-time employment.

(c) Beginning with the fiscal year one thousand nine hundred ninety-five 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.

(d) 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 section two, article five, chapter five of this code.

(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) of 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 salaries for classified employees, and, for the fiscal year beginning with the first day of July, one thousand nine hundred ninety-five, an amount equal to one thousand five hundred dollars per classified employee is recommended to be appropriated and distributed in that fiscal year for salaries 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) of 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;
7 (3) student activities, recreational, athletic and extra-
curricular 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 instruc-
tional 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 institu-
tion. Off-campus locations for each institution shall be
derived 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 appro-
priate 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 preced-
ing 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, 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 pro rated 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 non-profit, 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.


1 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 complet-
ed, 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

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 competi-
tive; 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

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 be developed and annually filed with the governor and Legislature.

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

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

(a) The state development council shall work with the county commissions, the municipalities and local development authorities where state colleges and universities are located and shall develop a plan and program for the establishment and operation of qualifying High-Tech 2000 research zones, parks and technology centers on or near the campuses of selected universities and colleges to attract local business and
9 industry engaged in science and technology related
10 research.
11 The state development council shall coordinate the
12 development of such plan and program, which shall
13 include qualifications for eligible High-Tech 2000
14 research zones, parks and research centers and which
15 qualifications shall require a minimum partnership
16 commitment from the private sector either in the
17 construction, operation or location of the research
18 parks or zones or technology centers; and the West
19 Virginia economic development authority shall have
20 authority to enter into agreements with state institu-
21 tions of higher education, private developers or other
22 interested businesses or persons to acquire, finance,
23 construct, operate, own, lease or otherwise manage
24 any research park or zone and to collect rentals or
25 other forms of payment for the operation of the
26 research parks or zones or technology centers.
27 The West Virginia economic development authority
28 is hereby authorized either singularly or in conjunc-
29 tion with any county commission, municipality or local
30 development authority, to issue special High-Tech 2000
31 bonds for the purpose of this section, including, but
32 not limited to, special project revenue bonds and
33 special user bonds limited to the actual cost of con-
34 struction and start-up of any qualifying and approved
35 research park or zone or technology centers, and
36 improvements necessary thereto, pursuant to article
37 twelve-b, chapter eighteen of this code.
38 (b) Notwithstanding any other provision of this code
39 to the contrary relating to any other exemptions or
40 credits to which any business may be entitled under
41 this code, the following exemptions shall only apply to
42 qualified, approved High-Tech 2000 research park or
43 zone or technology center:
44 (1) The enterprise zone tax exemptions as provided
45 in section five, article two-b, chapter five-b of this
46 code;
47 (2) A tax credit for qualified business, in the amount
48 of the workers' compensation premium paid in accor-
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.

1 (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
(c) The Legislature finds that cooperation, communication and coordination are integral components of higher education's involvement in economic development. 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.

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: \textit{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:
\textit{Provided, however}, That the net proceeds which
exceed the funds needed for the purchase of real
property or for capital improvements may be trans-
ferred to other accounts or funds and redesignated for
other purposes by appropriation of the Legislature.

\textbf{ARTICLE 17. LEGISLATIVE RULES.}

\textbf{§18B-17-2. Board of trustees.}

(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.

\textbf{§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 direc-
tors 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.

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-improve-
ment 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, Appala-
chian 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 admin-
istrator 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 admin-
istrator. 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. To administer or contract for the administration of such examinations as may be prescribed by the senior administrator;
4. To select qualified recipients of grants;
5. To award grants;
6. To accept grants, gifts, bequests and devises of real and personal property for the purposes of the grant program;
7. To administer federal and state financial loan programs;
8. To cooperate with approved institutions of higher education in the state and their governing boards in the administration of the grant program;
9. To make the final decision pertaining to residency of an applicant for grant or renewal of grant;
10. To 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. To 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. To 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.

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

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

3 (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;

4 (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;

5 (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.

1 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.

2 The institution is not required to accept the grant recipient for enrollment, but is free to exact compliance with its own admission requirements, standards and policies.
Grants shall only be made to undergraduate students 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 academic standing, making normal progress toward completion 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 connection 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 equivalent 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 program, 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

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 bill is approved this the 20th day of April, 1993.

Governor
PRESENTED TO THE
GOVERNOR
Date 4-19-93
Time 10:30 PM
C. C.