WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2000

ENROLLED

SENATE BILL NO. 653
(Originating in the Committee on Education)

PASSED March 19, 2000
In Effect ninety days from Passage
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Senate Bill No. 653

(Originating in the Committee on Education)

[Passed March 19, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section forty-eight, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section eleven, article three, chapter twelve of said code; to amend and reenact sections one-a, one-d, two, three and six, article one, chapter eighteen-b of said code; to amend said chapter by adding thereto five new articles, designated articlesone-a, one-b, one-c, two-a, and three-f; to amend and reenact section one, article two of said chapter; to amend and reenact section one, article three of said chapter; to amend and reenact articles three-a and three-c of said chapter; to amend and reenact section two, article four of said chapter; to amend said article by adding thereto a new section, designated section eight; to amend and reenact sections three and four, article five of said chapter; to amend and reenact section one, article six of said chapter; to amend said article by adding thereto four new sections, designated sections one-a, two-a, three-a and four-a; to amend and reenact section
one, article seven of said chapter; to amend and reenact section two, article nine of said chapter; to amend and reenact sections one, two and eight, article ten of said chapter; and to amend article fourteen of said chapter by adding thereto two new sections, designated sections eight and nine, all relating to education; public education; post-secondary education; colleges, universities and community and technical colleges; rules; motor vehicle and travel rules; governance; administration; goals for post-secondary education; purposes; intents; findings; retirement and separation incentives; transfers; eliminating the pilot flexibility initiative; defined terms; compact with higher education; institutional compacts; peer institutions; legislative financing goals; financing, allocations, appropriations and expenditures; institutional operating budget; graduate education; contrary provisions; repealing inconsistent and obsolete sections; higher education policy commission; public policy agenda; appointments; composition of commission and boards; terms and qualifications of commission and board members; vacancies; eligibility for reappointment; oath of office; removal from office; meetings, expenses and compensation; powers and duties; chancellor for higher education; vice chancellors, institutional presidents and provosts; compensation; evaluation; transition year; accountability; report cards; statewide master plan; transition oversight and implementation; legislative oversight commission on education accountability; higher education interim governing board; board of trustees; board of directors; institutional boards of governors; supervision; capital investments and projects; joint commission for vocational-technical-occupational education; duties and responsibilities of the joint commission; essential conditions for community and technical colleges; responsibility districts and areas; programs; district consortia committees; process for achieving independently accredited community and technical colleges; increasing flexibility for community and technical colleges; shared facilities and resources; relationship between admin-
Be it enacted by the Legislature of West Virginia:

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

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-48. Travel rules; exceptions.

(a) The secretary of administration shall promulgate rules relating to the ownership, purchase, use, storage, maintenance and repair of all motor vehicles and aircraft owned by the state of West Virginia and in the possession of any department, institution or agency thereof: Provided, That the provisions of sections forty-eight through fifty-three, inclusive, of this article do not apply to the division of highways of the department of transportation, the West Virginia state police of the department of military affairs and public safety, the division of natural resources, the division of forestry, the department of agriculture, the higher education policy commission and the higher education governing boards and their institutions: Provided, however, That the higher education governing boards and their institutions shall report annually to the chancellor for higher education and the legislative oversight commission on education accountability in a form and manner as required by the chancellor for higher education. Such report shall include at least the following: The number of vehicles purchased and the purchase price, the number of donated vehicles and the cost of lease agreements on leased vehicles.

(b) If, in the judgment of the secretary of administration, economy or convenience indicate the expediency thereof, the secretary may require all vehicles and the aircraft
subject to regulation by this article, or those he or she may
designate, to be kept in garages and other places of storage
and to be made available in a manner and under the terms
necessary for the official use of any departments, institu-
tions, agencies, officers, agents and employees of the state
as designated by the secretary in rules promulgated
pursuant to this section. The secretary may administer the
travel regulations promulgated by the governor in accor-
dance with section eleven, article three, chapter twelve of
this code, unless otherwise determined by the governor.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-11. Travel expenses; rules to be promulgated concerning
same; dues to voluntary organizations; recruitment
expenses for higher education policy commission
and West Virginia higher education governing
boards; moving expenses of employees of higher
education policy commission and West Virginia
higher education governing boards.

The governor shall promulgate rules and regulations
concerning out-of-state travel by state officials and
employees, except those in the legislative and judicial
branches of the state government and except for the
attorney general, auditor, secretary of state, treasurer,
board of investments, commissioner of agriculture and
their employees, the higher education policy commission
and the higher education governing boards and institu-
tions under their jurisdiction. The Legislature, the su-
preme court of appeals and the attorney general, auditor,
secretary of state, treasurer, board of investments, com-
misioner of agriculture, the higher education policy
commission and the higher education governing boards
shall promulgate rules and regulations concerning out-of-
state travel for their respective branches and departments
of state government. Copies of such rules and regulations
shall be filed with the auditor and the secretary of state.
It shall be unlawful for the auditor to issue a warrant in
payment of any claim for out-of-state travel expenses
incurred by a state officer or employee unless such claim
meets all the requirements of the rules and regulations so
filed.

Payment for dues or membership in annual or other
voluntary organizations shall be made from the proper
item or appropriation after an itemized schedule of such
organizations, together with the amount of such dues or
membership, has been submitted to the budget director
and approved by the governor.

It shall be lawful for the higher education policy com-
mission or a higher education governing board to autho-
rize the payment of traveling expenses incurred by any
person invited to visit the campus of any state institution
of higher education or any other facility under control of
the board to be interviewed concerning his or her possible
employment by the board or agent thereof.

It shall be lawful for the higher education policy com-
mission or a higher education governing board to autho-
rize payment of: (1) All or part of the reasonable expense
incurred by a person newly employed by the board in
moving his or her household furniture, effects and immedi-
ate family to his or her place of employment; and (2) all or
part of the reasonable expense incurred by an employee of
the board in moving his or her household furniture, effects
and immediate family as a result of a reassignment of the
employee which is considered desirable, advantageous to
and in the best interest of the state: Provided, That no
part of the moving expenses of any one such employee
shall be paid more frequently than once in twelve months.
CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.


(a) Findings.—The Legislature finds that post-secondary education is vital to the future of West Virginia. For the state to realize its considerable potential in the twenty-first century, it must have a system for the delivery of post-secondary education which is competitive in the changing national and global environment, is affordable within the fiscal constraints of the state and for the state’s residents to participate and has the capacity to deliver the programs and services necessary to meet regional and statewide needs.

(1) West Virginia leads a national trend toward an aging population wherein a declining percentage of working-age adults will be expected to support a growing percentage of retirees. Public school enrollments statewide have declined and will continue to do so for the foreseeable future with a few notable exceptions in growing areas of the state. As the state works to expand and diversify its economy, it is vitally important that young people entering the workforce from our education systems have the knowledge and skills to succeed in the economy of the twenty-first century. It is equally important, however, that working-age adults who are the large majority of the current and potential workforce also possess the requisite knowledge and skills and the ability to continue learning throughout their lifetimes. The reality for West Virginia is that its future rests not only on how well its youth are educated, but also on how well it educates its entire population of any age.

(2) Post-secondary education is changing throughout the nation. Place-bound adults, employers and communities are demanding education and student services that are
accessible at any time, at any place and at any pace. Institutions are seizing the opportunity to provide academic content and support services on a global scale by designing new courseware, increasing information technology-based delivery, increasing access to library and other information resources and developing new methods to assess student competency rather than "seat time" as the basis for recognizing learning, allocating resources and ensuring accountability. In this changing environment, the state must take into account the continuing decline in the public school-age population, the limits of its fiscal resources and the imperative need to serve the educational needs of working-age adults. West Virginia cannot afford to finance quality higher education systems that aspire to offer a full array of programs while competing among themselves for a dwindling pool of traditional applicants. The competitive position of the state and its institutions will depend fundamentally on its capacity to reinforce the quality and differentiation of its institutions through policies that encourage focus and collaboration.

(3) The current accountability system is exceptionally complicated and largely defines accountability in terms of institutional procedures. It also is not well equipped to address cross-cutting issues such as regional economic and workforce development, community and technical college services, collaboration with the public schools to improve quality and student participation rates, access to graduate education and other broad issues of state interest. Severe fiscal constraints require West Virginia to make maximum use of existing assets to meet new demands. New investments must be targeted to those initiatives designed to enhance and reorient existing capacity, provide incentives for collaboration and focus on the new demands. It must have a single accountability point for developing, building consensus around and sustaining attention to the public
policy agenda and for allocating resources consistent with this policy agenda.

(4) The state should make the best use of the expertise that private institutions of higher education can offer and recognize the importance of their contributions to the economic, social and cultural well-being of their communities.

(5) The system of public higher education should be open and accessible to all persons, including persons with disabilities and other persons with special needs.

(b) Compact with higher education. In pursuance of these findings, it is the intent of the Legislature to engage higher education in a statewide compact for the future of West Virginia, as provided in article one-a of this chapter, that focuses on a public policy agenda that includes, but is not limited to, the following:

(1) Diversifying and expanding the economy of the state;

(2) Increasing the competitiveness of the state's workforce and the availability of professional expertise by increasing the number of college degrees produced to the level of the national average and significantly improving the level of adult functional literacy; and

(3) Creating a system of higher education that is equipped to succeed at producing these results.

(c) Elements of the compact with higher education. It is the intent of the Legislature that the compact with higher education include the following elements:

(1) A step-by-step process, as provided in articles one-b and three-c of this chapter, which will enable the state to achieve its public policy agenda through a system of higher education equipped to assist in producing the needed results. This process includes, but is not limited to,
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99 separate institutional compacts with state institutions of higher education that describe changes in institutional missions in the areas of research, graduate education, admission standards, community and technical college education and geographical areas of responsibility to accomplish the following:

105 (A) A capacity within higher education to conduct research to enhance West Virginia in the eyes of the larger economic and educational community and to provide a basis for West Virginia's improved capacity to compete in the new economy through research oriented to state needs;

110 (B) Access to stable and continuing graduate level programs in every region of the state, particularly in teacher education related to teaching within a subject area to improve teacher quality;

114 (C) Universities and colleges that have focused missions, their own points of distinction and quality and strong links with the educational, economic and social revitalization of their regions and the state of West Virginia;

118 (D) Greater access and capacity to deliver technical education, workforce development and other higher education services to place-bound adults thus improving the general levels of post-secondary educational attainment and literacy;

123 (E) Independently accredited community and technical colleges in every region of the state, to the extent possible, that: (i) Assess regional needs; (ii) ensure access to comprehensive community and technical college and workforce development services within each of their respective regions; (iii) convene and act as a catalyst for local action in collaboration with regional leaders, employers and other educational institutions; (iv) provide and, as necessary, broker educational services; (v) provide necessary student services; (vi) fulfill such other aspects of the
community and technical college mission and general provisions for community and technical colleges as provided for in article three-c of this chapter; and (vii) make maximum use of existing infrastructure and resources within their regions to increase access, including, but not limited to, vocational technical centers, schools, libraries, industrial parks and work sites.

(2) Providing additional resources, subject to availability and appropriation by the Legislature, as provided in article one-a of this chapter, to make the state institutions of higher education more competitive with their peers, assist them in accomplishing the elements of the public policy agenda and ensure the continuity of academic programs and services to students.

(3) Establishing a process for the allocation of additional resources which focuses on achieving the elements of the public policy agenda and streamlines accountability for the step-by-step progress toward achieving these elements within a reasonable time frame as provided in article one-a of this chapter.

(4) Providing additional flexibility to the state institutions of higher education by making permanent the exceptions granted to higher education relating to travel rules and vehicles pursuant to sections forty-eight through fifty-three, inclusive, article three, chapter five-a of this code and section eleven, article three, chapter twelve of this code.

(5) Revising the higher education governance structure to make it more responsive to state and regional needs.

(c) General goals for post-secondary education. – In pursuance of the findings and the development of institutional compacts with higher education for the future of West Virginia pursuant to article one-a of this chapter, it is the intent of the Legislature to establish general goals
for post-secondary education and to have the commission
report the progress toward achieving these goals in the
higher education report card required pursuant to section
eight, article one-b of this chapter and, where applicable,
made a part of the institutional compacts. The Legislature
establishes the general goals as follows:

(1) The overall focus of education is on a lifelong process
which is to be as seamless as possible at all levels and is to
encourage citizens of all ages to increase their knowledge
and skills. Efforts in pursuit of this goal include, but are
not limited to, the following:

(A) Collaboration, coordination and interaction between
public and post-secondary education to: (i) improve the
quality of public education, particularly with respect to
ensuring that the needs of public schools for teachers and
administrators is met; (ii) inform public school students,
their parents and teachers of the academic preparation
that students need to be prepared adequately to succeed in
their selected fields of study and career plans; and (iii)
 improve instructional programs in the public schools so
that the students enrolling in post-secondary education are
adequately prepared;

(B) Collaboration, coordination and interaction between
public and post-secondary education, the governor's
council on literacy and the governor's workforce invest-
ment office to promote the effective and efficient utiliza-
tion of workforce investment and other funds to: (i)
Provide greatly improved access to information and
services for individuals and employers on education and
training programs, financial assistance, labor markets and
job placement; (ii) increase awareness among the state's
citizens of the opportunities available to them to improve
their basic literacy, workforce and post-secondary skills
and credentials; and (iii) help improve their motivation to
take advantage of available opportunities by making the
system more seamless and user friendly;

(C) Collaboration, coordination and interaction between
public and post-secondary education on the development
of seamless curriculum in technical preparation programs
of study between the secondary and post-secondary levels;
and

(D) Opportunities for advanced high school students to
obtain college credit prior to high school graduation.

(2) The number of degrees produced per capita by West
Virginia institutions of higher education is at the national
average. Efforts in pursuit of this goal include, but are not
limited to, the following:

(A) Collaboration, coordination and interaction between
public and post-secondary education, the governor's
council on literacy and the governor's workforce invest-
ment office to promote to individuals of all ages the
benefits of increased post-secondary educational attain-
ment;

(B) Assistance in overcoming the financial barriers to
post-secondary education for both traditional and nontra-
ditional students;

(C) An environment within post-secondary education
that is student-friendly and that encourages and assists
students in the completion of degree requirements within
a reasonable time frame. The environment also should
expand participation for the increasingly diverse student
population;

(D) A spirit of entrepreneurship and flexibility within
post-secondary education that is responsive to the needs of
the current workforce and other nontraditional students
for upgrading and retraining college-level skills; and
(E) The expanded use of technology for instructional delivery and distance learning.

(3) All West Virginians, whether traditional or nontraditional students, displaced workers or those currently employed, have access to post-secondary educational opportunities through their community and technical colleges, colleges and universities which: (i) Are relevant and affordable; (ii) allow them to gain transferrable credits and associate or higher level degrees; (iii) provide quality technical education and skill training; and (iv) are responsive to business, industry, labor and community needs.

(4) State institutions of higher education prepare students to practice good citizenship and to compete in a global economy in which good jobs require an advanced level of education and skills which far surpasses former requirements. Efforts in pursuit of this goal include, but are not limited to, the following:

(A) The development of entrepreneurial skills through programs such as the rural entrepreneurship through action learning (REAL) program which include practical experience in market analysis, business plan development and operations;

(B) Elements of citizenship development are included across the curriculum in core areas, including practical applications such as community service, civic involvement and participation in charitable organizations and in the many opportunities for the responsible exercise of citizenship that higher education institutions provide;

(C) Students are provided opportunities for internships, externships, work study and other methods to increase their knowledge and skills through practical application in a work environment;
(D) College graduates 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;

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

(F) Admission and exit standards for students, professional staff development, program assessment and evaluation and other incentives are used to improve teaching and learning.

(5) State institutions of higher education exceed peer institutions in other states in measures of institutional productivity and administrative efficiency. Efforts in pursuit of this goal include, but are not limited to:

(A) The establishment of systematic ongoing mechanisms for each state institution of higher education to set goals, to measure the extent to which those goals are met and to use the results of quantitative evaluation processes to improve institutional effectiveness;

(B) The combination and use of resources, technology and faculty to their maximum potential in a way that makes West Virginia higher education more productive than its peer institutions in other states while maintaining educational quality; and

(C) The use of systemic program review to determine how much duplication is necessary to maintain geographic access and to eliminate unnecessary duplication.

(6) Post-secondary education enhances state efforts to diversify and expand the economy of the state. Efforts in
pursuit of this goal include, but are not limited to, the following:

(A) The focus of resources on programs and courses which offer the greatest opportunities for students and the greatest opportunity for job creation and retention in the state;

(B) The focus of resources on programs supportive of West Virginia employment opportunities and the emerging high-technology industries;

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

(D) Clarification of institutional missions and shifting of resources to programs which meet the current and future workforce needs of the state.

(7) Faculty, staff and administrators are compensated on a competitive level with peer institutions to attract and keep quality personnel at state institutions of higher education.

(8) The tuition and fee levels for in-state students are competitive with those of peer institutions and the tuition and fee levels for out-of-state students are set at a level which at the least covers the full cost of instruction.

§18B-1-1d. Retirement and separation incentives.

(a) Notwithstanding any other provisions of this code to the contrary, each state institution of higher education may include in its strategic plan, pursuant to section one-c of this article, policies that offer various incentives for voluntary, early or phased retirement of employees or voluntary separation from employment when necessary to implement programmatic changes effectively pursuant to the findings, directives, goals and objectives of this article.
Provided, That such incentives for voluntary, early or phased retirement of employees or voluntary separation from employment must be submitted by the governing board to the legislative joint committee on pensions and retirement and approved before such policies are adopted as part of the institution's strategic plan.

(b) Effective the first day of July, two thousand one, each state institution of higher education may implement, under its institutional compact, created pursuant to section two, article one-a of this chapter, policies that offer various incentives for voluntary, early or phased retirement of employees, or voluntary separation from employment, when necessary to implement programmatic changes effectively: Provided, That the institution shall meet all the requirements, including the requirement for obtaining legislative approval, set forth in this section.

(c) The policies may include the following provisions:

(1) Payment of a lump sum to an employee to resign or retire;

(2) Continuation of full salary to an employee for a predetermined period of time prior to the employee's resignation or retirement and a reduction in the employee's hours of employment during the predetermined period of time;

(3) Continuation of insurance coverage pursuant to the provisions of article sixteen, chapter five of this code for a predetermined period;

(4) Continuation of full employer contributions to an employee's retirement plan during a phased retirement period; and

(5) That an employee retiring pursuant to an early or phased retirement plan may begin collecting an annuity
(d) No incentive provided for in this section shall be granted except in furtherance of programmatic changes undertaken pursuant to the findings, directives, goals and objectives set forth in this article.

(e) No incentive proposed by an institution pursuant to this section shall become a part of the institution's approved strategic plan or institutional compact or be implemented without approval of the legislative joint committee on pensions and retirement.

Any costs associated with any incentive adopted or implemented in accordance with this section shall be borne entirely by the institutions and no incentive shall be granted that imposes costs on the retirement systems of the state or the public employees insurance agency unless those costs are paid entirely by the institutions.

(f) The Legislature further finds and declares that there is a compelling state interest in restricting the availability and application of these incentives to individual employees determined by the institutions to be in furtherance of the aims of this section and nothing herein shall be interpreted as granting a right or entitlement of any such incentive to any individual or group of individuals. Any employee granted incentives shall be ineligible for reemployment by the institutions during or after the negotiated period of his or her incentive concludes, including contract employment in excess of five thousand dollars per fiscal year.

(g) The West Virginia network for educational telecomputing may utilize the incentives contained in any policy approved by the legislative joint committee on pensions and retirement pursuant to this section.
§18B-1-2. Definitions.

1 The following words when used in this chapter and chapter eightcen-c of this code have the meaning hereinafter ascribed to them unless the context clearly indicates a different meaning:

5 (a) For the transition year beginning on the first day of July, two thousand, and ending on the thirtieth day of June, two thousand one, only, “governing board” or “board” means the higher education interim governing board created pursuant to article one-c of this chapter; and, beginning on the first day of July, two thousand one, “governing board” or “board” means the institutional board of governors of West Virginia university, Marshall university, the West Virginia school of osteopathic medicine, Bluefield state college, Concord college, eastern West Virginia community and technical college, Fairmont state college, Glenville state college, Shepherd college, southern West Virginia community and technical college, West Liberty state college, West Virginia northern community and technical college and West Virginia state college, whichever is applicable within the context of the institution or institutions referred to in this chapter or in other provisions of law;

(b) Beginning on the first day of July, two thousand one, “governing boards” or “boards” means the institutional boards of governors created pursuant to subsection (b), section one, article two-a of this chapter;

(c) “Freestanding community and technical colleges” means southern West Virginia community and technical college, West Virginia northern community and technical college and eastern West Virginia community and technical college, which shall not be operated as branches or off-campus locations of any other state institution of higher education;
(d) "Community college" or "community colleges" means community and technical college or colleges as those terms are defined in this section;

(c) "Community and technical college", in the singular or plural, means the freestanding community and technical colleges and other state institutions of higher education which have defined community and technical college responsibility districts and programs in accordance with the provisions of sections four and six, article three-c of this chapter;

(f) "Community and technical college education" means the programs, faculty, administration and funding associated with the mission of community and technical colleges as provided in article three-c of this chapter;

(g) "Essential conditions" means those conditions which shall be met by community and technical colleges as provided in section three, article three-c of this chapter;

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

(i) "Higher education policy commission" or "commission" means the commission created pursuant to section one, article one-b of this chapter;

(j) "Chancellor" means the chief executive officer of the higher education policy commission employed pursuant to section five, article one-b of this chapter;

(k) "Institutional operating budget" or "operating budget" for any fiscal year means an institution's total unrestricted education and general funding from all sources in a prior fiscal year, including, but not limited to, tuition and fees and legislative appropriation, and any adjustments to that funding as approved by the commis-
ional education based on comparisons with peer institutions or to reflect consistent components of peer operating budgets;

(l) "Post-secondary vocational education programs" means any college-level course or program beyond the high school level provided through an institution of higher education under the jurisdiction of a governing board which results in or may result in the awarding of a two-year associate degree.

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

(n) For the purposes of this chapter and chapter eighteen-c of this code, "senior administrator" means the vice chancellor for administration employed by the chancellor in accordance with section two, article four of this chapter. The vice chancellor for administration shall assume all the powers and duties that are assigned by law to the senior administrator;

(o) "State college" means Bluefield state college, Concord college, Fairmont state college, Glenville state college, Shepherd college, West Liberty state college or West Virginia state college;

(p) "State institution of higher education" means any university, college or community and technical college under the direct or indirect jurisdiction of a governing board as that term is defined in this section;

(q) "Regional campus" means West Virginia university at Parkersburg, Potomac state college of West Virginia university, and West Virginia university institute of technology. Each regional campus shall adopt separate strategic plans required by section one-c of this article,
(r) The advisory board previously appointed for the West Virginia graduate college shall be known as the "board of visitors" and shall provide guidance to the Marshall university graduate college;

(s) "Institutional compact" means a compact between a state institution of higher education and the commission, as described in section two article one-a of this chapter.

(t) "Peer institutions", "peer group" or "peers" means public institutions of higher education used for comparison purposes and selected by the commission pursuant to section three, article one-a of this chapter;

(u) "Administratively linked community and technical college" means a community and technical college created pursuant to section eight, article three-c of this chapter;

(v) "Sponsoring institution" means the state institution of higher education that maintains an administrative link to a community and technical college pursuant to section eight, article three-c of this chapter;

(w) "Collaboration" means entering into an agreement with one or more providers of education services in order to enhance the scope, quality, or efficiency of education services;

(x) "Broker" or the act of "brokering" means serving as an agent on behalf of students, employers, communities or responsibility areas to obtain education services not offered by a sponsoring institution. These services include courses, degree programs or other services contracted through an agreement with a provider of education services either in-state or out-of-state; and

(y) "Joint commission for vocational-technical-occupational education" or "joint commission" means the
§18B-1-3. Transfer of powers, duties, property, obligations, etc.,
of prior governing boards to the higher education interim governing board.

(a) All powers, duties and authorities transferred to the board of regents pursuant to former provisions of chapter eighteen of this code and transferred to the board of trustees and board of directors which were created as the governing boards pursuant to the former provisions of this chapter and all powers, duties and authorities of the board of trustees and board of directors, to the extent they are in effect on the effective date of this section, are hereby transferred to the interim governing board created in article one-c of this chapter and shall be exercised and performed by the interim governing board as such powers, duties and authorities may apply to the institutions under its jurisdiction.

(b) Title to all property previously transferred to or vested in the board of trustees and the board of directors and property vested in either of the boards separately, formerly existing under the provisions of chapter eighteen-b of this code, are hereby transferred to the interim governing board created in article one-c of this chapter. Property transferred to or vested in the board of trustees and board of directors shall include: (1) All property vested in the board of governors of West Virginia University and transferred to and vested in the West Virginia board of regents; (2) all property acquired in the name of the state board of control or the West Virginia board of education and used by or for the state colleges and universities and transferred to and vested in the West Virginia board of regents; (3) all property acquired in the name of the state commission on higher education and transferred to and vested in the West Virginia board of regents; and (4)
all property acquired in the name of the board of regents
and transferred to and vested in the respective board of
trustees and board of directors.

(c) Each valid agreement and obligation previously
transferred to or vested in the board of trustees and board
of directors formerly existing under the provisions of
chapter eighteen-b of this code is hereby transferred to the
interim governing board as those agreements and obliga-
tions may apply to the institutions under its jurisdiction.
Valid agreements and obligations transferred to the board
of trustees and board of directors shall include: (1) Each
valid agreement and obligation of the board of governors
of West Virginia University transferred to and deemed the
agreement and obligation of the West Virginia board of
regents; (2) each valid agreement and obligation of the
state board of education with respect to the state colleges
and universities transferred to and deemed the agreement
and obligation of the West Virginia board of regents; (3)
each valid agreement and obligation of the state commis-
sion on higher education transferred to and deemed the
agreement and obligation of the West Virginia board of
regents; and (4) each valid agreement and obligation of the
board of regents transferred to and deemed the agreement
and obligation of the respective board of trustees and
board of directors.

(d) All orders, resolutions and rules adopted or promul-
gated by the respective board of trustees and board of
directors and in effect immediately prior to the first day of
July, two thousand, are hereby transferred to the interim
governing board and shall continue in effect and shall be
deemed the orders, resolutions and rules of the interim
governing board until rescinded, revised, altered or
amended by the commission in the manner and to the
extent authorized and permitted by law. Such orders,
resolutions and rules shall include: (1) Those adopted or
promulgated by the board of governors of West Virginia University and in effect immediately prior to the first day of July, one thousand nine hundred sixty-nine, unless and until rescinded, revised, altered or amended by the board of regents in the manner and to the extent authorized and permitted by law; (2) those respecting state colleges and universities adopted or promulgated by the West Virginia board of education and in effect immediately prior to the first day of July, one thousand nine hundred sixty-nine, unless and until rescinded, revised, altered or amended by the board of regents in the manner and to the extent authorized and permitted by law; (3) those adopted or promulgated by the state commission on higher education and in effect immediately prior to the first day of July, one thousand nine hundred sixty-nine, unless and until rescinded, revised, altered or amended by the board of regents in the manner and to the extent authorized and permitted by law; and (4) those adopted or promulgated by the board of regents prior to the first day of July, one thousand nine hundred eighty-nine, unless and until rescinded, revised, altered or amended by the respective board of trustees or board of directors in the manner and to the extent authorized and permitted by law.

(e) As to any title, agreement, obligation, order, resolution, rule or any other matter about which there is some uncertainty, misunderstanding or question, the matter shall be summarized in writing and sent to the commission which shall make a determination regarding such matter within thirty days of receipt thereof.

(f) Rules or provisions of law which refer to other provisions of law which were repealed, rendered inoperative or superseded by the provisions of this section shall remain in full force and effect to such extent as may still be applicable to higher education and may be so interpreted. Such references include, but are not limited to,
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101 references to sections and prior enactments of article
102 twenty-six, chapter eighteen of this code and code provi-
103 sions relating to retirement, health insurance, grievance
104 procedures, purchasing, student loans and savings plans.
105 Any determination which needs to be made regarding
106 applicability of any provision of law shall first be made by
107 the commission.

§18B-1-6. Rulemaking.

1 Effective the first day of July, two thousand one, the
2 chancellor for higher education is hereby empowered to
3 promulgate, adopt, amend or repeal rules, subject to the
4 approval of the education policy commission, in accor-
5 dance with the provisions of article thirty-a, chapter
6 twenty-nine-a of this code, as he or she may deem neces-
7 sary and convenient to ensure the full implementation of
8 his or her powers and duties. The chancellor shall file a
9 copy of any rule he or she proposes to promulgate, adopt,
10 amend or repeal under the authority of this article with
11 the legislative oversight commission on education account-
12 ability created in said article thirty-a, chapter twenty-
13 nine-a of this code.

14 Nothing in this section may be construed to apply to any
15 rule promulgated or adopted by a state institution of
16 higher education.

ARTICLE 1A. COMPACT WITH HIGHER EDUCATION FOR THE FUTURE
OF WEST VIRGINIA.

§18B-1A-1. Purpose of article; legislative findings and intent.

1 Purpose. – The purpose of this article is to establish a
2 compact with higher education for the future of West
3 Virginia. The Legislature recognizes both the progress
4 achieved thus far through the higher education strategic
5 planning process established pursuant to section one-c,
6 article one of this chapter, and the shortfalls. West
Virginia long has recognized the value of education and, on a per capita income basis, invests more to support education than most other states. Based on its findings, the Legislature recognizes that because of a combination of state and national demographic and economic factors and emerging changes in higher education delivery systems, it is in the best interests of both the state and the state's higher education system to begin a process that will strengthen their capacity, over the long term, to provide the services of higher education so valued by the citizens of the state and so essential to the state's economic vitality. The compact with higher education for the future of West Virginia is intended to encourage continued progress toward achieving the state's goals for higher education and to provide incentives for change. The changes include strengthening the capacity of the higher education system and institutions to serve regional and state needs and responding to the challenges of growing national and global competition in higher education delivery systems.

It is the intent of the Legislature that legislative appropriations for higher education for fiscal year two thousand two and thereafter will be made in accordance with this article and the strategies, policies, timelines and benchmarks for accomplishing the goals of the compact over a six-year period: Provided, That nothing in this article requires any specific level of appropriation by the Legislature.

§18B-1A-2. Institutional compacts with state institutions of higher education; establishment and review process.

(a) Each institution of higher education shall prepare an institutional compact for submission to the commission. When the process herein provided is completed, the institutional compacts shall form the agreement between the institutions of higher education and the commission.
and, ultimately, between the institutions of higher education and the people of West Virginia on how the institutions will use their resources to address the intent of the Legislature and the goals set forth in section one-a, article one of this chapter. The compacts shall contain the following:

(1) A step-by-step process to accomplish the intent of the Legislature and the goals set forth in section one-a, article one of this chapter as organized by the commission. The step-by-step process shall be delineated by objectives and shall set forth a timeline for achieving the objectives which shall, where applicable, include benchmarks to measure institutional progress as defined in subsection (e) of this section.

(2) A determination of the mission of the institution which specifically addresses changes, as applicable, in the areas of research, graduate education, baccalaureate education, revised admission requirements, community and technical colleges and such other areas as the commission determines appropriate. In the determination of mission, the institutions and the commission shall consider the report completed by the national center for higher education management systems pursuant to the legislative study as provided in section seven, article three of this chapter;

(3) A plan which is calculated to make any changes in institutional mission and structure within a six-year period;

(4) A statement of the geographic areas of responsibility, where applicable, for each goal to be accomplished as provided in subsection (d) of this section;

(5) A detailed statement of how the compact is aligned with and will be implemented in conjunction with the master plan of the institution;
(6) Such other items, requirements or initiatives, required by the commission, designed to accomplish the intent of the Legislature and the goals set forth in section one-a, article one of this chapter or other public policy goals established by the commission.

(b) Each institutional compact shall be updated annually and shall follow the same general guidelines contained in subsection (a) of this section.

(c) Development and updating of the institutional compacts shall be subject to the following:

(1) The ultimate responsibility for developing and updating the institutional compacts at the institutional level resides with the institutional board of advisors or the institutional board of governors, as appropriate;

(2) The ultimate responsibility for developing and adopting the final version of the institutional compacts resides with the commission;

(3) The initial institutional compacts shall be submitted to the commission by the institutions on or before the first day of February, two thousand one, and the annual updates shall be submitted on or before the first day of February of each succeeding year;

(4) The commission shall review the initial institutional compacts and the annual updates and either shall adopt the institutional compact or return it with specific comments for change or improvement. The commission shall continue this process as long as it considers advisable;

(5) By the first day of May of each year, if the institutional compact of any institution as presented by that institution is not adopted by the commission, then the commission is empowered and directed to develop and
adoption of the institutional compact for the institution and the
teaching institution shall be bound by the compact so adopted; and

(6) The commission shall, as far as practicable, establish
uniform processes and forms for the development and
submission of the institutional compacts. As a part of this
function, the commission shall organize the statements of
legislative intent and goals contained in section one-a,
article one of this chapter in a manner that facilitates the
purposes of this subdivision and the purposes of this
section.

(d) The commission shall assign geographic areas of
responsibility to the state institutions of higher education
as a part of their institutional compacts to ensure that all
areas of the state are provided necessary programs and
services to achieve the public policy agenda. The
benchmarks established in the institutional compacts shall
include measures of programs and services by geographic
area throughout the assigned geographic area of responsi-

(e) The compacts shall contain benchmarks used to
determine progress toward meeting the goals established
in the compacts. The benchmarks shall meet the following
criteria:

(1) They shall be as objective as possible;
(2) They shall be directly linked to the goals in the
compacts;
(3) They shall be measured by the indicators described in
subsection (f) of this section; and
(4) Where applicable, they shall be used to measure
progress in geographic areas of responsibility.

(f) The commission shall establish indicators which
measure the degree to which the goals and objectives set
forth in section one-a, article one of this chapter, are being addressed and met. The benchmarks established in subsection (e) of this section shall be measured by the indicators. The commission shall, on or before the first day of January, two thousand one, file with the legislative oversight commission on education accountability, legislative rules pursuant to article three-a, chapter twenty-nine-a of this code, that set forth at the least the following:

(1) The indicators to be used to measure the degree to which the goals and objectives are being met.

(2) Uniform definitions for the various data elements to be used in establishing the indicators; and

(3) Guidelines for the collection and reporting of data.

(g) The commission shall approve the master plans developed by the institutional boards of governors and the institutional boards of advisors pursuant to subsection (b), section four, article two-a of this chapter and subsection (k), section one, article six of this chapter.

§18B-1A-3. Peer institutions.

(a) The commission shall select not fewer than ten peer institutions for each state institution of higher education in West Virginia, including, but not limited to, independently accredited community and technical colleges.

(b) The peer institutions shall be selected from among institutions throughout the United States and not solely from the states that are members of the southern regional education board.

(c) The peer institutions, as selected by the commission, shall be used as benchmarks for comparison purposes only and are not intended to reflect funding goals for West Virginia institutions of higher education. Such a use is inappropriate since institutions selected as peers for a
state institution may be located in an area of high per
capita income or have their funding subject to other
factors that make its use unrealistic for setting funding
goals in West Virginia. The peer institutions shall be used
for comparison in the following areas:

(1) To determine adjustments to base operating budgets
as described in section five of this article;

(2) To determine comparable levels of tuition;

(3) To determine comparable faculty and staff teaching
requirements and other workloads; and

(4) For such other purposes as the law may require or the
commission may find useful or necessary.

(d) The commission shall contract with a national,
independent education consulting firm to assist in the
unbiased selection of peer institutions for each West
Virginia institution. The commission shall select peer
institutions for each institution through an open, delibera-
tive, objective process and in consultation with the institu-
tional boards of governors, intended to achieve broad
understanding of the basis for this selection in the higher
education community and the Legislature. Final peer
selection is subject to the review of the legislative over-
sight commission on education accountability. In selecting
peer institutions, the commission shall use criteria such as,
but not limited to:

(1) Institutional mission;

(2) Institutional size related to full-time equivalent
students;

(3) The proportions of full-time and part-time students;

(4) The level of academic programs, including, but not
limited to, number of degrees granted at the associate,
(5) The characteristics of academic programs such as health sciences, professional, technical or liberal arts and sciences; and

(6) The level of research funding from federal competitive funding sources.

(e) Subject to the review of the legislative oversight commission on education accountability, the commission shall review and make necessary adjustments to peer institutions at least every six years or as necessary based on changes in institutional missions as approved in institutional compacts or in changes at peer institutions.

(f) Nothing herein shall be construed to prevent the commission from using the same peers or peer groups for more than one institution of higher education.

§18B-1A-4. Legislative financing goals.

(a) The Legislature recognizes that the higher education goals set forth in section one-a, article one of this chapter are of utmost importance. The Legislature further recognizes that meeting the goals may require the appropriation of funds above the current operating budgets of the institutions.

(b) It is, therefore, the desire of the Legislature to increase funding annually for higher education at a rate not less than the annual percentage increase in the overall general revenue budget.

(c) If the commission determines that appropriations are insufficient to fund the requirements of the institutional compacts, the commission first shall consider extending the length of the compacts or otherwise modifying the compacts to allow the institutions to achieve the
16 benchmarks in the compacts. If modifications to the
17 institutional compacts are not sufficient to allow the
18 institutions to meet their benchmarks, the commission
19 shall recommend to the Legislature methods of making the
20 higher education system more efficient. The methods may
21 include, but are not limited to, the following:
22   (1) Administrative efficiencies;
23   (2) Consolidation of services;
24   (3) Elimination of programs;
25   (4) Consolidating institutions; and
26   (5) Closing institutions.

§18B-1A-5. Financing; institutional operating budgets, additional funding.

1   (a) Budget request and appropriations. – The commission
2   has the responsibility to develop a budget for the state
3   system of higher education and submit a budget request to
4   the governor before the first day of September, beginning
5   in two thousand, and for each fiscal year thereafter. The
6   budget request specifically shall include the amount of the
7   institutional operating budgets, as defined in section two,
8   article one of this chapter, required for all state institu-
9   tions of higher education. The budget appropriation for
10   the state system of higher education under this chapter
11   and other provisions of the law shall consist of separate
12   control accounts or institutional control accounts, or some
13   combination of such accounts, for appropriation of
14   institutional operating budgets and other funds. The
15   commission is responsible for allocating state appropria-
16   tions to supplement institutional operating budgets in
17   accordance with this section. In addition to the institu-
18   tional operating budget and incentive funding, however,
19   the commission also is responsible for allocating funds
that are appropriated to it for other purposes: Provided,
That, in order to determine institutional allocations, it is
the responsibility of the institutions and their respective
institutional boards of governors or advisors, as appropriate,
to provide to the commission documentation on
institutional progress toward mission enhancement,
preliminary peer comparison calculations, performance of
increased productivity and academic quality and measurable attainment in fulfilling state priorities as set forth in
this article. The documentation shall be provided to the
commission no later than the first day of October each
year for commission review and verification:

(b) Legislative Funding Priorities. –

(1) The Legislature recognizes the current resource
allocation model has not moved all state institutions
equitably towards comparable peer funding levels. This
formula has left West Virginia institutions at a competitive
disadvantage to their national peers.

(2) The Legislature acknowledges that the resource
allocation model used to comply with Senate Bill 547,
passed during the legislative session of one thousand nine hundred ninety-five, alleviated some of the disparity that
exists among state institutions' operating budgets, but left
significant differences between the institutions and their
national peers.

(3) The Legislature recognizes that a system of
independently-accredited community and technical
colleges is essential to the economic vitality of the state.

(4) The Legislature places great importance on achieving
the priority goals outlined in the public policy agenda and believes the state institutions of higher education should
play a vital role in facilitating the attainment of these
goals.
(5) The Legislature also believes it is imperative that the state make progress on narrowing the peer inequity while balancing the need for sustaining the quality of our institutions.

(6) It is the charge of the commission to allocate all funds appropriated in excess of the fiscal year two-thousand one general revenue appropriations in alignment with the legislative funding priorities listed below. The commission shall consider the priorities and assign a percentage of the total appropriation of new funds to each priority.

(A) Peer equity. – Funds appropriated for this purpose increase the level of the institutional operating budget for state institutions of higher education comparable to their peer institutions. The allocation shall provide, subject to the availability of funds and legislative appropriations, for a systematic adjustment of the institutional operating budgets to move all institutions' funding in the direction of levels comparable with their peers. Institutional allocations shall be calculated as follows:

(i) A calculation shall be made of the deficiency in per student funding of each institution in comparison with the mean per student funding of the peer institutions as defined by the commission pursuant to section three of this article;

(ii) For all institutions that are deficient in comparison with peer institutions, the amounts of the deficiencies shall be totaled;

(iii) A ratio of the amount of the deficiency for an institution divided by the total amounts of deficiency for all West Virginia institutions shall be established for each institution; and
(iv) The allocation to each institution shall be calculated by multiplying the ratio by the total amount of money in the account.

(B) Independently accredited community and technical colleges development. — Funds appropriated for this purpose will ensure a smooth transition, where required, from "component" community and technical colleges to independently accredited community and technical colleges as defined in section two, article one of this chapter. Appropriations for this purpose are only to be allocated to those institutions having approved compacts with the commission that expressly include the transition of their component community colleges to independently accredited status and have demonstrated measurable progress towards this goal. By the first day of July, two thousand seven, or when all required community and technical colleges are independently accredited, whichever first occurs, funds for this purpose shall be allocated to the incentives for institutional contributions to state priorities: Provided, That if the commission determines that payments from the account to the institutions should continue beyond the first day of July, two thousand seven, it shall request an extension from the Legislature;

(C) Research challenge. — Funds appropriated for this purpose shall assist public colleges and universities in West Virginia to compete on a national and international basis by providing incentives to increase their capacity to compete successfully for research funding. The Legislature intends for institutions to collaborate in the development and execution of research projects to the extent practicable and to target research to the needs of the state as established in the public policy agenda and linked to the future competitiveness of this state.
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(i) The commission shall develop criteria for awarding grants to institutions under this account, which may include, but are not limited to, the following:

(I) Grants to be used to match externally funded, peer-reviewed research;

(II) Grants to be used to match funds for strategic institutional investments in faculty and other resources to increase research capacity;

(ii) The grants shall be distributed as follows:

(I) Forty percent of the moneys shall be distributed at the discretion of the commission, but with particular emphasis on start-up money for new research efforts; and

(II) The balance of the moneys shall be distributed to each public college and university in the same percentage that the research funds received by that public college or university bears to the total research funds received by all public colleges and universities in the state for the previous year.

(iii) The commission may establish an advisory council consisting of nationally prominent researchers and scientists, including representatives from outside the state, to assist in developing the criteria for awarding grants under this account.

(iv) For the purposes of making the distributions from this account, the commission shall establish the definition for research, research funds and any other terms as may be necessary to implement this subdivision; and

(D) Incentives for institutional contributions to state priorities. - Funds appropriated for this purpose provide incentives to institutions which demonstrate success toward advancing the goals of the public policy agenda as set forth in section one-a, article one of this chapter and to
provide incentives for mission enhancement as set forth in section two of this article.

(E) Sustained Quality Support. — The commission shall provide additional operating funds to institutions with approved compacts. The commission shall allocate these funds on an equal percentage basis to all institutions: Provided, That the commission may delay distribution of these funds to any institution which does not demonstrate measurable progress towards the goals provided in its compact with the commission.

(c) Allocations to institutional operating budgets. — For the purposes of this subsection, the commission shall establish by rule pursuant to subsection (f), section two of this article the method for measuring the progress of each institution towards meeting the benchmarks of its institutional compact.

(d) Allocation of appropriations to the institutions. — Appropriations in this section shall be allocated to the state institutions of higher education in the following manner:

1. For the fiscal year two thousand two, appropriations above the fiscal year two thousand two institutional operating budget shall be allocated only to institutions with approved compacts, pursuant to this article;

2. For the fiscal year two thousand three, and each fiscal year thereafter, appropriations from the funds shall be allocated only to institutions with approved compacts, pursuant to section two of this article and which also have achieved their annual benchmarks for accomplishing the goals of their compacts, as approved by the commission: Provided, That if an institution has not achieved all of its annual benchmarks, the commission may distribute a portion of the funds to the institution based on its progress as the commission determines appropriate: Provided,
however, That the commission shall establish by rule pursuant to subsection (f), section two, of this article the method for measuring the progress of each institution toward meeting the benchmarks of its institutional compact;

(e) Nothing in this section shall be construed in a manner that limits the appropriation or collection of fees necessary to effectuate the operation and purpose of the commission.

§13B-1A-6. Graduate education.

(a) Intent. – It is the intent of the Legislature to address the need for high quality graduate education programs to be available throughout the state.

(b) Findings. – The Legislature makes the following findings:

(1) Since West Virginia ranks below its competitor states in graduate degree production, particularly in the areas that are important to the state's competitive position in the new economy of the twenty-first century, there is a considerable need for greater access to graduate education, especially at the master's degree level;

(2) There is a significant disparity in access to part-time graduate degree programs among the different regions of the state and part-time graduate enrollments are heavily concentrated in the counties immediately surrounding Marshall University and West Virginia University;

(3) There is a particular need for increased access to graduate programs linked directly to the revitalization of the regional economies of the state; and

(4) There is a particular need for improved quality and accessibility of pre-service and in-service programs for teachers in subject matter fields.
In order to meet the need for graduate education, the commission shall be responsible for accomplishing the following:

1. Ensuring that West Virginia University and Marshall University expand access to master's degree programs throughout West Virginia, with a strong emphasis on collaboration with the baccalaureate colleges and community and technical colleges in each region;

2. Ensuring that any institution providing a master's degree program under the provisions of this section provides a meaningful, coherent program by offering courses in such a way that students, including place-bound adults, have ample opportunity to complete a degree in a reasonable period of time;

3. Focusing on providing courses that enhance the professional skills of teachers in their subject areas; and

4. Ensuring that programs are offered in the most cost-effective manner to expand access throughout the region and the state.

Concord College, Fairmont State College, Shepherd College, West Liberty State College and West Virginia State College shall meet the need for graduate education in their regions by following the procedures outlined below with each step building upon the foundation of the step before it:

1. The institutions shall develop as graduate centers for their regions to broker access to graduate programs by contracting with accredited colleges and universities in and out of the state. These programs shall be related directly to each region's education and economic needs.

2. If the graduate education needs of the region have not been met through brokering, then the institutions may
begin collaborative programs with other institutions leading to the granting of master's degrees in selected areas that are demonstrated to be related directly to the needs of their regions and that draw on faculty strengths. An institution may continue to offer collaborative programs aimed at meeting the documented needs with the approval of the commission or, if a sustained need still exists, the institution may move to the next level.

(3) If the graduate education needs of the region have not been met through brokering and collaborative programs, the institution may explore the option of beginning its own graduate-level program leading to the granting of a master's degree. The institution may begin its own master's degree program only if it can meet the following conditions as determined by the commission:

(A) Demonstrate that the institution has successfully completed each of the steps required before exploring development of its own master's degree program;

(B) Provide evidence based on experience gained in the brokering and collaborative arrangements that a sustained demand exists for the program;

(C) Demonstrate that the baccalaureate institution has the capacity to provide the program;

(D) Demonstrate that the core mission of the baccalaureate institution will not be impaired by offering the graduate program;

(E) Provide evidence that the graduate program has a reasonable expectation of being accredited;

(F) Demonstrate that the need documented in subdivision (B) of this subsection is not currently being met by any other state institution of higher education; and
(G) Such other conditions as the commission may determine.

There is an urgent need for master's degree programs for teachers in disciplines or subject areas, such as mathematics, science, history, literature, foreign languages and the arts. Currently, master's-level courses in education that are offered in the regions served by the state universities are primarily in areas such as guidance and counseling, administration, special education and other disciplines unrelated to teaching in subject areas. If the commission determines that this need is not being met or can not be met in a region through the procedure established in subsection (e) of this section, then the graduate center in that region may plan one master's degree program in education focused on teaching in subject area fields. No institution may begin a graduate program under the provisions of this section until the program has been reviewed and approved by the commission. The commission shall approve only those programs, as authorized by this subsection, that emphasize serving the needs of teachers and schools in the colleges' immediate regions. In determining whether a program should be approved, the commission also shall rely upon the recommendations of the statewide task force on teacher quality provided for in section eight, article fourteen of this chapter.

The commission shall review all graduate programs being offered under the provisions of this section and, using the criteria established for program startup in subsection (c) of this section, determine which programs should be discontinued.

At least annually, the governing boards shall evaluate graduate programs developed pursuant to the provisions of this section and report to the commission on the following:
(1) The number of programs being offered and the courses offered within each program;

(2) The disciplines in which programs are being offered;

(3) The locations and times at which courses are offered;

(4) The number of students enrolled in the program; and

(5) The number of students who have obtained master's degrees through each program.

The governing boards shall provide the commission with any additional information the commission requests in order to make a determination on the viability of a program.

In developing any graduate program under the provisions of this section, institutions shall consider delivering courses at times and places convenient to adult students who are employed full time. Institutions shall place an emphasis on extended degree programs, distance learning and off-campus centers which utilize the cost-effective nature of extending existing university capacity to serve the state rather than duplicating the core university capacity and incurring the increased cost of developing master's degree programs at other institutions throughout the state.

Brokering institutions shall invite proposals from other public institutions of higher education for service provision prior to contracting with other institutions: Provided, That if institutions propose providing graduate programs in service areas other than in their responsibility district, the institution seeking to establish a program shall work through the district's lead institution in providing those services.

In addition to the approval required by the commission, authorization for any institution to offer a master's degree program under the provisions of this section is
subject to the formal approval processes established by the governing boards.

§18B-1A-7. Contrary provisions.

Effective the first day of July, two thousand, the provisions of this article shall supersede any provision of this code to the contrary.

§18B-1A-8. Sections repealed.

(a) On the effective date of this section, sections three-a and four, article three of this chapter relating to community and technical colleges are repealed.

(b) Effective the first day of July, two thousand, section two-b, article five of this chapter, relating to resource allocation policy relief, is repealed.

(c) Effective the first day of July, two thousand, section two-c, article five of this chapter, relating to a review of resource allocation model and policies, is repealed.

(d) Effective the first day of July, two thousand, section five, article six of this chapter, relating to the creation of advisory council on federal resources, is repealed.

(e) Effective the thirtieth day of June, two thousand one, section eight, article one of this chapter, relating to the powers and duties of the governing boards generally, is repealed.

(f) Effective the thirtieth day of June, two thousand one, section eight-a, article one of this chapter, relating to higher education accountability, is repealed.

(g) Effective the first day of July, two thousand, section six, article three of this chapter, relating to increasing flexibility for freestanding community and technical colleges, is repealed.
(h) Effective the thirtieth day of June, two thousand one, section one-b, article one of this chapter, relating to implementation of findings, directives, goals and objectives, is repealed.

(i) Effective the thirtieth day of June, two thousand one, section one-c, article one of this chapter, relating to strategically focusing resources to maximize opportunity, is repealed.

(j) Effective the first day of July, two thousand, section five, article one of this chapter, relating to placing governing boards under the department of education and the arts, is repealed.

(k) Effective the first day of July, two thousand, section six, article six of this chapter, relating to the University of West Virginia anatomical board, is repealed.

(l) Effective the thirtieth day of June, two thousand one, section one, article five of this chapter, relating to appropriations, is repealed.

(m) Effective the thirtieth day of June, two thousand one, section two, article five of this chapter, relating to resource allocation model and policies, is repealed.

(n) Effective the thirtieth day of June, two thousand, section two, article six of this chapter, relating to advisory councils of faculty, is repealed.

(o) Effective the thirtieth day of June, two thousand, section three, article six of this chapter, relating to advisory councils of students, is repealed.

(p) Effective the thirtieth day of June, two thousand, section four, article six of this chapter, relating to advisory councils of classified employees, is repealed.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.
§18B-1B-1. Higher education policy commission established; development of public policy agenda.

There is hereby created the "higher education policy commission", hereinafter referred to as the "commission", which is responsible for developing, gaining consensus around and overseeing the implementation of a public policy agenda. It is the intent of the Legislature that the commission be responsible for development and articulation of the public policy agenda for higher education and other statewide issues pursuant to section one-a, article one of this chapter. All matters of governance not specifically assigned to the commission by law are the duty and responsibility of the governing board or boards.

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

(a) The commission is comprised of nine members, all of whom are entitled to vote. One is the secretary of education and the arts, ex officio. One is the state superintendent of schools: Provided, That if the state superintendent of schools desires not to serve, the state board of education shall submit to the governor the names of three nominees, which may include members of the state board of education. The governor shall select from the nominees a member to serve on the commission. The three nominees shall be persons who are knowledgeable in the area of public education policy, are able to represent the state board of education and who understand and are committed to achieving the goals and objectives as set forth in the institutional compacts and in section one-a, article one of this chapter.

(b) The other seven members of the commission shall be citizens of the state, appointed by the governor, by and
with the advice and consent of the Senate: Provided, That prior to appointment, the governor shall interview each candidate to assure that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compacts and in section one-a, article one of this chapter. The governor shall invite the president of the Senate, the speaker of the House of Delegates, the chairs of the Senate and House of Delegates committees on finance and education and such other legislative leaders as the governor may determine to participate in interviewing potential candidates. Each member appointed to the commission by the governor shall represent the public interest and shall be committed to the legislative intent and goals set forth in section one-a, article one of this chapter.

(c) The governor may not appoint any person to be a member of the commission 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 any governing board or an immediate family member of any employee under the jurisdiction of the commission or any governing board. Of the members appointed by the governor from the public at large, no more than four thereof shall belong to the same political party and at least two shall be appointed from each congressional district.

(d) The governor shall appoint seven members to the commission on the first day of July, two thousand, or as soon thereafter as is practicable and the original terms of all members shall commence on the first day of July, two thousand.
(e) The terms of the members appointed by the governor shall be for overlapping terms of four years, except, of the original appointments, one shall be appointed to a term of one year, two shall be appointed to a term of two years, two shall be appointed to a term of three years and two shall be appointed to a term of four years. Each subsequent appointment which is not for the purpose of filling a vacancy in an unexpired term shall be for a term of four years.

(f) The governor shall appoint a member to fill any vacancy among the seven members of the commission appointed by the governor, by and with the advice and consent of the Senate, which member appointed to fill such vacancy shall serve for the unexpired term of the vacating member. The governor shall fill the vacancy within thirty days of the occurrence of the vacancy.

(g) No member appointed by the governor shall be eligible to serve more than two consecutive terms.

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

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

§18B-1B-3. Meetings and compensation.

(a) The secretary of education and the arts shall call the initial meeting of the commission and preside until a
chairperson is selected. Thereafter, the commission shall
meet as needed at the time and place specified by the call
of the chairperson.

(b) The commission shall hold an annual meeting each
June for the purpose of electing officers for the next fiscal
year. At the annual meeting, the commission shall elect
from its members appointed by the governor a chairperson
and other officers as it may consider necessary or desir-
able. Provided, That the initial meeting for the purpose of
selecting the first chairperson and other officers shall be
held during July, two thousand, or as soon thereafter as
practicable. All officers shall be elected from the citizen
appointees. The chairperson and 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. Provided,
however, That the terms of officers elected in July, two
thousand, begin upon election and end on the thirtieth day
of June, two thousand one. The chairperson of the board
can serve no more than two consecutive terms as chair.

(c) Members of the commission shall be reimbursed for
actual and necessary expenses incident to the performance
of their duties upon presentation of an itemized sworn
statement thereof. The foregoing reimbursement for
actual and necessary expenses shall be paid from appro-
priations made by the Legislature to the commission.

(d) A majority of the members constitutes a quorum for
conducting the business of the commission.

§18B-1B-4. Powers and duties of higher education policy com-
mission.

(a) The primary responsibility of the commission is to
develop, establish and implement policy that will achieve
the goals and objectives found in section one-a, article one
of this chapter. To that end, the commission has the following powers and duties:

(1) Develop, oversee and advance the public policy agenda to address major challenges facing the state, including, but not limited to, the goals and objectives found in section one-a, article one of this chapter and including specifically those goals and objectives pertaining to the compacts created pursuant to section two, article one-a of this chapter and to develop and implement the master plan described in section ten of this article for the purpose of accomplishing the mandates of this section;

(2) Develop, oversee and advance the implementation of a financing policy for higher education in West Virginia. The policy shall meet the following criteria:

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance; and

(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but not limited to, those found in section one-a, article one of this chapter;

(3) Create a policy leadership structure capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the commission shall seek input from the Legislature and the governor and specifically from the state board of education and local school districts in order to create the necessary linkages to assure smooth,
effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding the higher education institutions and the higher education system as a whole accountable for accomplishing their missions and implementing the provisions of the compacts;

(4) Develop and adopt each institutional compact;

(5) Review and adopt the annual updates of the institutional compacts;

(6) Review the progress of community and technical colleges in every region of West Virginia; such review includes, but is not limited to, evaluating and reporting annually to the legislative oversight commission on education accountability on the step-by-step implementation required in article three-c of this chapter;

(7) Serve as the accountability point for the governor for implementation of the public policy agenda and for the Legislature by maintaining a close working relationship with the legislative leadership and the legislative oversight commission on education accountability;

(8) Promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a to fulfill the purposes of section five, article one-a of this chapter;

(9) Establish and implement a peer group for each public institution of higher education in the state as described in section three, article one-a of this chapter;
(10) Establish and implement the benchmarks and performance indicators necessary to measure institutional achievement towards state policy priorities and institutional missions;

(11) In January, two thousand one, and annually thereafter, report to the Legislature and to the legislative oversight commission on education accountability during the January interim meetings, on a date and at a time and location to be determined by the president of the Senate and the speaker of the House of Delegates. The report shall address at least the following:

(A) The performance of the system of higher education during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the higher education system as a whole in meeting the goals and objectives set forth in section one-a, article one of this chapter;

(B) An analysis of enrollment data collected pursuant to subsection (i), section one, article ten of this chapter and recommendations for any changes necessary to assure access to high-quality, high-demand education programs for West Virginia residents;

(C) The priorities established for capital investment needs pursuant to subdivision (12) of this subsection and the justification for such priority; and

(D) Recommendations of the commission for statutory changes needed to further the goals and objectives set forth in section one-a, article one of this chapter;

(12) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments;
(13) On or before the first day of October, two thousand, 100
develop, establish and implement guidelines for institu-
tions to follow concerning extensive capital projects. The 101
guidelines shall provide a process for developing capital 102
projects, including, but not limited to, the notification by 103
an institution to the commission of any proposed capital 104
project which has the potential to exceed one million 105
dollars in cost. No such project may be pursued by an 106
institution without the approval of the commission;

(14) Draw upon the expertise available within the 108
governor's workforce investment office and the West 109
Virginia development office as a resource in the area of 110
workforce development and training;

(15) Acquire legal services as are considered necessary, 112
including representation of the commission, its institu-
tions, employees and officers before any court or adminis-
trative body, notwithstanding any other provision of this 115
code to the contrary. The counsel may be employed either 117
on a salaried basis or on a reasonable fee basis. In addi-
tion, the commission may, but is not required to, call upon 119
the attorney general for legal assistance and representa-
tion as provided by law;

(16) Employ a chancellor for higher education pursuant 121
to section five of this article;

(17) Employ other staff as necessary and appropriate to 123
carry out the duties and responsibilities of the commission;

(18) Provide suitable offices in Charleston for the 125
chancellor, vice chancellors and other staff;

(19) Conduct a study of the faculty tenure system as 128
administered by the governing boards with specific 129
attention to the role of community service and other 130
criteria for achieving tenured status. The commission 131
shall make a report of its findings and recommendations
to the legislative oversight commission on education accountability by the first day of July, two thousand one;

(20) Advise and consent in the appointment of the presidents of the institutions of higher education pursuant to section six of this article. The role of the commission in approving an institutional president is to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compact and in section one-a, article one of this chapter;

(21) Approve the total compensation package from all sources for institutional presidents, as proposed by the governing boards. The governing boards must obtain approval from the commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package;

(22) Establish and implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other postsecondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

(23) Approve and implement a uniform standard, as developed by the chancellor, to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellor shall develop a clear, concise explanation of the standard which the governing boards shall communicate to the state board of education and the state superintendent of schools;
Review and approve or disapprove capital projects as described in subdivision (12), subsection (a) of this section;

(25) Develop and implement an oversight plan to manage system-wide technology such as the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort, increase the delivery of instruction to nontraditional students, provide services to business and industry and increase the management capabilities of the higher education system; and

(B) Reviewing courses and programs offered within the state by nonstate public or private institutions of higher education;

(26) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a bachelor's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(27) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(28) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or
out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(29) Establish and implement policies and programs, in cooperation with the institutions of higher education, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet-based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

(30) Seek out and attend regional, national and international meetings and forums on education and workforce development related topics, as in the commission's discretion is critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals and objectives pursuant to section one-a, article one of this chapter;

(31) Develop, establish and implement guidelines for higher education governing boards and institutions to follow when considering capital projects. The guidelines shall include, but not be limited to, the following:

(A) That the governing boards and institutions not approve or promote projects that give competitive advantage to new private sector projects over existing West Virginia businesses, unless the commission determines such private sector projects are in the best interest of the students, the institution and the community to be served; and
(B) That the governing boards and institutions not approve or promote projects involving private sector businesses which would have the effect of reducing property taxes on existing properties or avoiding, in whole or in part, the full amount of taxes which would be due on newly developed or future properties.

The commission shall determine whether the guidelines developed pursuant to this subdivision should apply to any project which a governing board and institution alleges to have been planned on or before the effective date of this section. In making the determination, the commission shall be guided by the best interests of the students, the institution and the community to be served.

(32) Certify to the Legislature, on or before the first day of February, two thousand one, the priority funding percentages and other information needed to complete the allocation of funds in section five, article one-a of this chapter;

(33) Consider and submit to the appropriate agencies of the executive and legislative branches of state government, a single budget for higher education that reflects recommended appropriations: Provided, That on the first day of January, two thousand one, and annually thereafter, the commission shall submit the proposed institutional allocations based on each institution's progress toward meeting the goals of its institutional compact;

(34) Initiate a full review and analysis of all student fees charged by state institutions of higher education and make recommendations to the legislative oversight commission on education accountability no later than the second day of January, two thousand two. The final report shall contain findings of fact and recommendations for proposed legislation to condense, simplify and streamline the
fee schedule and the use of fees or other money collected
by state institutions of higher education;

(35) The commission has the authority to assess institu-
tions for the payment of expenses of the commission or for
the funding of statewide higher education services,
obligations or initiatives; and

(36) Promulgate rules allocating reimbursement of
appropriations, if made available by the Legislature, to
institutions of higher education for qualifying non-capital
expenditures incurred in the provision of services to
students with physical, learning or severe sensory disabili-
ties.

(b) In addition to the powers and duties listed in subsec-
tion (a) of this section, the commission has the following
general powers and duties related to its role in developing,
articulating and overseeing the implementation of the
public policy agenda:

(1) Planning and policy leadership including a distinct
and visible role in setting the state's policy agenda and in
serving as an agent of change;

(2) Policy analysis and research focused on issues
affecting the system as a whole or a geographical region
thereof;

(3) Development and implementation of institutional
mission definitions including use of incentive money to
influence institutional behavior in ways that are consistent
with public priorities;

(4) Academic program review and approval including the
use of institutional missions as a template to judge the
appropriateness of both new and existing programs and
the authority to implement needed changes;
(5) Development of budget and allocation of resources, including reviewing and approving institutional operating and capital budgets and distributing incentive and performance-based funding;

(6) Administration of state and federal student aid programs;

(7) Acting as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(8) Development, establishment and implementation of information, assessment and accountability systems including maintenance of statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(9) Developing, establishing and implementing policies for licensing and oversight for both public and private degree-granting and nondegree granting institutions that provide post-secondary education courses or programs in the state;

(10) Development, implementation and oversight of statewide and region-wide projects and initiatives such as those using funds from federal categorical programs or those using incentive and performance-based funding from any source; and

(11) Quality assurance that intersects with all other duties of the commission particularly in the areas of planning, policy analysis, program review and approval, budgeting and information and accountability systems.

(c) In addition to the powers and duties provided for in subsections (a) and (b) of this section and any other powers and duties as may be assigned to it by law, the commission
has such other powers and duties as may be necessary or expedient to accomplish the purposes of this article.

(d) The commission is authorized to withdraw specific powers of any institutional governing board for a period not to exceed two years if the commission makes a determination that:

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in article one of this chapter;

(2) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the institutional board of governors according to state law; or

(3) Other circumstances which, in the view of the commission, severely limit the capacity of the institutional board of governors to carry out its duties and responsibilities.

(4) The period of withdrawal of specific powers may not exceed two years during which time the commission is authorized to take steps necessary to reestablish the conditions for restoration of sound, stable and responsible institutional governance.

(e) Notwithstanding the provisions of section six, article one-a of this chapter, the commission shall undertake a study of the most effective and efficient strategies and policies to address the findings and intent of that section.

(1) The issues addressed by this study shall include, but not be limited to:

(A) Strategies to ensure access to graduate education;
(B) The development of state colleges as regional graduate centers with authority to broker access to graduate programs in their responsibility areas;

(C) The process by which state colleges obtain authorization to grant graduate degrees;

(D) The relationship of regional graduate centers at state colleges to graduate programs offered within those regions by state universities; and

(E) Other issues related to initiatives to meet each region's need and enhance the quality and competitiveness of graduate programs offered and/or brokered by West Virginia state colleges and universities.

(2) The commission shall report the findings of this study along with the recommendations for legislative actions, if any, to address these findings and the intent of this section, to the legislative oversight commission on education accountability by the first day of January, two thousand one.

§18B-1B-5. Employment of chancellor for higher education; office; powers and duties generally; employment of vice chancellors.

(a) The commission, created pursuant to section one of this article, shall employ a chancellor for higher education who shall be the chief executive officer of the commission and who shall serve at its will and pleasure. The vice chancellor for administration shall serve as the interim chancellor until a chancellor is employed.

(b) The commission shall set the qualifications for the position of chancellor and shall conduct a thorough nationwide search for qualified candidates. A qualified candidate is one who meets at least the following criteria:
(1) Possesses an excellent academic and administrative background;
(2) Demonstrates strong communication skills;
(3) Has significant experience and an established national reputation as a professional in the field of higher education;
(4) Is free of institutional or regional biases; and
(5) Holds or retains no other administrative position within the system of higher education while employed as chancellor.

(c) The chancellor shall be compensated on a basis in excess of, but not to exceed twenty percent greater than, the base salary of any president of a state institution of higher education or the administrative head of a governing board.

(d) With the approval of the commission, the chancellor may employ a vice chancellor for health sciences who shall serve at the will and pleasure of the chancellor. The vice chancellor for health sciences shall coordinate the West Virginia university school of medicine, the Marshall university school of medicine, and the West Virginia school of osteopathic medicine and also shall provide assistance to the governing boards on matters related to medical education and health sciences. The vice chancellor for health sciences shall perform all duties assigned by the chancellor, the commission and state law. In the case of a vacancy in the office of vice chancellor of health sciences, the duties assigned to this office by law are the responsibility of the chancellor or a designee;

(c) With the approval of the commission, the chancellor shall employ a vice chancellor for community and technical college education and workforce development who...
serves at the will and pleasure of the chancellor. The duties of this position include the general supervision of the joint commission for vocational-technical-occupational education, as provided in article three-a of this chapter, and such other duties as assigned. Any reference in this code to the vice chancellor for community and technical colleges means the vice chancellor for community and technical college education and workforce development, which vice chancellor for community and technical colleges shall become the vice chancellor for community and technical college education and workforce development. It is the duty and responsibility of the vice chancellor for community and technical college education and workforce development to:

1. Provide assistance to the commission, the chancellor and the governing boards on matters related to community and technical college education;

2. Advise, assist and consult regularly with the institutional presidents; institutional boards of governors or boards of advisors, as appropriate; and district consortia committees of the state institutions of higher education involved in community and technical college education; and

3. Perform all duties assigned by the chancellor, the commission and state law.

(f) With the approval of the commission, the chancellor shall employ a vice chancellor for administration pursuant to section two, article four of this chapter;

(g) With the approval of the commission, the chancellor shall employ a vice chancellor for state colleges who shall serve at the will and pleasure of the chancellor. It is the duty and responsibility of the vice chancellor for state colleges to:
(1) Provide assistance to the commission, the chancellor and the state colleges and freestanding community and technical colleges on matters related to or of interest and concern to these institutions;

(2) Advise, assist and consult regularly with the institutional presidents and institutional boards of governors of each state college or freestanding community and technical college;

(3) Serve as an advocate and spokesperson for the state colleges and community and technical colleges to represent them and to make their interests, views and issues known to the chancellor, the commission and governmental agencies;

(4) Perform all duties assigned by the chancellor, the commission and state law; and

(5) Establish such guidelines as believed appropriate to restrict the use of public funds by the state colleges and freestanding community and technical colleges for influencing public policy development.

In addition, the vice chancellor for state colleges has the responsibility and the duty to provide staff assistance to the institutional presidents and governing boards to the extent practicable;

(h) Apart from the offices of the vice chancellors as set forth in this section and section two, article four of this chapter, the chancellor shall determine the organization and staffing positions within the office that are necessary to carry out his or her powers and duties and may employ necessary staff;

(i) The chancellor may enter into agreements with any state agency or political subdivision of the state, any state higher education institution or any other person or entity
to enlist staff assistance to implement the powers and duties assigned by the commission or by state law;

(j) The chancellor shall be responsible for the day-to-day operations of the commission and shall have the following responsibilities:

(1) To carry out policy and program directives of the commission;

(2) To develop and submit annual reports on the implementation plan to achieve the goals and objectives set forth in section one-a, article one of this chapter and in the institutional compacts;

(3) To prepare and submit to the commission for its approval the proposed budget of the commission including the offices of the chancellor and the vice chancellors;

(4) Effective the first day of July, two thousand one, and under the direction of the commission, to promulgate rules for higher education, as set forth in article three-a, chapter twenty-nine-a of this code.

(5) Effective the first day of July, two thousand one, and under the direction of the commission, to:

(A) Provide technical assistance, when requested, to the governing boards in the development of rules;

(B) Review rules and approve rules of the governing boards for filing with the office of the vice chancellor for administration;

(C) Determine when a joint rule among the governing boards is necessary or required by law and, in those instances and in consultation with the governing boards, promulgate the joint rule;

(D) Ensure that all the requirements are met for promulgating rules as set forth in article three-a, chapter twenty-
nine-a of this code: *Provided*, That nothing in said chapter shall be construed to require the approval and filing of institution rules except for approval by the chancellor and filing in the office of the vice chancellor as provided herein; and

(E) Establish a process for the transition from the rules promulgated by the previous board of trustees, board of directors and the interim governing board to new rules filed by the chancellor, subject to approval of the policy commission. Until new rules are filed, the existing rules of said boards shall remain in effect and applicable to the respective state institutions of higher education. The chancellor shall review all new rules filed to replace the existing rules of the said boards and determine their proper classification as legislative, procedural or interpretive, notwithstanding the classification of the existing rule or a classification established for a specific rule by this code prior to the effective date of this section. The chancellor shall strictly and uniformly apply the definitions of rule, legislative rule, interpretive rule and procedural rule set forth in section two, article one, chapter twenty-nine-a of this code and unless specifically mandated by an act of the Legislature following the effective date of this section, may not require the filing, as rules, of regulations relating solely to the internal management of the commission, governing boards and institutions under their jurisdiction. The chancellor shall be responsible for ensuring that any policy which is required to be uniform across the institutions is applied in a uniform manner;

(5) To perform all other duties and responsibilities assigned by the commission or by state law.

(k) The chancellor shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities;
173 (l) The chancellor is the primary advocate for higher education and, with the commission, advises the Legislature on matters of higher education in West Virginia. As the primary advocate for higher education, the chancellor shall work closely with the legislative oversight commission on education accountability and with the elected leadership of the state to ensure that they are fully informed about higher education issues and that the commission fully understands the goals for higher education that the Legislature has established by law.

183 (m) The chancellor may design and develop for consideration by the commission new statewide or regional initiatives in accordance with the goals set forth in section one-a, article one of this chapter and the public policy agenda articulated by the commission.

187 (n) The chancellor shall work closely with members of the state board of education and with the state superintendent of schools to assure that the following goals are met:

191 (1) Development and implementation of a seamless kindergarten-through-college system of education; and
193 (2) Appropriate coordination of missions and programs.

197 To further the goals of cooperation and coordination between the commission and the state board of education, the chancellor shall serve as an ex officio, nonvoting member of the state board of education.

§18B-1B-6. Appointment of institutional presidents; evaluation.

1 (a) Appointment of institutional presidents. — Effective on the first day of July, two thousand, appointment of presidents of the public institutions of higher education shall be made as follows:

5 (1) Subject to the approval of the commission, the appropriate governing board of the institution shall
appoint a president for Bluefield state college, Concord
college, eastern West Virginia community and technical
college, Fairmont state college, Glenville state college,
Marshall university, Shepherd college, southern West
Virginia community and technical college, West Liberty
state college, West Virginia northern community and
technical college, West Virginia school of osteopathic
medicine, West Virginia state college and West Virginia
university;

(2) Subject to the approval of the appropriate governing
board and to the provisions of article three-c of this
chapter, the president of the appropriate institution shall
appoint the president of the regional campuses of West
Virginia university and of the community and technical
colleges which remain linked administratively to a spon­
soring institution. The presidents of such regional cam­
puses and community and technical colleges shall serve at
the will and pleasure of the institutional president. The
president of the sponsoring institution shall appoint a
president for the administratively linked community and
technical college at the appropriate time as outlined in the
institutional compact and approved by the commission.

(3) Subject to the approval of the commission and to the
provisions of articles three-c and three-f of this chapter,
the president of the appropriate institution shall appoint
the provost in those cases where the community and
technical college remains as a component of another
institution. The provost shall serve at the will and plea­
sure of the president of the employing institution.

(b) *Incumbent heads of institutions.* — Any president of a
public institution of higher education in office on the first
day of July, two thousand, shall continue in office subject
to state law: Provided, That the provost of an administra­
tively linked community and technical college in office on
the thirtieth day of June, two thousand one, may become
the president of that community and technical college on
the first day of July, two thousand one, with the approval
of the governing board of the institution and subject to the
consent of the commission. The presidents shall continue
in office subject to state law and subject to the will and
pleasure of the appropriate governing board or employing
institution.

(c) Evaluation of institutional presidents. – The govern-
ing boards shall conduct written performance evaluations
of each institution's president. Provided, That the presi-
dents of regional campuses shall be evaluated by the
president of West Virginia University and the presidents of
administratively linked community and technical colleges
shall be evaluated by the president of the employing
institution. Evaluations shall be done in every fourth year
of employment as president, recognizing unique character-
istics of the institution and utilizing institutional person-
nel, institutional boards of advisors as appropriate, staff
of the appropriate governing board and persons knowl-
dgeable in higher education matters who are not other-
wise employed by a governing board. A part of the
evaluation shall be a determination of the success of the
institution in meeting the requirements of its institutional
compact.

§18B-1B-7. Duties of higher education policy commission
during transition year.

During the transition year beginning on the first day of
July, two thousand, and ending on the thirtieth day of
June, two thousand one, the following is the intent of the
Legislature:

(a) The higher education interim governing board,
established in article one-c of this chapter, is the govern-
ing agency for public higher education in West Virginia,
(b) The chancellor for higher education shall provide to the governing board adequate and appropriate staff assistance to carry out its duties and responsibilities as assigned by law;

(c) The commission has the power and authority to require the interim governing board to transfer from accounts under the control of the interim governing board such sums as the commission believes appropriate for the proper performance of its duties and responsibilities;

(d) The commission shall focus its attention first on organizing itself to carry out its duties and responsibilities, including, but not limited to, establishing a search and screening process to identify candidates and to employ a chancellor;

(e) The commission shall focus its attention second on the following policy areas, but may consider others as appropriate:

(1) Developing legislative rules as required by law;

(2) Researching and developing the elements of the finance plan required by section five, article one-a of this chapter;

(3) Developing guidelines to be used by institutional boards of governors in employing institutional presidents;

(4) Developing a statewide master plan pursuant to section nine of this article;

(5) Developing and approving the institutional compacts as provided in section two, article one-a of this chapter;

(6) Developing a plan to provide on-going education and training opportunities to members of institutional boards of governors and institutional boards of advisors, including, but not limited to, exploring the possibility of obtain-
(7) Establishing a peer group for each public institution of higher education in the state as provided in section three, article one-a of this chapter; and

(8) Developing the elements of the higher education report card to be used to report institutional and system progress on meeting the goals and objectives of the institutional compacts and of section one-a, article one of this chapter; and

(f) On or before the first day of January, two thousand one, the commission shall certify to the governor, the president of the Senate and the speaker of the House of Delegates draft legislation which will accomplish the transfer on the first day of July, two thousand one, of all powers, duties, property, obligations, contracts, rules, orders, resolutions or any other matters which should be transferred or vested in the commission, the governing boards or any other agency. In the event the Legislature does not enact legislation which accomplishes the recommended transfers or vesting, effective the first day of July, two thousand one, all such matters are transferred to and vested in the commission and the commission is hereby authorized and directed to delegate such matters as is consistent with assigned powers and duties in section four of this article and section four, article two-a of this chapter. In the event of a dispute between or among the commission and the governing boards as to the proper delegation of these matters, the decision of the commission shall control.

§18B-1B-8. Higher education accountability; institutional and statewide report cards.

Effective on the first day of July, two thousand one:
(a) The commission is directed to make information available to parents, students, faculty, staff, state policymakers and the general public on the quality and performance of public higher education. This information shall be consistent and comparable between and among the state institutions of higher education and, if applicable, comparable with information from peer institutions in the region and the nation.

(b) On or before the first day of July, two thousand one, the chancellor shall review policy series sixteen, related to the higher education report card, of the rules of the board of trustees and board of directors and determine whether a new rule should be adopted providing for the collection, analysis and dissemination of data and information on the performance of the state institutions of higher education, including health sciences education, in relation to the findings, directives, goals and objectives set forth in section one-a, article one of this chapter, the institutional compacts and in comparison to their peers. The rules shall provide the legislative oversight commission on education accountability with full and accurate information while minimizing the institutional burden of recordkeeping and reporting. The rules shall include uniform definitions for the various indicators of student and institutional performance and guidelines for the collection and reporting of data and the preparation, printing and distribution of report cards under this section. The report card forms shall provide for brief, concise reporting in nontechnical language of required information. Any technical or explanatory material which a governing board wishes to include shall be contained in a separate appendix available for a reasonable fee to the general public upon request.

(c) The president or chief executive officer of each public college, university or community and technical college
shall prepare and submit annually all requested data to the commission at the time established by the commission.

The commission shall prepare report cards for institutions under their jurisdiction and in accordance with the guidelines set forth in this section and rules promulgated under this section.

(d) The higher education central office staff under the direction of the vice chancellor for administration shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide report card from information submitted by each governing board. The statewide report card shall include the data for each institution for each separately listed, applicable indicator and the aggregate of the data for all public institutions of higher education. The statewide report card shall be prepared using actual institutional, state, regional and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards and the state system of higher education. The report card also shall include goals and trends for the institutions and the higher education system and shall include all the information required either by statute or by rule as authorized in subsection (b) of this section. Statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case such year shall be clearly footnoted.

(e) The statewide report card shall be completed and disseminated with copies to the legislative oversight commission on education accountability prior to the first day of January of each year.
(f) For a reasonable fee, the chancellor shall make copies of the report cards available to any individual requesting them.

§18B-1B-9. Statewide master plan.

(a) The commission shall develop a master plan for higher education for the state.

(b) The plan shall be developed on or before the first day of July, two thousand one, and shall be communicated to the legislative oversight commission on education accountability.

(c) The master plan shall include, but not be limited to, the following:

(1) A detailed demonstration of how the master plan will be used to meet the goals and objectives outlined in section one-a, article one of this chapter;

(2) A well-developed set of goals, as set forth in section one-a, article one of this chapter, outlining missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and other planning determinants and projections for public higher education and other matters necessary in such a plan to assure that the needs of the state for a quality system of higher education are addressed; and

(3) A plan for involving and collaborating with the state board of education, the public and private institutions of higher education and other education providers to assure that a comprehensive system of education is developed for West Virginia.

(d) The master plan for higher education for the state shall be established for periods of not less than three nor more than six years and shall be revised periodically as necessary.
ARTICLE 1C. TRANSITION IMPLEMENTATION.

§18B-1C-1. Transition oversight.

(a) The legislative oversight commission on education accountability is charged with responsibility to monitor and oversee implementation of the policy changes required by this act.

(b) The responsibilities of the commission include, but are not limited to, the following:

(1) Reviewing the overall progress of the commission and institutions in implementing the provisions of this act;

(2) Reviewing the implementation of financing policy including:

(A) Monitoring the process for selecting peer institutions as provided for in section three, article one-a of this chapter;

(B) Monitoring the process for determining the institutional operating budgets pursuant to section five, article one-a of this chapter;

(3) Monitoring the development of indicators and benchmarks as provided for in section two, article one-a of this chapter;

(4) Monitoring the development of the institutional compacts pursuant to section two, article one-a of this chapter and the statewide master plan required in section nine, article one-b of this chapter; and

(5) Subject to the provisions of section eight, article three-c of this chapter, evaluating the existing community and technical college programs and services at each of the community and technical colleges and determining the effectiveness of the indicated manner to accomplish the essential conditions at each institution. Notwithstanding
the provisions of section eight, article three-c of this chapter, the team shall determine if the goals of section one-a, article one of this chapter are being met under the current structure;

(c) The provisions of this section expire the thirtieth day of June, two thousand one.

§18B-1C-2. Higher education interim governing board.

(a) For the transition year beginning on the first day of July, two thousand, and ending on the thirtieth day of June, two thousand one, there is hereby established the higher education interim governing board, hereinafter referred to as the "interim governing board", to serve as the governing board for public higher education in West Virginia. The interim governing board shall have such powers and duties pursuant to section eight, article one of this chapter, as may be necessary to carry out their responsibilities under this section.

(b) The interim governing board is comprised of nine persons, appointed by the governor, with the advice and consent of the Senate. Nothing herein shall prohibit a person from serving concurrently on the interim governing board and an institutional board of advisors.

(c) The interim governing board shall be appointed as soon as possible after the passage of this act and shall continue its duties until the thirtieth day of June, two thousand one. Appointments to the board shall be made so that members may begin their work no later than the first day of July, two thousand.

(d) Any person appointed to a position on the board shall have governing experience in higher education, be knowledgeable on education matters and represent the public interest.
(e) The members shall elect a chairman.

(f) The board shall meet as needed at the time and place specified by the call of the chairperson or a majority of the members.

(g) The intent and purposes of the interim governing board are:

(1) To serve and act as the governing board for state institutions of higher education and to ensure a smooth, efficient transition to a new governing structure to be effective the first day of July, two thousand one;

(2) To initiate the implementation of this act and to inform the governor and the Legislature of the implementation status and of any areas in which further executive or legislative action may be necessary;

(3) To advise and assist the commission on implementation of the act in a manner which achieves the intent, purposes and goals of the act;

(4) To resolve, or seek appropriate remedy of, errors, omissions, oversights or conflicts relative to implementation of the act; and

(5) To take such other action within their scope of authority as may be necessary to provide for the smooth transition in the governance of the higher education system.

(h) Members of the board shall be reimbursed for actual and necessary expenses incident to the performance of their duties upon presentation of an itemized sworn statement thereof. The reimbursement shall be paid from legislative appropriations and other funds available to the board.
A majority of the members constitutes a quorum for conducting the business of the board.

On the first day of July, two thousand, there is transferred to the interim governing board, all powers, duties, property, obligations, contracts, rules, orders, resolutions or any other matters which were vested in the prior boards of trustees, directors or both.

The provisions of this section expire on the thirtieth day of June, two thousand one.

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

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

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

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

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

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

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

(d) No trustee appointed by the governor shall be
removed from office by the governor except for official
misconduct, incompetence, neglect of duty or gross
immorality and then only in the manner prescribed by law
for the removal of the state elective officers by the gover-
nor.

(e) The board of trustees is abolished the thirtieth day of
June, two thousand.

(f) On the first day of July, two thousand, there is
transferred to the interim governing board, all powers,
duties, property, obligations, contracts, rules, orders,
resolutions or any other matters which were vested in the
prior boards of trustees, directors or both.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-1. Composition of boards; terms and qualifications of members; vacancies; eligibility for reappointment.

(a) Effective the thirtieth day of June, two thousand one, the institutional boards of advisors at Bluefield state college, Concord college, eastern West Virginia community and technical college, Fairmont state college, Glenville state college, Marshall university, Shepherd college, southern West Virginia community and technical college, West Liberty state college, West Virginia northern community and technical college, the West Virginia school of osteopathic medicine, West Virginia state college and West Virginia university are abolished.

(b) Effective the first day of July, two thousand one, an institutional board of governors is established at each of the following institutions: Bluefield state college, Concord college, eastern West Virginia community and technical college, Fairmont state college, Glenville state college, Marshall university, Shepherd college, southern West Virginia community and technical college, West Liberty state college, West Virginia northern community and technical college, the West Virginia school of osteopathic medicine, West Virginia state college and West Virginia university. Each institutional board of governors shall consist of twelve persons: Provided, That the institutional boards of governors for Marshall university and West Virginia university shall consist of fifteen persons. Each institutional board of governors shall include:

1. A full-time member of the faculty with the rank of instructor or above duly elected by the faculty;
(2) A member of the student body in good academic standing, enrolled for college credit work and duly elected by the student body;

(3) A member of the institutional classified staff duly elected by the classified staff; and

(4) Nine lay members appointed by the governor by and with the advice and consent of the Senate pursuant to section one-a, article six of this chapter: Provided, That for the institutional boards of governors at Marshall university and West Virginia university, twelve lay members shall be appointed by the governor by and with the advice and consent of the Senate pursuant to section one-a, article six of this chapter: Provided, however, That, of the appointed lay members, the governor shall appoint one superintendent of a county board of education from the area served by the institution: Provided further, That in making the initial appointments to the institutional boards of governors, the governor shall appoint, except in the case of death, resignation or failure to be confirmed by the Senate, those persons who are lay members of the institutional boards of advisors for those institutions named in subsection (a) on the thirtieth day of June, two thousand one, and appointed pursuant to section one-a, article six of this chapter.

(c) Of the nine members appointed by the governor, no more than five may be of the same political party: Provided, That of the twelve members appointed by the governor to the governing boards of Marshall university and West Virginia university, no more than seven may be of the same political party. At least six of the members shall be residents of the state: Provided, however, That of the twelve members appointed by the governor to the governing boards of Marshall university and West Virginia university, at least eight of the members shall be residents of the state. The student member shall serve for a term of
The appointed members of the institutional boards of
governors shall serve staggered terms. Of the initial
appointments by the governor to each of the institutional
boards of governors, two shall be appointed for terms of
one year, two shall be appointed for terms of two years,
two shall be appointed for terms of three years and three
shall be appointed for terms of four years: Provided, That
for the initial appointments to the governing boards of
Marshall university and West Virginia university, three
99 shall be appointed for terms of one year, three shall be
100 appointed for terms of two years, three shall be appointed
101 for terms of three years and three shall be appointed for
102 terms of four years. After the initial appointments, all
103 appointees shall serve for terms of four years.

104 (e) No person shall be eligible for appointment to
105 membership on an institutional board of governors who is
106 an officer, employee or member of any other institutional
107 board of governors, a member of an institutional board of
108 advisors of any public institution of higher education, an
109 employee of any institution of higher education, an officer
110 or member of any political party executive committee, the
111 holder of any other public office or public employment
112 under the government of this state or any of its political
113 subdivisions or a member of the commission: Provided,
114 That this subsection shall not be construed to prevent the
115 faculty, classified staff, student representative or superin-
116 tendent of a county board of education from being mem-
117 bers of the governing boards.

118 (f) Before exercising any authority or performing any
119 duties as a member of a governing board, each member
120 shall qualify as such by taking and subscribing to the oath
121 of office prescribed by section five, article IV of the
122 constitution of West Virginia and the certificate thereof
123 shall be filed with the secretary of state.

124 (g) No member of a governing board appointed by the
125 governor may be removed from office by the governor
126 except for official misconduct, incompetence, neglect of
127 duty or gross immorality and then only in the manner
128 prescribed by law for the removal of the state elective
129 officers by the governor.

130 (h) The president of the institution shall make available
131 resources of the institution for conducting the business of
132 its institutional board of governors. The members of the
institutional board of governors shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties under this article upon presentation of an itemized sworn statement of their expenses. All expenses incurred by the institutional board of governors and the institution under this section shall be paid from funds allocated to the institution for that purpose.


(a) The boards of governors shall hold at least six meetings in every fiscal year, including an annual meeting each June: Provided, That an annual meeting for the purpose of selecting the first chairperson and other officers shall be held during July, two thousand one. The president of the appropriate institution shall call the first meeting of the institutional board of governors in July, two thousand one, or as soon thereafter as practicable and preside until officers are elected. Officers elected in July, two thousand one, shall begin their terms upon election and shall serve until the thirtieth day of June the following year. Of the twelve voting members of the boards of governors, seven shall constitute a quorum: Provided, That of the fifteen voting members of each of the boards of governors for the state universities, eight shall constitute a quorum. A majority vote of the quorum shall be necessary to pass upon matters before the institutional board of governors.

(b) The boards of governors may set aside time as they consider appropriate to afford administrators, faculty, students and classified staff an opportunity to discuss issues affecting these groups.

(a) For the transition year beginning on the first day of July, two thousand and ending on the thirtieth day of June, two thousand one, the interim governing board is subject to the supervision of the secretary of education and the arts. Rules adopted by the governing board are subject to approval by the secretary of education and the arts.

(b) Effective the first day of July, two thousand one, and thereafter, the governing boards are subject to the supervision of the chancellor. The chancellor is responsible for the coordination of policies and purposes of the governing boards and shall provide for and facilitate sufficient interaction among the governing boards and between the governing boards and the state board of education to meet the goals and objectives provided for in the compacts and in section one-a, article one of this chapter.

(c) The governing boards and the state board of education shall provide any and all information requested by the chancellor in a timely manner.


Effective the first day of July, two thousand one, each governing board shall separately have the following powers and duties:

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

(b) Develop a master plan for the institutions under its jurisdiction; except the administratively linked community and technical colleges shall develop their master plans subject to the provisions of section one, article six of this chapter. The ultimate responsibility for developing and updating the master plans at the institutional level resides with the institutional board of governors or board of
advisors, as applicable, but the ultimate responsibility for
approving the final version of the institutional master
plans, including periodic updates, resides with the com-
mission. Each master plan shall include, but not be
limited to, the following:

(1) A detailed demonstration of how the master plan will
be used to meet the goals and objectives of the institu-
tional compact;

(2) A well-developed set of goals outlining missions,
degree offerings, resource requirements, physical plant
needs, personnel needs, enrollment levels and other
planning determinants and projections necessary in such
a plan to assure that the needs of the institution's area of
responsibility for a quality system of higher education are
addressed;

(3) Documentation of the involvement of the commission,
institutional constituency groups, clientele of the institu-
tion and the general public in the development of all
segments of the institutional master plan.

The plan shall be established for periods of not less than
three nor more than six years and shall be revised periodi-
cally as necessary, including the addition or deletion of
degree programs as, in the discretion of the appropriate
governing board, may be necessary.

(c) Prescribe for the state institutions of higher education
under its jurisdiction, in accordance with its master plan
and the compact for each institution, specific functions
and responsibilities to meet the higher education needs of
its area of responsibility and to avoid unnecessary duplica-
tion;

(d) Direct the preparation of a budget request for the
state institutions of higher education under its jurisdic-
tion, such request to relate directly to missions, goals and
projections as found in the institutional master plans and the institutional compacts;

(e) Consider, revise and submit to the commission a budget request on behalf of the state institutions of higher education under its jurisdiction;

(f) 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 institutional master plan, the institutional compact and the education and workforce needs of its responsibility district. As a part of the review, each governing board shall require the institutions under its jurisdiction to conduct periodic studies of its graduates and their employers to determine placement patterns and the effectiveness of the education experience. Where appropriate, these studies should coincide with the studies required of many academic disciplines by their accrediting bodies.

(g) The governing boards also shall ensure that the sequence and availability of academic programs and courses offered by the institutions under their jurisdiction is such that students have the maximum opportunity to complete programs in the time frame normally associated with program completion. Each governing board also is responsible to see that the needs of nontraditional college-age students are appropriately addressed and, to the extent it is possible for the individual governing board to control, to assure core coursework completed at state institutions of higher education under its jurisdiction is transferable to any other state institution of higher education for credit with the grade earned.

(h) Subject to the provisions of article one-b of this chapter, the appropriate governing board has the exclusive
authority to approve the teacher education programs
offered in the institution under its 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 accred-
itation, the chancellor may select and utilize one nation-
ally recognized teacher education program accreditation
standard as the appropriate standard for program evalu-
ation.

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

(j) Administer a system for the management of personnel
matters, including, but not limited to, personnel classifica-
tion, compensation, and discipline for employees of the
institutions under their jurisdiction, subject to the provi-
sions of state and federal law: Provided, that the chancel-
lor may promulgate a new uniform rule for the purpose of
standardizing, as much as possible, the administration of
personnel matters among the institutions of higher educa-
tion;

(k) Administer a system for the hearing of employee
grievances and appeals therefrom as prescribed by article
twenty-nine, chapter eighteen of this code so that aggrieved parties may be assured of timely and objective
review: Provided, that after the first day of July, two
thousand, the procedure established in article twenty-nine,
chapter eighteen of this code shall be the exclusive mecha-
nism for hearing employee grievances and appeals.

(l) Solicit and utilize or expend voluntary support,
including financial contributions and support services, for
the state institutions of higher education under its juris-
diction;
(m) Appoint a president or other administrative head for the institutions of higher education under its jurisdiction subject to the provisions of section six, article one-b of this chapter.

(n) Conduct written performance evaluations of each institution's president pursuant to section six, article one-b of this chapter;

(o) Submit to the commission no later than the first day of November of each year an annual report of the performance of the institutions of higher education under its jurisdiction during the previous fiscal year as compared to stated goals in its master plan and institutional compact.

(p) Enter into contracts or consortium agreements with the public schools, private schools or private industry to provide technical, vocational, college preparatory, remedial and customized training courses at locations either on campuses of the public institution of higher education or at off-campus locations in the institution's responsibility district. To accomplish this goal, the boards are permitted to share resources among the various groups in the community.

(q) Delegate, with prescribed standards and limitations, the part of its power and control over the business affairs of a particular state institution of higher education under its jurisdiction to the president or other administrative head of the state institution of higher education in any case where it considers the delegation necessary and prudent in order to enable the institution to function in a proper and expeditious manner and to meet the requirements of its institutional compact. If a governing board elects to delegate any of its power and control under the provisions of this subsection, it shall notify the chancellor. Any such delegation of power and control may be re-
scinded by the appropriate governing board or the chancellor at any time, in whole or in part.

(r) Unless changed by the interim governing board or the chancellor, the governing boards shall continue to abide by existing rules 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.

(s) Each governing board, or its designee, shall consult, cooperate and work with the state treasurer and the state auditor to update as necessary and maintain an efficient and cost-effective system for the financial management and expenditure of special revenue and appropriated state funds at the institutions under its jurisdiction that ensures that properly submitted requests for payment be paid on or before due date, but in any event, within fifteen days of receipt in the state auditor's office.

(t) The governing boards in consultation with the chancellor and the secretary of the department of administration shall develop, update as necessary and maintain a plan to administer a consistent method of conducting personnel transactions, including, but not limited to, hiring, dismissal, promotions and transfers at the 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 board and the department of finance and administration.
(u) Notwithstanding any other provision of this code to the contrary, the governing boards shall have the authority to transfer funds from any account specifically appropriated for their use to any corresponding line item in a general revenue account at any agency or institution under their jurisdiction as long as such transferred funds are used for the purposes appropriated. The governing boards also shall have the authority to transfer funds from appropriated special revenue accounts for capital improvements under their jurisdiction to special revenue accounts at agencies or institutions under their jurisdiction as long as such transferred funds are used for the purposes appropriated; and

(v) Notwithstanding any other provision of this code to the contrary, the governing boards may acquire legal services as are considered necessary, including representation of the governing boards, their institutions, employees and officers before any court or administrative body. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the governing boards may, but are not required to, call upon the attorney general for legal assistance and representation as provided by law.

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 sixteen 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 chair of the joint commission for vocational-technical-occupational education, 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 ten directors shall be citizens of the state, appointed by the governor, by and with the advice and consent of the Senate, on or after the tenth day of March, one thousand nine hundred ninety-six, the board shall be reconstituted and all terms of members appointed by the governor prior to the tenth day of March, one thousand nine hundred ninety-six, shall expire upon the appointment by the governor of all the directors required to be appointed by this section. The governor shall make appointments required by this section no later than the fifteenth day of March, one thousand nine hundred ninety-six.

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. The relative enrollments of baccalaureate and community and technical students in the state college system shall be considered by the governor when making such appointments and the governor shall use his or her best efforts to achieve a balance among the members who reflect the various interests, goals and concerns reflected by the relative enrollments.

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

trustees or board of directors: Provided, That if there are 

no ethical restrictions under state or federal law, a federal 

employee may serve as a member of the board of directors. 

Of the ten directors appointed by the governor from the 

public at large, not more than five thereof shall belong to 

the same political party and at least three 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 ten directors as soon after 

the tenth day of March, one thousand nine hundred ninety-

six, 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, three 

shall be appointed to terms of two years, three shall be 

appointed to terms of four years and four shall be ap-

pointed to terms of six years. Each subsequent appoint-

ment 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 ten 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 unex-

pired 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 serves as 

director or trustee during all or any part of two consecu-
tive terms beginning after the first day of March, one 
thousand nine hundred ninety-six, 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 IV of the constitution of West Virginia and the certificate thereof shall be filed with the secretary of state.

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

(e) The board of directors is abolished the thirtieth day of June, two thousand.

(f) On the first day of July, two thousand, there is transferred to the interim governing board all powers, duties, property, obligations, contracts, rules, orders, resolutions or any other matters which were vested in the prior boards of trustees, directors or both.

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

§18B-3A-1. Joint commission continued; jurisdiction of higher education policy commission.
The West Virginia joint commission for vocational-technical-occupational education, hereinafter referred to in this article as the joint commission, is hereby continued. The joint commission is subject to the jurisdiction of the commission established in article one-b of this chapter and is subject to the supervision of the chancellor and the vice chancellor for community and technical college education and workforce development.

§18B-3A-2. Legislative findings and intent.

The Legislature finds that the goals for post-secondary education set forth in section one-a, article one of this chapter include a finding that West Virginia's future rests not only on how well its youth are educated, but also on how well it educates its entire population at any age and that the state must take into account the imperative need to serve the education needs of working-age adults. These findings further note that the state should make the best use of the expertise that private institutions of higher education, vocational and technical programs and private proprietary schools can offer and recognize the importance of their contributions to the economic, social and cultural well-being of their communities.

The Legislature further finds that certain goals focus on the need to serve better both traditional and nontraditional students and adults. Among these goals is one which states that the overall focus of education is on a lifelong process which is to be as seamless as possible at all levels and is to encourage citizens of all ages to increase their knowledge and skills. These goals also emphasize the need for cooperation and collaboration at all levels in education, training and workforce development to achieve the state's public policy agenda.

The Legislature further finds that certain acts to streamline accountability, to make maximum use of existing
assets to meet new demands and target new funding to initiatives designed to enhance and reorient existing capacity, to provide incentives for brokering and collaboration and to focus on new demands now require that many of the responsibilities originally charged to the joint commission be reexamined.

Therefore, the intent of the Legislature in amending and reenacting this article is to reorient the mission, role and responsibilities of the joint commission consistent with and supportive of the mission, role and responsibilities of the commission, the goals for post-secondary education and accountability for achieving the state's public policy agenda.

§18B-3A-3. Appointment, composition and terms of joint commission; meetings; expenses.

(a) The joint commission is comprised of nine persons, seven of whom are appointed by the governor, with the advice and consent of the Senate. The vice chancellor for community and technical college education and workforce development and the assistant superintendent for technical and adult education of the state department of education shall serve as ex officio, nonvoting members of the joint commission. On or after the effective date of this section, the joint commission shall be reconstituted and all terms of members appointed by the governor prior to the effective date of this section, shall expire upon the appointment by the governor of all the members required to be appointed by this section.

The seven members appointed by the governor shall represent the interests of the business, labor and employer communities and demonstrate knowledge of the workforce needs of the various areas of the state. No person who is employed by an institution of higher education and no person who is engaged in providing, or employed by a
person or company whose primary function is to provide workforce development services and activities, is eligible to serve on the joint commission. No provider of education services, workforce development services or related activities may serve on the joint commission. The governor shall appoint three members from each congressional district. Not more than four of the members may be from the same political party.

(b) Members of the joint commission shall serve for terms of four years, except that of the original appointments, one member shall be appointed for one year; two members shall be appointed for two years; two members shall be appointed for three years; and two members shall be appointed for four years. No member may serve more than two consecutive full terms nor may any member be appointed to a term which results in the member serving more than eight consecutive years.

(c) The vice chancellor for community and technical college education and workforce development shall call the initial meeting of the commission and preside until a chairperson is selected. The members shall elect a chairperson from among the persons appointed by the governor. The joint commission shall meet at least quarterly and may meet more often at the call of the chairperson. One such meeting shall be a public forum for the discussion of the goals and standards for vocational education in the state. Members of the joint commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties under this article upon presentation of an itemized sworn statement of their expenses, except that members of the commission who are employees of the state shall be reimbursed by their employing agency.

§18B-3A-4. Definitions.
As used in this article:

(a) "Secondary vocational-technical-occupational education" means any course or program at the high school level that results in, or may result in, a high school diploma or its equivalent, under the jurisdiction of the state board of education.

(b) "Post-secondary vocational-technical-occupational education" means any course or program beyond the high school level that results in, or may result in, the awarding of a two-year associate degree, certificate or other credential from an institution under the jurisdiction of a governing board or other public or private education provider.

(c) "Adult basic education" means adult basic skills education designed to improve the basic literacy needs of adults, including information processing skills, communication skills and computational skills, leading to a high school equivalency diploma, under the jurisdiction of the state board of education.

§18B-3A-5. Duties and responsibilities.

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

(a) Advise and assist the state board of education and the commission on state plans for secondary and post-secondary vocational-technical-occupational and adult basic education, including, but not limited to:

(1) Policies to strengthen vocational-technical-occupational and adult basic education;

(2) Programs and methods to assist in the improvement, modernization and expanded delivery of vocational-technical-occupational and adult basic education programs;
(3) The distribution of federal vocational education funding provided under the Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on the distribution of financial assistance among secondary and post-secondary vocational-technical-occupational and adult basic education programs to help meet the public policy agenda;

(4) Collaboration, cooperation and interaction among all secondary and post-secondary vocational-technical-occupational and adult basic education programs in the state, including the programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332 and the Workforce Investment Act, to promote the development of seamless curriculum and the elimination of duplicative programs;

(5) Coordination of the delivery of vocational-technical-occupational and adult basic education in a manner designed to make the most effective use of available public funds to increase accessibility for students; and

(6) Encouraging through articulation the most efficient utilization of available resources, both public and private, to meet the needs of vocational-technical-occupational and adult basic education students.

(b) Analyze and report to the commission on the distribution of spending for vocational-technical-occupational and adult basic education in the state and on the availability of vocational-technical-occupational and adult basic education activities and services within the state.

(c) Promote the delivery of vocational-technical-occupational and adult basic education programs in the state which emphasize the involvement of business and labor organizations.
(d) Promote public participation in the provision of vocational-technical-occupational and adult basic education at the local level, with an emphasis on programs which involve the participation of local employers and labor organizations.

(c) Promote equal access to quality vocational-technical-occupational and adult basic education programs to handicapped and disadvantaged individuals, adults who are in need of training and retraining, individuals who are single parents or homemakers, individuals participating in programs designed to eliminate sexual bias and stereotyping in vocational-technical-occupational education, and criminal offenders serving in correctional institutions.

(f) Assist the commission, the chancellor, the vice chancellor for community and technical college education and workforce development and those institutions delivering community and technical college education, as defined in section two, article one, of this chapter in the successful and efficient development, coordination and delivery of community and technical college programs and services in the state.

(g) Under the supervision of the chancellor and the vice chancellor for community and technical college education and workforce development, the joint commission has the following additional powers and duties:

(1) To oversee the step-by-step implementation of the comprehensive community and technical college system of education provided in article three-c of this chapter;

(2) To interview nominees for appointment as community and technical college presidents or provosts and make recommendations to the chancellor, or in the case of a provost, to the institutional president;
(3) To review and make recommendations to the commission for the approval of the institutional compacts for the community and technical colleges;

(4) To make recommendations to the commission for approval of the administration and distribution of the independently-accredited community and technical college development account;

(5) To ensure coordination among the community and technical colleges and other state-level, regional and local workforce entities, including, but not limited to, the human resource investment council and the West Virginia literacy council;

(6) To assist the community and technical colleges in establishing and promoting links with employers and labor in the geographic areas for which each of the community and technical colleges is responsible;

(7) To develop alliances among the community and technical colleges for resource sharing, joint development of courses and courseware, sharing of expertise and staff development;

(8) To provide a point for resolving issues relating to transfer and articulation between and among community and technical colleges, state colleges and universities and to advise the commission on these issues;

(9) To assist the commission in developing a statewide system of community and technical college programs and services to place-bound adults and employers in every region of West Virginia for competency-based certification of knowledge and skills, including a statewide competency-based associate degree program; and
(10) To review and make recommendations to the commission for the approval of the institutional master plans for the community and technical colleges.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-1. Legislative findings.

(a) Findings. — The Legislature hereby finds:

(1) That community and technical colleges in every region of West Virginia are essential elements of a statewide strategy to prepare students for further post-secondary education, lifelong learning and development of the workforce necessary to diversity and grow the state's economy.

(2) That, despite progress in the past decade, West Virginia continues to lag behind neighboring states and the nation in the competitiveness of its workforce for the new economy. Specifically, West Virginia:

(A) Ranks fiftieth among the states in the preparation of its workforce for the new economy;

(B) Continues to have low rates of participation among high school graduates in post-secondary education and ranks last among competitor states in the proportion of high school graduates who attend a community college;

(C) Ranks forty-seventh in the nation in the proportion of its adult population at the lowest levels of literacy; and

(D) Ranks tenth among eleven competitor states in the number of certificates and associate degrees granted.

(3) That, despite progress made in developing community and technical colleges pursuant to Senate Bill No. 547, most of these colleges remain subordinated to colleges and universities with four-year and graduate missions.
(4) That, while the number of high school graduates is declining and the needs of adults for further education and training is increasing, less than twenty-five percent of the students enrolled in West Virginia institutions are over age twenty-five.

(5) That only half the enrollment in community and technical colleges is in institutions independently accredited to carry out that mission.

(6) That in most of the component community and technical colleges the majority of faculty are appointed and rewarded according to the policies of the four-year institution, not the community and technical college.

(7) That West Virginia is one of only five states in which most of the enrollment in associate degree programs is in institutions that are not independently accredited as two-year institutions.

(8) That the community and technical college mission in West Virginia continues to be seen by many as narrowly defined and offering primarily associate degree programs and rather than the critical functions of workforce development, developmental education, community outreach and regional economic development as defined in Senate Bill No. 547.

(9) That half the community and technical college students in West Virginia pay the higher tuition and fees of the sponsoring four-year institution and not the lower rate of free-standing community and technical colleges.

(10) That, despite the needs of place-bound adults, adults in the workplace and employers, current higher education financing policy provides strong disincentives for both free-standing and component community and technical colleges to provide off-campus programs and services.
(11) That Senate Bill No. 547 set forth a definition of the kinds of community and technical college programs or service that should be available and accessible in every region of West Virginia.

(12) That over the past forty years, West Virginia has debated forming a distinct system of community and technical colleges with a focused mission in each region of the state. However, the state already had a network of public colleges in each region and, because of severe resource limitation and low population density, West Virginia evolved a system of community and technical colleges that depends in large part on the existing four-year colleges to offer associate degrees and other community and technical college services. West Virginia has established only a limited number of freestanding community and technical colleges.

(13) That Senate Bill No. 547 sought to strengthen the state's community and technical colleges in a number of ways.

(14) That the implementation of specific structural and procedural provisions of Senate Bill No. 547 was decidedly mixed.

(15) That Senate Bill No. 547 had widely varying impact on the availability of community and technical college services throughout West Virginia. The scope of services in several regions of the state, especially those with component colleges, has fallen far short of the kind of comprehensive, dynamic services envisioned in Senate Bill No. 547.

(16) That since the enactment of Senate Bill No. 547 increasing attention has been given to the related priority of workforce development.
(17) That since the enactment of Senate Bill No. 547 changes have accelerated dramatically in post-secondary education demand and delivery systems.

(18) That the substantive goal of Senate Bill No. 547 to ensure access to community and technical college programs and services remains valid and is even more important today than five years ago; and

(19) That there are essential conditions which must be met by each community and technical college in West Virginia in order to address the needs of the people of the state.

(b) Legislative Intent. —It is the intent of the Legislature, that the process for achieving independently accredited community and technical colleges be carried out using the most effective and most efficient method available. In implementing this process the governing boards and institutions of higher education should utilize facilities that already are available. These include, but are not limited to, the facilities of public high schools and vocational education centers. It is further the intent of the Legislature that this article not be implemented in such a manner as to require an extensive building program. Prior to pursuing any capital project, an institution shall follow the guidelines for developing capital projects provided for in subdivision thirteen, subsection (a), section four, article one-b of this chapter.

§18B-3C-2. Purposes of article.

The general purposes of this article are the following:

(a) To establish community and technical college education that is well articulated with the public schools and four-year colleges; that makes maximum use of shared facilities, faculty, staff, equipment and other resources; that encourages traditional and nontraditional students
and adult learners to pursue a life-time of learning; that serves as an instrument of economic development; and that has the independence and flexibility to respond quickly to changing needs;

(b) To charge the respective governing boards with providing community and technical college education at state institutions of higher education under their jurisdiction that has the administrative, programmatic and budgetary control necessary to allow maximum flexibility and responsiveness to district and community needs. Education services shall be provided consistent with the goal of sharing facilities, faculty, staff, equipment and other resources within and among the districts, the other systems of public and higher education and other education and training programs;

(c) To establish the essential conditions for community and technical college programs and services, as defined in section three of this article, necessary to insure that each region of West Virginia is served by a community and technical college meeting the needs of the people of the region;

(d) To establish a mechanism for assuring that, where applicable, a transition plan for meeting the essential conditions is developed by each relevant community and technical college;

(e) To establish responsibility districts for each of the community and technical colleges to ensure accountability that the full range of community and technical education programs and services is provided in all areas of the state;

(f) To define the full range of programs and services that every community and technical college has the responsibility to provide; and
(g) To establish such other policies and procedures necessary to ensure that the needs of West Virginia, its people and its businesses are met for the programs and services that can be provided through a comprehensive system of community and technical colleges.

§18B-3C-3. Essential conditions for community and technical college programs and services.

The Legislature hereby establishes the following essential conditions for community and technical college programs and services:

(a) Independent accreditation by the commission on institutions of higher education of the north central association of colleges and schools (NCA) reflecting external validation that academic programs, services, faculty, governance, financing and other policies are aligned with the community and technical college mission of the institution;

(b) A full range of community and technical college services offered as specified in section six of this article;

(c) Programmatic approval consistent with the provisions of section nine of this article;

(d) A fee structure competitive with its peer institutions;

(e) Basic services, some of which may be obtained under contract with existing institutions in the region. These basic services shall include, but are not limited to, the following:

(1) Student services, including, but not limited to, advising, academic counseling, financial aid and provision of the first line of academic mentoring and mediation;

(2) Instructional support services;

(3) Access to information and library services;
(4) Physical space in which courses can be offered;

(5) Access to necessary technology for students, faculty and mentors;

(6) Monitoring and assessment; and

(7) Administrative services, including, but not limited to, registration, fee collection and bookstore and other services for the distribution of learning materials;

(f) A president who is the chief academic and administrative officer of the community and technical college appointed and serving pursuant to the terms of section six, article one-b of this chapter;

(g) An institutional board of governors or an institutional board of advisors appointed and serving as required by law;

(h) A full-time core faculty, complemented by persons engaged through contract or other arrangements, including college and university faculty, to teach community college courses and qualified business, industry and labor persons engaged as adjunct faculty in technical areas;

(i) A faculty personnel policy, formally established to be separate and distinct from that of other institutions, which includes, but is not limited to, appointment, promotion, workload and, if appropriate, tenure pursuant to section nine of this article. These policies shall be appropriate for the community and technical college mission and may not be linked to the policies of any other institution;

(j) Community and technical colleges designed and operating as open-provider centers with the authority and flexibility to draw on the resources of the best and most appropriate provider to ensure that community and technical college services are available and delivered in the region in a highly responsive manner. A community and
technical college may contract with other institutions and providers as necessary to obtain the academic programs and resources to complement those available through a sponsoring college, where applicable, in order to meet the region's needs.

(k) Separately identified state funding allocations for each of the community and technical colleges. The president of the community and technical college has full budgetary authority for the entity, subject to accountability to its governing board, including authority to retain all tuition and fees generated by the community and technical college for use to carry out its mission.

§18B-3C-4. Responsibility districts.

(a) Each community and technical college is hereby assigned a responsibility district within which it is responsible for providing the full array of community and technical college programs and services as defined in section six of this article. The programs and services shall address the public policy agenda, compact elements and goals for post-secondary education established in section one-a, article one of this chapter as they relate to community and technical colleges, and other goals which may be established by the commission. The responsibility districts shall be comprised of contiguous areas of the state which have similar economic, industrial, educational, community and employment characteristics to facilitate specialization in mission and programming. For the purposes of initial implementation and organization, the districts shall be comprised as follows and assigned to the designated community and technical colleges:

(1) West Virginia northern community and technical college - Ohio, Brooke, Hancock, Marshall, Tyler and Wetzel counties;
(2) West Virginia university at Parkersburg - Wood, Jackson, Pleasants, Ritchie, Roane, Tyler and Wirt counties;

(3) Southern West Virginia community and technical college - Logan, Boone, Lincoln, McDowell, Mingo, Raleigh and Wyoming counties;

(4) Bluefield state community and technical college - Mercer, Greenbrier, McDowell, Monroc, Pocahontas, Raleigh and Summers counties;

(5) Glenville state community and technical college - Gilmer, Barbour, Braxton, Calhoun, Clay, Lewis, Nicholas, Roane, Upshur and Webster counties;

(6) Fairmont state community and technical college - Marion, Doddridge, Harrison, Monongalia, Preston, Randolph, Taylor and Barbour counties;

(7) Shepherd community and technical college - Jefferson, Berkeley, Grant and Morgan counties;

(8) Eastern West Virginia community and technical college - Mineral, Grant, Hampshire, Hardy, Tucker and Pendleton counties;

(9) West Virginia State Community and Technical College - Kanawha, Putnam and Clay counties;

(10) West Virginia university institute of technology community and technical college - Fayette, Clay, Kanawha, Raleigh and Nicholas counties; and


(b) It is the intent of the Legislature that, where counties are listed in more than one district, the county shall be the joint responsibility of each community and technical college assigned that county or shall be divided as deter-
mined by the commission. The boundaries of the districts
could be modified from time to time by the commission to
serve better the needs within the districts. Such modifica-
tions are not required to follow county boundaries.

§18B-3C-5. Appointment of community and technical college
presidents.

The administrative head of a community and technical
college shall be the president or the provost, who shall be
chosen pursuant to the terms of section six, article one-b
of this chapter.

§18B-3C-6. Community and technical college programs.

(a) The mission of each community and technical college
includes the following programs which may be offered on
or off campus, at the work site, in the public schools and
at other locations and at times that are convenient for the
intended population:

(1) Career and technical education certificate, associate
of applied science and selected associate of science degree
programs for students seeking immediate employment,
individual entrepreneurship skills, occupational develop-
ment, skill enhancement and career mobility;

(2) Transfer education associate of arts and associate of
science degree programs for students whose education goal
is to transfer into a baccalaureate degree program;

(3) Developmental/remedial education courses, literacy
education, tutorials, skills development labs and other
services for students who need to improve their skills in
mathematics, English, reading, study skills, computers and
other basic skill areas;

(4) Workforce training and retraining and contract
education with business and industry to train or retrain
employees;
(5) Continuing development assistance and education credit and noncredit courses for professional and self-development, certification and licensure and literacy training;

(6) Community service workshops, lectures, seminars, clinics, concerts, theatrical performances and other noncredit activities to meet the cultural, civic and personal interests and needs of the community; and

(7) Cooperative arrangements with the public school system for the seamless progression of students through programs of study which are calculated to begin at the secondary level and conclude at the community and technical college level.

(b) All administrative, programmatic and budgetary control over community and technical education within the district shall be vested in the president or provost, subject to rules adopted by the interim governing board or the chancellor. The president and the provost with the institutional board of governors or institutional board of advisors, as appropriate, shall be responsible for the regular review, revision, elimination and establishment of programs within the district to assure that the needs of the district for community and technical college programs are met. It is the intent of the Legislature that the program review and approval process for community and technical education be separate and distinct from baccalaureate education and subject to the provisions of section nine of this article. The president and institutional board of advisors shall seek assistance from and utilize a district consortium committee in fulfilling this responsibility.

(c) Independently accredited community and technical colleges will serve as higher education centers for their regions by brokering with colleges, universities and other providers, in state and out of state to ensure the coordi-
nated access of students, employers, and other clients to
needed programs and services.

§18B-3C-7. District consortia committees.

(a) The president or provost of each community and
technical college shall form a district consortium commit-
tee which shall include representatives, distributed
differently, geographically to the extent practicable, of the major
community and technical college branches, vocational-
technical centers, comprehensive high schools, four-year
colleges and universities, community service or cultural
organizations, economic development organizations,
business, industry, labor, elected public officials and
employment and training programs and offices within the
district. The consortium committee shall be chaired by the
president or provost, or his or her designee, and shall
advise and assist the president or provost with the follow-
ing:

(1) Completing a comprehensive assessment of the
district to determine what education and training pro-
gams are necessary to meet the short and long-term
workforce development needs of the district;

(2) Coordinating efforts with regional labor market
information systems to identify the ongoing needs of
business and industry, both current and projected, and to
provide information to assist in an informed program of
planning and decision making;

(3) Planning and development of a unified effort to meet
the documented workforce development needs of the
district through individual and cooperative programs,
shared facilities, faculty, staff, equipment and other
resources and the development and use of distance learn-
ing and other education technologies;
(4) Regularly reviewing and revising curricula to ensure that the workforce needs are met, developing new programs and phasing out or modifying existing programs as appropriate to meet such needs, streamlining procedures for designing and implementing customized training programs and accomplishing such other complements of a quality comprehensive community and technical college;

(5) Increasing the integration of secondary and post-secondary curriculum and programs that are targeted to meet regional labor market needs, including implementation of a comprehensive school-to-work transition system that accomplishes the following:

(A) Helps students focus on career objectives;

(B) Establishes cooperative programs and student internships with business and industry;

(C) Builds upon current programs such as high schools that work, tech prep associate degree programs, registered apprenticeships and rural entrepreneurship through action learning; and

(D) Addresses the needs of at-risk students and school dropouts;

(6) Planning and implementation of integrated professional development activities for secondary and post-secondary faculty, staff and administrators and other consortium partners throughout the district;

(7) Ensuring that program graduates have attained the competencies required for successful employment through the involvement of business, industry and labor in establishing student credentialing;

(8) Performance assessment of student knowledge and skills which may be gained from multiple sources so that students gain credit toward program completion and
advance more rapidly without repeating coursework in
which they already possess competency;

(9) Cooperating with workforce development investment
councils in establishing one-stop-shop career centers with
integrated employment and training and labor market
information systems that enable job seekers to assess their
skills, identify and secure needed education training and
secure employment and employers to locate available
workers;

(10) Increasing the integration of adult literacy, adult
basic education, federal workforce investment act and
community and technical college programs and services to
expedite the transition of adults from welfare to gainful
employment; and

(11) Establishing a single point of contact for employers
and potential employers to access education and training
programs throughout the district.

§18B-3C-8. Process for achieving independently-accredited
community and technical colleges.

(a) Over a six-year period beginning the first day of July,
two thousand one, West Virginia shall move from having
"component" community and technical colleges to having
a statewide network of independently-accredited commu-
nity and technical colleges serving every region of the
state. This section does not apply to the freestanding
community and technical colleges, West Virginia univer-
sity at Parkersburg and Potomac state college of West
Virginia university.

(b) To be eligible for funds appropriated to develop
independently accredited community and technical
colleges, a state institution of higher education shall
demonstrate the following:
(1) That it has as a part of its institutional compact approved by the commission a step-by-step plan with measurable benchmarks for developing an independently accredited community and technical college that meets the essential conditions set forth in section three of this article, except as limited in subdivisions (1),(2) and (4), subsection (c), of this section;

(2) That it is able to offer evidence annually to the satisfaction of the commission that it is making progress toward accomplishing the benchmarks established in its institutional compact for developing an independently accredited community and technical college;

(3) That it has submitted an expenditure schedule approved by the commission which sets forth a proposed plan of expenditures for funds allocated to it from the fund.

(c) The following are recommended strategies for moving from the current arrangement of "component" community and technical colleges to the legislatively mandated statewide network of independently accredited community and technical colleges serving every region of the state.

The Legislature recognizes that there may be other means to achieve this ultimate objective; however, it is the intent of the Legislature that the move from the current arrangement of "component" community and technical colleges to the legislatively mandated statewide network of independently accredited community and technical colleges serving every region of the state shall be accomplished. The following recommendations are designed to reflect significant variations among regions and the potential impacts on the sponsoring institutions.

(1) Marshall university community and technical college, West Virginia state community and technical college and West Virginia university institute of technology. –
status of these institutions shall be determined pursuant to the provisions of article three-I of this chapter.

(2) Bluefield state community and technical college. - Bluefield state community and technical college, including the Lewisburg center, should retain its relationship as a component of Bluefield state college. The president and the institutional board of governors of Bluefield state college are accountable to the commission for ensuring that the full range of community and technical college services is available throughout the region and that the community and technical college adheres, as nearly as possible, to the essential conditions pursuant to section three of this article with the possible exception of independent accreditation.

(3) Center for higher education and workforce development at Beckley. - The president of Bluefield state college and the institutional board of advisors are responsible, according to a plan approved by the commission, for the step-by-step implementation of a new independently accredited community and technical college administratively linked to Bluefield state college, known as the center for higher education and workforce development, which adheres to the essential conditions pursuant to section three of this article. As an independently accredited community and technical college, the center also shall serve as higher education center for its region by brokering with other colleges, universities and other providers, in-state and out-of-state, both public and private, to ensure the coordinated access of students, employers, and other clients to needed programs and services. The new community and technical college shall serve Raleigh, Summers and Fayette counties and be headquartered in Beckley. The commission shall appoint an institutional board of advisors for the center at Beckley which is separate from the institutional board of advisors of Bluefield state
college but may have some overlap in membership to facilitate coordination. In addition, the president of the center shall appoint a district consortium committee to advise the president on a comprehensive assessment of the needs in the region, on coordinating efforts with regional labor market information systems, and on other areas as provided for in section seven of this article relating to the duties of district consortia committees. The center shall facilitate the planning and development of a unified effort involving multiple providers and facilities, including, but not limited to, Concord college, the college of West Virginia, Marshall university, West Virginia university, West Virginia university institute of technology and other entities to meet the documented workforce development needs in the region. Provided, That nothing in this subdivision prohibits or limits any existing, or the continuation of any existing affiliation between the college of West Virginia, West Virginia university institute of technology and West Virginia university. The center for higher education and workforce development at Beckley shall also provide the facilities and support services for other public and private institutions delivering courses, programs and services in Beckley. The objective would be to assure students and employers in the area that there would be coordination and efficient use of resources among the separate programs and facilities, existing and planned, in the Beckley area. If, at a future time, the commission believes it appropriate, it may recommend to the Legislature that the Beckley institution be created as a freestanding institution.

(4) Glenville state community and technical college. — Glenville state community and technical college, including the centers in Nicholas, Lewis and Roane counties, should retain its relationship as a component of Glenville state college. The president of Glenville state college and the governing board are accountable to the commission for
ensuring that the full range of community and technical college services is available throughout the region and that the community and technical college adheres as nearly as possible to the essential conditions pursuant to section three of this article, with the possible exception of independent accreditation.

(5) *Fairmont state community and technical college.* — Fairmont state community and technical college should be an independently accredited community and technical college serving Marion, Doddridge, Barbour, Harrison, Monongalia, Preston, Randolph and Taylor counties. The community and technical college is developed on the base of the existing component community and technical college of Fairmont state college. Subject to the provisions of section eight of this article, the president and the governing board of Fairmont state college are responsible, according to a plan approved by the commission, for step-by-step implementation of the independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section eight of this article, the community and technical college will remain administratively linked to Fairmont state college. Nothing herein shall be construed to require Fairmont state college to discontinue any associate degree program in areas of particular institutional strength which are closely articulated to their baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution.

(6) *Shepherd community and technical college.* — Shepherd community and technical college should become an independently accredited community and technical college. It should serve Jefferson, Berkeley and Morgan counties. The new community and technical college is developed on the base of the existing component commu-
nity and technical college of Shepherd college. Subject to the provisions of section eight of this article, the president and the governing board of Shepherd college are responsible, according to a plan approved by the commission, for step-by-step implementation of the new independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section eight of this article, the community and technical college will remain administratively linked to Shepherd college. Nothing herein shall be construed to require Shepherd college to discontinue any associate degree program in areas of particular institutional strength which are closely articulated to their baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution.

§18B-3C-9. Increasing flexibility for community and technical colleges.

(a) Notwithstanding any rules or procedures of the governing boards to the contrary, the community and technical colleges have the authority and the duty to:

(1) Incorporate the most effective and efficient use of technology in accessing and delivering courses and programs in order to make the best use of available resources and to control costs;

(2) Incorporate a model to offer occupational program curricula in smaller modules to accommodate specific student and employer needs and to gain sufficient flexibility in formatting courses;

(3) Serve as a facilitator for education programs from outside delivery sources to meet the needs of the residents and employers of the district; and
(4) Employ faculty in the most effective manner to serve the core mission of the community and technical college.

(A) To that end, the freestanding community and technical colleges may employ faculty for an indefinite period without a grant of tenure and shall work toward a staffing goal of no more than twenty percent of the faculty holding tenure or being tenure-track employees: Provided, That tenured faculty employed by the freestanding community and technical colleges before the first day of July one thousand nine hundred ninety-nine, shall not be affected by this provision.

(B) All community and technical colleges, other than those set forth in paragraph (A) of this subdivision, may employ faculty for an indefinite period without a grant of tenure. The immediate goal is to use this provision as a tool to assist the community and technical colleges in meeting the essential conditions provided for in section three of this article and in gaining independent accreditation status. The ultimate goal is to provide the flexibility community and technical colleges need to meet the needs of the state by working toward having no more than twenty percent of the core faculty holding tenure or being tenure-track employees: Provided, That tenured faculty employed by community and technical colleges other than freestanding community and technical colleges on the effective date of this section may not be affected by this provision: Provided, however, That tenure shall not be denied to a faculty member solely as a result of change in employing institution necessitated by the change to independently accredited community and technical colleges.

(b) The governing boards shall adopt a model of program approval for the community and technical colleges that permits occupational programs to be customized to meet needs without requiring approval by any governing board
or other agency of government and, furthermore, that incorporates a post-audit review of such programs on a three-year cycle to determine the effectiveness of such programs in meeting district needs.

(c) The interim governing board or the chancellor shall promulgate rules to implement the provisions of this section and shall file these rules for review and approval with the chancellor no later than the first day of December, two thousand.

§18B-3C-10. Free-standing community and technical colleges; tuition and fees.

(a) During the transition year, beginning the first day of July, two thousand, and ending the thirtieth day of June, two thousand one, the appropriate governing board may fix tuition and establish and set such other fees to be charged students at community and technical colleges as it considers 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 and technical college. Funds collected at any such community and technical college may be used only for the benefit of that community and technical college. The appropriate governing board also may establish special fees for such purposes as, including, but not limited to, health services, student activities, student recreation, athletics or any other extracurricular purposes. Such special fees shall be paid into special funds in the state treasury and used only for the purposes for which collected.

(b) Beginning on the first day of July, two thousand one, the appropriate governing board may fix tuition and establish and set such other fees to be charged students at community and technical colleges as it considers appropri-
ate, subject to the provisions of subdivision (2) of this
subsection.

(1) As used in this subsection, "appropriate governing
board" means:

(A) The governing board of the institution, in the case of
a free-standing community and technical college;

(B) The governing boards of Glenville state college and
Bluefield state college, respectively, in the cases of
Glenville community and technical college and Bluefield
community and technical college; and

(C) The institutional board of advisors in all other cases.

(2) The appropriate governing board, in consultation
with the joint commission, also may establish special fees
for such purposes as, including, but not limited to, health
services, student activities, student recreation, athletics or
any other extracurricular purposes: Provided, That the
joint commission shall determine which fees, if any, do not
apply to the entire student population and to which
students such fees do not apply. Such special fees may be
used only for the purposes for which collected.

(3) A community and technical college may contract with
any other state institution of higher education for the
participation of its students in programs, activities or
services of the other institution and for the use of such fees
collected.

(c) All tuition and fee charges in the total aggregate shall
comply with the terms of the institutions compact ap-
proved by the commission based on peer comparisons or
cost of instruction as set forth in the goals for post-secondary
education pursuant to section one-a, article one of this
chapter.
§18B-3C-11. Shared facilities and resources; memoranda of agreements; and joint administrative boards.

1 (a) To the maximum extent feasible, community and technical colleges shall be developed as multisite institutions utilizing existing facilities, including cooperative use of existing vocational education institutes and centers, offering services on the campuses of existing baccalaureate and graduate institutions, at work sites in collaboration with employers and other appropriate venues. Subject to the limitation of subdivision (13), subsection (a), section four, article one-b of this chapter, new public capital investment in physical facilities shall be kept to a minimum. All community and technical colleges shall have missions encompassing the full range of services and programs.

14 (b) The governing boards may accept federal grants and funds from county boards of education, other local governmental bodies, corporations or persons. The governing boards may enter into memoranda of understanding agreements with such governmental bodies, corporations or persons for the use or acceptance of local facilities and for 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 governing boards for the use by the community and technical college and the governing boards 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. In addition, the various education agencies shall establish cooperative relationships to utilize existing community and technical colleges and programs, public school vocational centers and other existing facili-
ties to serve the identified needs within the community
and technical college district.

(c) To facilitate the administration, operation and
financing of programs in shared facilities of any institu-
tion of public higher education and a county board or
boards of education, the affected president and county
board or boards of education may appoint a joint adminis-
trative board consisting of such membership and possess-
ing such delegated authorities as the respective boards
consider necessary and prudent for the operation of such
shared facilities. Such joint administrative boards, as an
example, may consist of five members appointed as
follows: The county board of education appoints two
members; the president appoints two members; and one
at-large member, who shall chair the joint administrative
board, is appointed by mutual agreement of the board and
the president. When two or more county boards of educa-
tion are participating in such shared program, such county
board appointments would be made by mutual agreement
of each of the participating county boards. Members
would 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 would serve for one
year, one member appointed by the county board or boards
of education and one member appointed by the governing
board would serve for two years and the at-large member
would serve for three years. Subsequent appointments
should be for three years. A member would not serve more
than two consecutive terms. Members would be reim-
bursed for reasonable and necessary expenses actually
incurred in the performance of its duties as board mem-
ers 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
would be reimbursed by their employer.
§18B-3C-12. Relationship between administratively linked community and technical colleges and sponsoring institutions.

(a) Intent and Purposes.

(1) It is the intent of the Legislature to establish community and technical colleges in every region of the state of West Virginia that, as far as possible, meet the essential conditions of section three of this article.

(2) The Legislature finds that, in order to increase efficiency, reduce costs and, generally, to facilitate the effective transition from community and technical colleges which are components of existing institutions of higher education to community and technical colleges which meet, as far as possible, the essential conditions, it is appropriate to maintain an administrative link between the community and technical colleges and the sponsoring institution.

(3) This section defines the relationship between the community and technical colleges and its sponsoring institution.

(b) Where independently accredited community and technical colleges are linked administratively to a sponsoring state college or university in order to ensure efficient use of limited resources, the following conditions shall apply:

(1) The community and technical college shall be accredited separately from the sponsoring institution;

(2) All state funding allocations for the community and technical college shall be transferred directly to the community and technical college. The sponsoring institution may charge fees for administrative overhead costs subject to a schedule approved by the commission.
(3) Policies shall be formally established to ensure the separation of academic and faculty personnel policies of the community and technical college from those of the sponsoring institution. These policies include, but are not limited to, appointment, promotion, workload and, if appropriate, tenure.

(c) The sponsoring institution which is administratively linked to a community and technical college shall provide the following services:

(1) Personnel management;
(2) Recordkeeping;
(3) Payroll;
(4) Accounting;
(5) Legal services;
(6) Registration;
(7) Student aid;
(8) Student records; and
(9) Such other services as determined to be necessary and appropriate by the commission.

(d) Subject to the approval of the appropriate governing board, the president of the sponsoring institution, pursuant to the terms of section six, article one-b of this chapter, shall appoint the presidents of the community and technical college, who shall serve at the will and pleasure of the institutional president. Subject to the provisions of section six, article one-b of this chapter, the appropriate governing board shall appoint the president of the sponsoring institution.

(e) The governing board and the president of the sponsoring institution shall be responsible for the step-by-step
60 development of the community and technical college and
61 for compliance with the essential conditions, all as re-
62 quired by this article.
63
64 (f) The president of the sponsoring institution shall have
65 such responsibilities, powers and duties in the develop-
66 ment of the community and technical college and in
67 compliance with the essential conditions, as directed by
68 the governing board or as are necessary for the proper
69 implementation of the provisions of this act.
70
71 (g) Notwithstanding any other provision of the code to
72 the contrary, the commission shall take necessary steps to
73 ensure that institutional bonded indebtedness is secure
74 and that administratively linked community and technical
75 colleges assume their fair share of any institutional debt
76 acquired while they were part of the baccalaureate
77 institution.
78
79 (h) The community and technical college is encouraged
80 to secure academic services from the sponsoring institution
81 when it is in the best interests of the students to be served,
82 the community and technical college and the sponsoring
83 institution. In determining whether or not to secure
84 services from the sponsoring institution, the community
85 and technical college shall consider the following:
86
87 (1) The cost of the academic services;
88
89 (2) The quality of the academic services;
90
91 (3) The availability, both as to time and place, of the
92 academic services; and
93
94 (4) Such other considerations as the community and
95 technical college finds appropriate taking into account the
96 best interests of the students to be served, the community
97 and technical college, and the sponsoring institution:
98 Provided, That nothing in this article shall be construed to
99 prohibit any state institution of higher education from
purchasing or brokering remedial and/or developmental courses from a community and technical college.

ARTICLE 3F. COMMUNITY AND TECHNICAL COLLEGE SERVICES IN THE RESPONSIBILITY AREAS OF MARSHALL UNIVERSITY, WEST VIRGINIA STATE COLLEGE AND WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY.

§18B-3F-1. Legislative intent and findings.

(a) Legislative Intent. — It is the intent of the Legislature to enhance community and technical college services in the responsibility areas of Marshall university, West Virginia state college and West Virginia university institute of technology through the delivery of community and technical college services that meet the goals of section six, article three-c of this chapter and are delivered pursuant to the essential conditions of section three, article three-c of this chapter. It is further the intent of the Legislature to make maximum use of existing institutions in the region and to focus on the benefits available to the Kanawha valley and to the state of providing quality community and technical college education.

(b) Findings. — The Legislature finds the following:

(1) That the Kanawha valley is an area of the state that is under-served for community and technical college education and that deserves more convenient access to higher education opportunities, including access to workforce development programs, and

(2) That, in order to satisfy the growing needs of the Kanawha valley region for access to quality higher education programs, the delivery of community and technical college services in the Kanawha valley must meet the goals for comprehensive community and technical college education described in section two, article three-c of this chapter and must meet the essential conditions for a comprehensive community and technical
§18B-3F-2. Implementation board established.

(a) There is established an implementation board appointed by the commission to insure the step-by-step implementation of the legislative intent contained in section one of this article.

(b) The implementation board shall be comprised of nine members, including the president of Marshall university, or a designee; the president of West Virginia state college, or a designee; the president of West Virginia university institute of technology, or a designee; and six lay persons, three from the responsibility area of Marshall university and three from the responsibility areas of West Virginia state college and West Virginia university institute of technology.

(c) The implementation board shall develop a plan, to be recommended to the commission, for the most effective and efficient method to deliver comprehensive community and technical college education to the citizens and employers of the responsibility areas of Marshall university, West Virginia state college and West Virginia university institute of technology. The plan shall include, but not be limited to:

(1) A determination of the most appropriate manner to achieve the goals set forth in section one-a, article one of this chapter;

(2) The relative strengths of the existing institutions of higher education in the responsibility areas;

(3) The impact of the status of West Virginia state college as an historically black institution of higher education and
as an eighteen hundred and ninety land grant institution;
and

(4) A determination of the appropriate relationship among the existing public institutions of higher education in the responsibility areas.

(d) The commission shall be responsible for, and shall have the authority to implement, an appropriate system, based upon the recommendations of the implementation board or such other plan as the commission determines to be appropriate to meet the essential conditions for effective community and technical college education as provided for in section three, article three-c of this chapter.

(e) If, in the opinion of the commission, implementation of an appropriate plan can not be accomplished without statutory change, then, on or before the fifteenth day of January, two thousand one, the commission shall certify to the governor, the president of the Senate and the speaker of the House of Delegates draft legislation to accomplish the goals of this section and section one-a, article one of this chapter.

(f) The commission is responsible for promoting the effective delivery of community and technical college education programs and services in the responsibility areas of Marshall university community and technical college, West Virginia state community and technical college and West Virginia university institute of technology community and technical college.

§18B-3F-3. Continuing community and technical services of existing institutions.

Subject to change by the commission through the process for the establishment of institutional compacts defined in section two, article one-a of this chapter, nothing in this article may be construed to require Marshall university,
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5 West Virginia State College or West Virginia Institute of
6 Technology to discontinue any associate degree program
7 in areas of particular institutional strength which are
8 closely articulated to their baccalaureate programs and
9 missions or which are of a high cost nature and can best be
10 provided in direct coordination with a baccalaureate
11 institution.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-2. Employment of vice chancellor for administration; office; powers and duties generally.

1 (a) With the approval of the commission, the chancellor
2 for higher education shall employ the vice chancellor for
3 administration who shall serve at the will and pleasure of
4 the chancellor. Any reference in this chapter or chapter
5 eighteen-c of this code to the senior administrator means
6 the vice chancellor of administration, which senior admin-
7 istrator shall become the vice chancellor of administration
8 and also shall serve as interim chancellor for higher
9 education until a chancellor is employed pursuant to
10 section five, article one-b of this chapter.

11 (b) The vice chancellor for administration has a ministc-
12 rial duty, in consultation with and under direction of the
13 chancellor, to perform such functions, tasks and duties as
14 may be necessary to carry out the policy directives of the
15 commission and such other duties as may be prescribed by
16 law.

17 (c) The vice chancellor for administration may employ
18 and discharge, and shall supervise, such professional,
19 administrative, clerical and other employees as may be
20 necessary to these duties and shall delineate staff responsi-
21 bilities as considered desirable and appropriate. The vice
22 chancellor for administration shall fix the compensation
23 and emoluments of such employees: Provided, That those
24 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 the article as well as all other rights and privileges accorded classified employees by the provisions of this code.

(d) Effective on the first day of July, two thousand, the office of the senior administrator and all personnel employed on the thirtieth day of June, two thousand, within the higher education central office, the West Virginia network for educational telecomputing, and the offices of the chancellor of the board of trustees and the chancellor of the board of directors, shall be transferred to the jurisdiction of the chancellor for higher education: Provided, That prior to the first day of October, two thousand, no employee shall be terminated or have his or her salary and benefit levels reduced as the sole result of the governance reorganization that becomes effective on the first day of July, two thousand.

(e) The vice chancellor for administration shall follow state and national education trends and gather data on higher education needs.

(f) The vice chancellor for administration, in accordance with established guidelines and in consultation with and under the direction of the chancellor, 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.

(g) The vice chancellor for administration has a fiduciary responsibility to administer the tuition and registration fee capital improvement revenue bond accounts of the governing boards.

(h) The vice chancellor for administration shall administer the purchasing system or systems of the commission,
the office of the chancellor, and the governing boards:

Provided, That the chancellor may delegate authority for
the purchasing systems or portions thereof to the institu-
tion presidents.

(i) The vice chancellor for administration is responsible
for the management of the West Virginia Network for
Educational Telecomputing (WVNET). The vice chancel-
lor for administration shall establish a computer advisory
board, which shall be representative of higher education
and other users of the West Virginia Network for Educa-
tional Telecomputing as the chancellor for higher educa-
tion determines appropriate. It is the responsibility of the
computer advisory board to recommend to the chancellor
policies for a statewide shared computer system.

(j) The central office, under the direction of the vice
chancellor for administration, shall provide necessary staff
support to the commission and the office of the chancellor.

(k) Effective on the first day of July, two thousand, the
vice chancellor for administration may administer any
program or service authorized or required to be performed
by the board of trustees or the board of directors on the
thirtieth day of June, two thousand, and not specifically
assigned to another agency. In addition, the vice chancel-
lor for administration may administer any program or
service authorized or required to be performed by the
commission or the chancellor for higher education, but not
assigned specifically to the commission or the chancellor.
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.

§18B-4-8. West Virginia Anatomical Board; powers and duties
relating to anatomical gifts; requisition of bodies;
autopsies; transportation of bodies; expenses of
preservation; bond required; offenses and penalties.

(a) There is hereby established the "West Virginia anatomical board" which consists of the following four members: (1) The dean of the school of dentistry, West Virginia university; (2) the chairperson of the department of anatomy, West Virginia university; (3) the chairperson of the department of anatomy, school of medicine, Marshall university; and (4) the dean of the school of medicine, West Virginia school of osteopathic medicine.

(b) The board shall have authority to appoint such officers, employees and agents as may be necessary to carry out the purposes for which the board is organized. It shall keep a full and complete record of its transactions, showing, among other things, every dead human body coming under its authority, giving name, sex, age, date of death, place from which received and when and from whom received, which record shall be open at all times to the inspection of the attorney general and any prosecuting attorney in the state.

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

(d) All dead human bodies which may come under the charge or control of any mortician, any officer or agent of the department of welfare or of any county commission or municipality, or any superintendent, officer or agent
having the supervision of any prison, morgue, hospital or other public institution in this state and which may be required to be buried at public expense, shall be subject to the requisition of the board as provided in this section. No such body shall be delivered to the board if any person related to the deceased by blood or marriage shall make a statement in writing to that effect and shall claim such body for burial or shall make affidavit that the relative is unable to bear the expense of burial and desires that the deceased be buried at public expense. This statement and affidavit may be filed by any such relative with the person having charge and control of the body of the person so claimed, either before or after the death of such person.

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

(f) It shall be the duty of any person who has charge or control of any unclaimed body, subject to requisition by the board, to give notice to the board of that fact by telephone or telegraph within twenty-four hours after such body comes under that person's control. Thereafter, such person shall hold the body subject to the order of the board for at least twenty-four hours after the sending of such notice. If the board makes requisition for the body within the twenty-four hour period, it shall be delivered, pursuant to the order of the board, to the board or its authorized agent for transportation to any education institution which the board considers to be in bona fide need of the body and able to adequately control, use and dispose of the body. The board shall make suitable arrangements for the transportation of any body, or part or parts of any body, which may come under its authority to the education institution. All expenses incurred in connection with the preservation, delivery and transporta-
tion of any body delivered pursuant to the order of the
board shall be paid by the education institution receiving
the body.

(g) No dead body shall be received or requisitioned by
the board until the members of the board have filed a bond
with the clerk of the circuit court of Kanawha County in
a penalty of one thousand dollars, with good security,
signed by a responsible person or persons, or by some
surety company authorized to do business in this state, or
have proved to the clerk that they are covered by a suit-
able bond in at least that amount, conditioned for the
faithful performance of their duties.

(h) Any person who shall neglect, refuse or fail to
perform any duty required by this section relating to the
board shall be guilty of a misdemeanor and, upon convic-
tion thereof, shall be punished by a fine of not more than
one hundred dollars or by imprisonment in the county or
regional jail for not more than ten days or by both such
fine and imprisonment. Any person who fails to give the
required notice that that person has charge of an un-
claimed body subject to requisition by the board shall also
be personally liable for all burial expenses, if such body
was buried at public expense, to the public agency that
paid for the burial.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

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

The governing boards and the commission are authorized
and empowered to enter into contracts and expend funds
for programs, services and facilities provided by public
and private education institutions, associations, boards,
agencies, consortia, corporations, partnerships, individuals
and local, state and federal governmental bodies within
and outside of West Virginia in order that maximum
higher education opportunities of high quality may be provided to the citizens of the state in the most economical manner: Provided, That in no event may a contract for such services and facilities be entered into unless the commission or the governing boards have determined that such services and facilities are necessary and that such services and facilities would be at a savings to the state.

Notwithstanding the provisions of this section, nothing herein contained shall supersede the responsibility and respective duties of the secretary of administration and the director of the purchasing division of such department for the execution and approval of the contracts entered into under this article and such contracts shall be in complete conformity with the provisions of articles three and five, chapter five-a of this code.

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

(a) The commission and each governing board, through the vice chancellor for administration shall purchase or acquire all materials, supplies, equipment and printing required for that governing board or the commission, as appropriate, and the state institutions of higher education under their jurisdiction. The commission shall adopt rules governing and controlling acquisitions and purchases in accordance with the provisions of this section. Such rules shall assure that the governing boards: (1) Do not preclude any person from participating and making sales thereof to the governing board or to the higher education commission except as otherwise provided in section five of this article: Provided, That the providing of consultant services such as strategic planning services will not preclude or inhibit the governing boards or the commission from considering any qualified bid or response for delivery of a product or a commodity because of the rendering of those consultant services; (2) shall establish and prescribe specifications, in
(a) The commission or each governing board, through the vice chancellor for administration may issue a check in advance to a company supplying postage meters for postage used by that board, the commission and by the state institutions of higher education under their jurisdiction.

(b) The commission or each governing board, through the vice chancellor for administration may issue a check in advance to a company supplying postage meters for postage used by that board, the commission and by the state institutions of higher education under their jurisdiction.

(c) When a purchase is to be made by bid, any or all bids may be rejected. However, all purchases based on adver-
tised bid requests shall be awarded to the lowest responsible bidder taking into consideration the qualities of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the governing boards, the commission and delivery terms. Provided, That the preference for resident vendors as provided in section thirty-seven, article three, chapter five-a of this code shall apply to the competitive bids made pursuant to this section.

(d) The governing boards and the commission shall maintain a purchase file, which shall be a public record and open for public inspection. After the award of the order or contract, the governing boards and the commission shall indicate upon the successful bid that it was the successful bid and shall further indicate why bids are rejected and, if the mathematical low vendor is not awarded the order or contract, the reason therefor. No records in the purchase file shall be destroyed without the written consent of the legislative auditor. Those files in which the original documentation has been held for at least one year and in which the original documents have been reproduced and archived on microfilm or other equivalent method of duplication may be destroyed without the written consent of the legislative auditor. All files, no matter the storage method, shall be open for inspection by the legislative auditor upon request.

(e) The commission also shall adopt rules to prescribe qualifications to be met by any person who is to be employed as a buyer pursuant to this section. These rules shall require that no person may be employed as a buyer unless that person, at the time of employment, either is: (1) A graduate of an accredited college or university; or (2) has at least four years' experience in purchasing for any unit of government or for any business, commercial or industrial enterprise. Any person making purchases and
acquisitions pursuant to this section shall execute a bond in the penalty of fifty thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, in form prescribed by the attorney general and conditioned upon the faithful performance of all duties in accordance with sections four through eight of this article and the rules of the interim governing board and the commission. In lieu of separate bonds for such buyers, a blanket surety bond may be obtained. Any such bond or bonds shall be filed with the secretary of state. The cost of any such bond or bonds shall be paid from funds appropriated to the applicable governing board or commission.

(f) All purchases and acquisitions shall be made in consideration and within limits of available appropriations and funds and in accordance with applicable provisions of article two, chapter five-a of this code, relating to expenditure schedules and quarterly allotments of funds.

(g) The governing boards and the commission may make requisitions upon the auditor for a sum to be known as an advance allowance account, in no case to exceed five percent of the total of the appropriations for the governing board or the commission, and the auditor shall draw a warrant upon the treasurer for such accounts; and all such advance allowance accounts shall be accounted for by the applicable governing board or commission once every thirty days or more often if required by the state auditor.

(h) Contracts entered into pursuant to this section shall be signed by the applicable governing board or the commission in the name of the state and shall be approved as to form by the attorney general: Provided, That a contract in which the total does not exceed five thousand dollars and for which the attorney general has not responded within fifteen days of presentation of the contract, the contract shall be deemed approved: Provided, however,
That a contract or a change order for that contract which
in total does not exceed fifteen thousand dollars and which
uses terms and conditions or standardized forms previ-
ously approved by the attorney general and does not make
substantive changes in the terms and conditions of the
contract does not require approval by the attorney general:

Provided further, That the attorney general shall make a
list of those changes which he or she deems to be substan-
tive and the list, and any changes thereto, shall be pub-
lished in the state register. A contract that exceeds fifteen
thousand dollars shall be filed with the state auditor: And
provided further, That upon request, the governing boards
or the commission shall make all contracts available for
inspection by the state auditor. The governing board or
the commission, as appropriate shall prescribe the amount
of deposit or bond to be submitted with a bid or contract,
if any, and the amount of deposit or bond to be given for
the faithful performance of a contract. If the governing
board or the commission purchases or contracts for
materials, supplies, equipment and printing contrary to
the provisions of sections four through seven of this article
or the rules pursuant thereto, such purchase or contract
shall be void and of no effect.

(i) Any governing board or the commission, as appropri-
ate, may request the director of purchases to make avail-
able, from time to time, the facilities and services of that
department to the governing boards or the commission in
the purchase and acquisition of materials, supplies,
equipment and printing and the director of purchases shall
cooperate with that governing board or the commission, as
appropriate, in all such purchases and acquisitions upon
such request.

(j) Each governing board or the commission, as appropri-
ate, shall permit private institutions of higher education to
join as purchasers on purchase contracts for materials,
supplies and equipment entered into by that governing board or the commission. Any private school desiring to join as purchasers on such purchase contracts shall file with that governing board or the commission an affidavit signed by the president of the institution of higher education or a designee requesting that it be authorized to join as purchaser on purchase contracts of that governing board or the commission, as appropriate, and agreeing that it will be bound by such terms and conditions as that governing board or the commission may prescribe and that it will be responsible for payment directly to the vendor under each purchase contract.

(k) Notwithstanding any other provision of this code to the contrary, the governing boards and the commission, as appropriate, may make purchases from the federal government or from federal government contracts if the materials, supplies, equipment or printing to be purchased is available from the federal government or from a federal contract and purchasing from the federal government or from a federal government contract would be the most financially advantageous manner of making the purchase.

(l) An independent performance audit of all purchasing functions and duties which are performed at any institution of higher education shall be performed each fiscal year. The joint committee on government and finance shall conduct the performance audit and the governing boards and the commission, as appropriate, shall be responsible for paying the cost of the audit from funds appropriated to the governing boards or the commission.

(m) The governing boards shall require each institution under their respective jurisdictions to notify and inform every vendor doing business with that institution of the provisions of section fifty-four, article three, chapter five-a of this code, also known as the "prompt pay act of 1990".
(n) Consultant services, such as strategic planning services, may not preclude or inhibit the governing boards or the commission from considering any qualified bid or response for delivery of a product or a commodity because of the rendering of those consultant services.

ARTICLE 6. ADVISORY BOARDS.

§18B-6-1. Institutional boards of advisors for regional campuses and administratively linked community and technical colleges.

(a) Effective the first day of July, two thousand, there is established at each regional campus and administratively linked community and technical college, excluding centers and branches thereof, an institutional board of advisors. Provided, That the institutional board of advisors shall not be appointed for administratively linked community and technical colleges until provided for in their compact.

(1) For the transition year beginning on the first day of July, two thousand, through the thirtieth day of June, two thousand one, only, the lay members of the institutional board of advisors established for each of the regional campuses of West Virginia university are appointed by the president of the respective institution. Effective the first day of July, two thousand one, the lay members of the institutional boards of advisors for the regional campuses are appointed by the institutional board of governors.

(2) The lay members of the institutional board of advisors established for the administratively linked community and technical colleges are appointed by the joint commission.

(b) The board of advisors consists of fifteen members, including 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 twelve lay persons appointed pursuant to subsection (a) of this section who have demonstrated a sincere interest in and concern for the welfare of that institution and who are representative of the population of its responsibility district and fields of study. At least eight of the twelve lay persons appointed shall be residents of the state. Of the lay members who are residents of the state, at least two shall be alumni of the institution and no more than a simple majority may be of the same political party.

(c) The student member shall serve for a term of one year beginning upon appointment in July, two thousand, and ending on the thirtieth day of April, two thousand one. Thereafter the term shall begin on the first day of May. The faculty member and the classified staff member shall serve for a term of two years beginning upon appointment in July, two thousand, and ending on the thirtieth day of April, two thousand two. Thereafter the term shall begin on the first day of May; and the twelve lay members shall serve terms of four years each beginning upon appointment in July, two thousand. Thereafter the term shall begin on the first day of May. All members are eligible to succeed themselves for no more than one additional term. A vacancy in an unexpired term of a member shall be filled for the remainder of the unexpired term within thirty 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.

(d) Each board of advisors shall hold a regular meeting at least quarterly, commencing in May of each year. Additional meetings may be held upon the call of the
chairperson, president of the institution or upon the written request of at least five members. A majority of the members constitutes a quorum for conducting the business of the board of advisors.

(e) One of the twelve lay members shall be elected as chairperson by the board of advisors in May of each year. Provided, That the chairperson elected in two thousand shall be elected in July. No member may serve as chairperson for more than two consecutive years.

(f) 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 boards of advisors and the institutions under this section shall be paid from funds allocated to the institutions for that purpose.

(g) 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 considers proper. The written comments and recommendations shall accompany the proposal to the governing board and the governing board shall include the 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.

(h) 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 the proposals in writing.

(i) The board of advisors shall provide advice and assistance to the president in establishing closer connections between higher education and business, labor, government, community and economic development organizations to give students greater opportunities to experience the world of work, such as business and community service internships, apprenticeships and cooperative programs; to communicate better and serve the current workforce and workforce development needs of their service area, including the needs of nontraditional students for college-level skills upgrading and retraining and the needs of employers for specific programs of limited duration; and to assess the performance of the institution's graduates and assist in job placement.

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

(k) The boards of advisors shall develop a master plan for each administratively linked community and technical college. The ultimate responsibility for developing and updating the master plans at the institutional level resides with the institutional board of advisors, but the ultimate responsibility for approving the final version of the institutional master plans, including periodic updates, resides with the commission. The plan shall include, but not be limited to, the following:

(1) A detailed demonstration of how the master plan will be used to meet the goals and objectives of the institutional compact;

(2) A well-developed set of goals outlining missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and other planning determinates and projections necessary in such a plan to assure that the needs of the institution's area of responsibility for a quality system of higher education are addressed;

(3) Documentation of the involvement of the commission, institutional constituency groups, clientele of the institu-
tion, and the general public in the development of all segments of the institutional master plan.

The plan shall be established for periods of not less than three nor more than six years and shall be revised periodically as necessary, including recommendations on the addition or deletion of degree programs as, in the discretion of the board of advisors, may be necessary.

§18B-6-la. Institutional boards of advisors for universities, state colleges and free-standing community and technical colleges.

(a) For the transition year beginning on the first day of July, two thousand, through the thirtieth day of June, two thousand one, only, there is established at the following state institutions of higher education, excluding centers and branches thereof, an institutional board of advisors:
Bluefield state college, Concord college, eastern West Virginia community and technical college, Fairmont state college, Glenville state college, Marshall university, Shepherd college, southern West Virginia community and technical college, West Liberty state college, West Virginia northern community and technical college, the West Virginia school of osteopathic medicine, West Virginia state college and West Virginia university.

(b) The boards of advisors are established as follows:

(1) Each institutional board of advisors shall consist of twelve persons: Provided, That the institutional boards of advisors for Marshall university and West Virginia university shall consist of fifteen persons. Each board of advisors shall include:

(A) A full-time member of the faculty with the rank of instructor or above duly elected by the faculty;
(B) A member of the student body in good academic standing, enrolled for college credit work and duly elected by the student body;

(C) A member of the institutional classified staff duly elected by the classified staff; and

(D) Nine lay members appointed by the governor, by and with the advice and consent of the Senate: Provided, That for the institutional boards of advisors at Marshall university and West Virginia university, the governor shall appoint twelve members, by and with the advice and consent of the Senate: Provided, however, That, of the appointed lay members, the governor shall appoint one superintendent of a county board of education from the area served by the institution: Provided further, That in making the initial appointments only, the governor shall endeavor to make appointments from a pool of those persons who, on the thirtieth day of June, two thousand, are members of the board of trustees and the board of directors.

(2) Of the nine members appointed by the governor, no more than five may be of the same political party: Provided, That for the appointed members of the institutional boards of advisors of Marshall university and West Virginia university, no more than seven may be of the same political party. At least six of the members shall be residents of the state: Provided, however, That for the appointed members of the institutional boards of advisors of Marshall university and West Virginia university, at least eight of the members shall be residents of the state.

All members shall serve for a term of one year. A vacancy in an unexpired term of a member shall be filled for the unexpired term within thirty days of the occurrence of the vacancy 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 June preceding the commence-
ment of the term: Provided further, That election of
officers for the term beginning in July, two thousand, shall
be made in July. Each board of advisors shall elect one of
its appointed lay members to be chairperson.

(3) Each board of advisors shall hold a regular meeting
at least quarterly, commencing in July, two thousand.
Additional meetings may be held upon the call of the
chairperson or upon the written request of at least four
members: Provided, That for the institutional boards of
advisors of Marshall university and West Virginia uni-
versity, additional meetings may be held upon the call of the
chairperson or upon the written request of at least five
members. A majority of the members constitutes a quorum
for conducting the business of the board of advisors.

(4) 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 serve without compensation, but 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
that purpose.

(5) 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, aca-
demic 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 considers
proper. The written comments and recommendations shall accompany the proposal to the governing board and the governing board shall include the 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.

(6) 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 the proposals in writing.

(7) The board of advisors shall provide advice and assistance to the president in establishing closer connections between higher education and business, labor, government, community and economic development organizations to give students greater opportunities to experience the world of work, such as business and community service internships, apprenticeships and cooperative programs; to communicate better and serve the current workforce and workforce development needs of their service area, including the needs of nontraditional students for college-level skills upgrading and retraining and the needs of employers for specific programs of limited duration; and to assess the performance of the institution's graduates and assist in job placement.

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

(c) The institutional boards of advisors created under this section have the following additional duties:

(1) The responsibility to develop the institutional compacts for their respective institutions under the guidance and direction of the commission pursuant to section two, article one-a of this chapter.

(2) The authority to participate in any orientation or leadership training or education opportunities provided or arranged by the commission.

§18B-6-2a. State advisory council of faculty.

(a) Effective the first day of July, two thousand, there is hereby established the state advisory council of faculty. For the purposes of this section, the state advisory council of faculty shall be referred to as the “council.”

(b) During the month of April of each odd-numbered year, beginning in the year two thousand one, each president or other administrative head of a state institution of
higher education, including, but not limited to, Potomac
state college of West Virginia university, West Virginia
university at Parkersburg, West Virginia university
institute of technology, Robert C. Byrd health sciences
Charleston division of West Virginia university and the
Marshall university graduate college, at the direction of
the council and in accordance with procedures established
by the council, shall convene a meeting or otherwise
institute a balloting process to elect one faculty to serve on
the institutional board of governors or the institutional
board of advisors, as applicable. Terms of the members of
the council shall be for two years and shall begin on the
first day of July of each odd-numbered year. Members of
the council shall be eligible to succeed themselves. Each
person so elected shall be a member of the statewide
advisory council of faculty.

(c) The council shall meet at least once each quarter.
One of the quarterly meetings shall be during the month of
July, at which meeting the council shall elect a chairperson:
Provided, That the chairperson shall serve no more
than two consecutive terms as chair. No member may vote
by proxy at the election. In the event of a tie in the last
vote taken for such election, a member authorized by the
council shall select the chairperson by lot from the names
of those persons tied. Immediately following the election
of a chairperson, the council shall elect, in the manner
prescribed by this section for the election of a chairperson,
a member of the council to preside over meetings of the
council in the chairperson’s absence. Should the chairper-
son vacate the position, the council shall meet and elect a
new chairperson to fill the unexpired term within thirty
days following the vacancy.

(d) The council, through its chairperson and in any
appropriate manner, shall communicate to the commis-
sion, through the chancellor, matters of higher education
in which the faculty members may have an interest.

(c) The commission shall meet annually between the
months of October and December with the council to
discuss matters of higher education in which the faculty
members or the commission may have an interest.

(f) Members of the council shall serve without compensa-
tion, but shall be entitled to reimbursement for actual and
necessary expenses incurred in the performance of their
official duties from funds allocated to the state institution
of higher education served.

(g) The council shall cause to be prepared minutes of its
meetings, which minutes shall be available, upon request,
to any faculty member of a state institution of higher
education represented on the council.

§18B-6-3a. State advisory council of students.

(a) Effective the first day of July, two thousand, there is
hereby established the state advisory council of students.
For the purposes of this section, the state advisory council
of students shall be referred to as the "council".

(b) During the month of April of each year, beginning in
the year two thousand one, each student government
organization at each state institution of higher education,
including, but not limited to, Potomac state college of
West Virginia university, West Virginia university at
Parkersburg, West Virginia university institute of technol-
yogy, Robert C. Byrd health sciences Charleston division of
West Virginia university and the Marshall university
graduate college, at the direction of the council and in
accordance with procedures established by the council,
shall elect a student, who may be the elected head or
president of the organization, to serve on the institutional
board of governors or the institutional board of advisors,
as applicable. Terms of the members of the council shall be for one year and shall begin on the first day of July of each year. Members of the council shall be eligible to succeed themselves. Each person so elected shall be a member of the statewide advisory council of students.

(c) The council shall meet at least once each quarter. One of the quarterly meetings shall be during the month of July, at which meeting the council shall elect a chairperson. No member may vote by proxy at the election. In the event of a tie in the last vote taken for such election, a member authorized by the council shall select the chairperson by lot from the names of those persons tied. Immediately following the election of a chairperson, the council shall elect, in the manner prescribed by this section for the election of a chairperson, a member of the council to preside over meetings of the council in the chairperson’s absence. Should the chairperson vacate the position, the council shall meet and elect a new chairperson to fill the unexpired term within thirty days following the vacancy.

(d) The council, through its chairperson and in any appropriate manner, shall communicate to the commission, through the chancellor, matters of higher education in which the student members may have an interest.

(e) The commission shall meet annually, between the months of October and December, with the council to discuss matters of higher education in which the student members or the commission may have an interest.

(f) Members of the council shall serve without compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties from funds allocated to the state institution of higher education served.

(g) The council shall cause to be prepared minutes of its meetings, which minutes shall be available, upon request,
to any student of a state institution of higher education represented on the council.

§18B-6-4a. State advisory councils of classified employees.

(a) Effective the first day of July, two thousand, there is hereby established the state advisory council of classified employees. For the purposes of this section, the state advisory council of classified employees shall be referred to as the "council".

(b) During the month of April of each odd-numbered year, beginning in the year two thousand one, each president or other administrative head of a state institution of higher education, including, but not limited to, Potomac state college of West Virginia university, West Virginia university at Parkersburg, West Virginia university institute of technology, Robert C. Byrd health sciences Charleston division of West Virginia university and the Marshall university graduate college, at the direction of the council and in accordance with procedures established by the council, shall convene a meeting or otherwise institute a balloting process to elect one classified employee to serve on the institutional board of governors or the institutional board of advisors. Terms of the members of each council shall be for two years and shall begin on the first day of July of each odd-numbered year and members of the council shall be eligible to succeed themselves. Each person so elected shall be a member of the statewide advisory council of classified employees.

(c) The council of classified employees shall meet at least once each quarter. One of the quarterly meetings shall be during the month of July, at which meeting the council shall elect a chairperson: Provided, That the chair shall serve no more than two consecutive terms as chair. No member may vote by proxy at the election. In the event of a tie in the last vote taken for such election, a member
authorized by the council shall select the chairperson by
lot from the names of those persons tied. Immediately
following the election of a chairperson, the council shall
elect, in the manner prescribed by this section for the
election of a chairperson, a member of the council to
preside over meetings of the council in the chairperson’s
absence. Should the chairperson vacate the position, the
council shall meet and elect a new chairperson to fill the
unexpired term within thirty days following the vacancy.

(d) The council, through its chairperson and in any
appropriate manner, shall communicate to the commis-
sion, through the chancellor, matters of higher education
in which the classified employees may have an interest.

(e) The commission shall meet annually, between the
months of October and December, with the council to
discuss matters of higher education in which the classified
employees or the commission may have an interest.

(f) Members of the council shall serve without compensa-
tion, but shall be entitled to reimbursement for actual and
necessary expenses incurred in the performance of their
official duties from funds allocated to the state institution
of higher education served.

(g) The council shall cause to be prepared minutes of its
meetings, which minutes shall be available, upon request,
to any classified employee of a state institution of higher
education represented on the council.

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 are 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, accumulates to a minimum total of one thousand forty hours during a calendar year and extends over at least nine months of a calendar year: Provided, That this section also applies to any classified employee who is involuntarily transferred to a position in nonclassified status for which he or she did not apply: Provided, however, That any classified employee involuntarily transferred to a position in nonclassified status may only exercise the rights set out in this section for positions equivalent to or lower than the last job class the employee held.

(b) All decisions by the appropriate governing board, the commission or its 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 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 shall 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, the employee shall retain all rights of recall provided in this section. 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 classifications 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 the employee to refuse an offer of reemployment by the institution.

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

(d) A nonexempt classified employee, including a nonexempt 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 nonexempt job opening at the institution where the employee is currently employed, whether
the job is a lateral transfer or a promotion, and applies for
the job shall be transferred or promoted before a new
person is hired unless the 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, nonexempt classified employee applies,
the best-qualified nonexempt classified employee shall be
awarded the position. In instances where the classified
employees are equally qualified, the nonexempt classified
employee with the greatest amount of continuous seniority
at that state institution of higher education shall be
awarded the position. A nonexempt classified employee is
one to whom the provisions of the federal Fair Labor
Standards Act, as amended, apply.

(e) In addition to any other information required, any
application for personnel governed by the provisions of
this section shall include the applicant's social security
number.

ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND CLASSIFICATION SYSTEM.


1 As used in this article:

(a) "Classified employee or employee" means any regular
full-time or regular part-time employee of a governing
board or the commission, including all employees of the
West Virginia network for educational telecomputing and
employees at the higher education central office of the
commission, who hold a position that is assigned a partic-
ular job title and pay grade in accordance with the personnel
classification system established by this section or
governing board policy and shall include all employees of
the West Virginia network for educational telecomputing;

(b) "Nonclassified employee" means an individual who
is responsible for policy formation at the department or
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institutional level, or reports directly to the president, or
is in a position considered critical to the institution by the
president pursuant to policies adopted by the governing
board: Provided, That the percentage of personnel placed
in the category of "nonclassified" at any given institution
shall not exceed ten percent of the total number of em-
ployees of that institution who are eligible for membership
in any state retirement system of the state of West Virginia
or other retirement plan authorized by the state: Provided,
however, That an additional ten percent of the total
number of employees of that institution as defined in this
subsection may be placed in the category of "nonclassified" if they are in a position considered critical
to the institution by the president. Final approval of such
placement shall be with the appropriate governing board;
(c) "Job description" means the specific listing of duties
and responsibilities as determined by the appropriate
governing board and associated with a particular job title;
(d) "Job title" means the name of the position or job as
defined by the appropriate governing board;
(e) "Merit increases and salary adjustments" means the
amount of additional salary increase allowed on a merit
basis or to rectify salary inequities or accommodate
competitive market conditions in accordance with rules
established by the interim governing board or the commis-

sion;
(f) "Pay grade" means the number assigned by the
appropriate governing board to a particular job title and
refers to the vertical column heading of the salary schedule
established in section three of this article;
(g) "Personnel classification system" means the process
of job categorization adopted by the appropriate govern-
ing board by which job title, job description, pay grade
and placement on the salary schedule are determined;
(h) “Salary” means the amount of compensation paid through the state treasury per annum to a classified employee;

(i) “Schedule” or “salary schedule” means the grid of annual salary figures established in section three of this article; and

(j) “Years of experience” means the number of years a person has been an employee of the state of West Virginia and refers to the horizontal column heading of the salary schedule established in section three of this article. For the purpose of placement on the salary schedule pursuant to said section, employment for nine months or more shall equal one year of experience, but no classified employee may accrue more than one year of experience during any given fiscal year. Employment for less than full time or less than nine months during any fiscal year shall be prorated. For the purpose of determining the amount of annual salary increase pursuant to subsection (b), section five of this article, employment for less than twelve months during any fiscal year shall be prorated. In accordance with rules established by the interim governing board or the commission, a classified employee may be granted additional years of experience not to exceed the actual number of years of prior, relevant work or experience at accredited institutions of higher education other than state institutions of higher education.

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

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

(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories of students enrolling at each state institution of higher education under its jurisdiction and may include among
such fees any one or more of the following: (1) Health
service fees; (2) infirmary fees; (3) student activities,
recreational, athletic and extracurricular fees, which fees
may be used to finance a students' attorney to perform
legal services for students in civil matters at such institu-
tions. Provided, That such legal services shall be limited
to only those types of cases, programs or services approved
by the administrative head of such institution where such
legal services are to be performed; and (4) graduate center
fees and branch college fees, or either, if the establishment
and operations of graduate centers or branch colleges are
otherwise authorized by law. All fees collected at any
graduate center or at any branch college shall be paid into
special funds and shall be used solely for the maintenance
and operation of the graduate center or branch college at
which they were collected: Provided, however, That the
governing boards shall use the median of the average
tuition and required fees at similarly classified institutions
in member states of the southern regional education board
as a goal in establishing tuition and required fee levels for
residents at state institutions of higher education under
their jurisdiction: Provided further, That the governing
boards shall use the actual instructional cost as the same
shall be determined in accordance with commission 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 effective the first day of July, two
thousand one, tuition and fees for nonresident, undergrad-
uate students shall, at a minimum, cover actual instruc-
tional costs. And provided further, That students enrolled
in undergraduate courses offered at off-campus locations
shall pay an off-campus instruction fee and shall not pay
the athletic fee and the student activity fee. The
off-campus instruction fee shall be used solely for the
support of off-campus courses offered by the institution.
Off-campus locations for each institution shall be defined.
(b) In addition to the fees mentioned in the preceding paragraph, each governing board may impose and collect a student union building fee. All such building fees collected at an institution shall be paid into a special student union building fund for such institution, which is hereby created in the state treasury, and shall be used only for the construction, operation and maintenance of a student union building or a combination student union and dining hall building or for the payment of the principal of and interest on any bond issued to finance part or all of the construction of a student union building or a combination student union and dining hall building or the renovation of an existing structure for use as a student union building or a combination student union and dining hall building, all as more fully provided in section ten of this article. Any moneys in such funds not needed immediately 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 is one enrolled for twelve or more credit hours in a regular term, and a full-time graduate student is one enrolled for nine or more credit hours in a regular term. Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour, and graduate students taking fewer than nine credit hours in
a regular term shall have their fees reduced pro rata based
upon one ninth of the full-time rate per credit hour.

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

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

(1) The governing boards shall permit fee payments to be
made in up to three installments over the course of the
academic term: 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 also shall authorize the accept-
tance 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 inc-
curred 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) On or before the first day of July, two thousand one,
the chancellor for higher education shall review policy
series twenty-two of the governing boards, related to
assessment, payment and refund of fees and determine
whether a new rule should be adopted regarding the
refund of any fees upon the voluntary or involuntary
withdrawal from classes of any student. The rules shall
comply with all applicable state and federal laws and shall
be uniformly applied throughout the system.

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

(g) Any proposed fee increase which would become
effective during the transition year beginning on the first
day of July, two thousand, and ending on the thirtieth day
of June, two thousand one, and which has been approved
by the governing board, shall then be submitted by the
governing board to the secretary for education and the arts
for approval. Such approval shall be granted only upon
the certification that such institution requesting a fee
increase is in compliance with the strategic plans required
to be submitted, pursuant to section one-b, article one of
this chapter. Notice, in the form of a report, shall be
provided by the chancellor to the legislative oversight
commission on education accountability describing such
fee increases and showing how such increases compare
with the average tuition and fees charged at comparable
peer institutions in member states of the southern regional
education board. Effective the first day of July, two
thousand one, tuition and fees rates shall be determined in
accordance with subsection (h), subsection (i) and subsec-
tion (j) of this section.
(h) Effective the first day of July, two thousand one, institutions shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with a revised tuition policy adopted by the respective governing boards and approved by the commission. The revised tuition policy shall:

1. Provide a basis for establishing nonresident tuition and fees;
2. Allow institutions to charge different tuition and fees for different programs; and
3. Establish methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for community and technical college students in all independently accredited community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

(i) No penalty shall be imposed by the commission upon any institution based upon the number of nonresidents who attend the institution unless the commission determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of the resident students to attend the institution or participate in the programs of the institution. The institutions shall report annually to the commission on the numbers of out-of-state residents and such other enrollment information as the commission may request.

(j) No governing board may increase tuition and fees more than four percent nor increase tuition and fees to more than one hundred percent of the tuition and fees of peer institutions, as determined by the commission, without the approval of the commission.
§18B-10-2. Higher education resource fee.

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

14 Ninety percent of the total fees collected at each institution pursuant to this section shall be deposited in a special fund in the state treasury for the institution at which the fees are collected and may be used by the institution for libraries and library supplies, including books, periodicals, subscriptions and audiovisual materials, instructional equipment and materials; and for the improvement in quality and scope of student services. Up to ten percent of the fee collections shall be deposited in a special fund and expended or allocated by the commission to meet general operating expenses of the commission or to fund statewide programs: Provided, That the board shall, to the maximum extent practicable, offset the impact, if any, on financially needy students of any potential fee increases under this section by allocating an appropriate amount of such fee revenue to the state scholarship program to be expended in accordance with the provisions of article five, chapter eighteen-c of this code.

32 The commission shall, on or before the first day of July of each year, provide the legislative auditor with a report
§18B-10-8. Collection; disposition and use of additional registration fee; creation of special capital improvements funds; revenue bonds.

(a) In addition to all other fees imposed by the commission, there is hereby imposed and the commission is hereby directed to provide for the collection of an additional registration fee from all students enrolled in any state institution of higher education under its jurisdiction in the amounts hereinafter provided.

For full-time students at each state institution of higher education, the additional registration fee shall be fifty dollars per semester. The commission has authority to increase such additional registration fee at institutions of higher education under its jurisdiction for students who are nonresidents of this state. For all part-time students and for all summer school students, the commission shall impose and collect such fee in proportion to, but not exceeding, that paid by full-time students.

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

(b) There is created in the state treasury a state system special capital improvements fund into which shall be paid all proceeds of the additional registration fees collected from students at all state institutions of higher education pursuant to this section to be expended by the commission for the payment of the principal of or interest on any revenue bonds issued by the board of regents or the
succeeding governing boards for which such registration
fees were pledged prior to the enactment of this section.

(c) The commission may make expenditures from any of
the special capital improvements funds established in this
section to finance, in whole or in part, together with any
federal, state or other grants or contributions, any one or
more of the following projects: (1) The acquisition of land
or any rights or interest therein; (2) the construction or
acquisition of new buildings; (3) the renovation or con-
struction of additions to existing buildings; (4) the acquisi-
tion of furnishings and equipment for any such buildings;
and (5) the construction or acquisition of any other capital
improvements or capital educational facilities at such
state institutions of higher education, including any roads,
utilities or other properties, real or personal, or for other
purposes necessary, appurtenant or incidental to the
construction, acquisition, financing and placing in opera-
tion of such buildings, capital improvements or capital
educational facilities.

The commission, in its discretion, may use the moneys in
such special capital improvements funds to finance the
costs of the above purposes on a cash basis, or may from
time to time issue revenue bonds of the state as provided
in this section to finance all or part of such purposes and
pledge all or any part of the moneys in such special funds
for the payment of the principal of and interest on such
revenue bonds, and for reserves therefor. Any pledge of
such special funds for such revenue bonds shall be a prior
and superior charge on such special funds over the use of
any of the moneys in such funds to pay for the cost of any
of such purposes on a cash basis: Provided, That any
expenditures from such special funds, other than for the
retirement of revenue bonds, may only be made by the
commission to meet the cost of a predetermined capital
improvements program for one or more of the state
64 institutions of higher education, in such order of priority
65 as was agreed upon by the commission and presented to
66 the governor for inclusion in the annual budget bill, and
67 only with the approval of the Legislature as indicated by
68 direct appropriation for the purpose.

69 Such revenue bonds may be authorized and issued from
70 time to time by the commission to finance in whole or in
71 part the purposes provided in this section in an aggregate
72 principal amount not exceeding the amount which the
73 commission determines can be paid as to both principal
74 and interest and reasonable margins for a reserve therefor
75 from the moneys in such special funds.

76 The issuance of such revenue bonds shall be authorized
77 by a resolution adopted by the commission, and such
78 revenue bonds shall bear such date or dates, mature at
79 such time or times not exceeding forty years from their
80 respective dates; be in such form either coupon or regis-
81 tered, with such exchangeability and interchangeability
82 privileges; be payable in such medium of payment and at
83 such place or places, within or without the state; be
84 subject to such terms of prior redemption at such prices
85 not exceeding one hundred five per centum of the princi-
86 pal amount thereof; and shall have such other terms and
87 provisions as determined by the commission. Such
88 revenue bonds shall be signed by the governor and by the
89 chancellor of the commission authorizing the issuance
90 thereof, under the great seal of the state, attested by the
91 secretary of state, and the coupons attached thereto shall
92 bear the facsimile signature of the chancellor of the
93 commission. Such revenue bonds shall be sold in such
94 manner as the commission determines is for the best
95 interests of the state.

96 The commission may enter into trust agreements with
97 banks or trust companies, within or without the state, and
98 in such trust agreements or the resolutions authorizing the
The issuance of such bonds may enter into valid and legally binding covenants with the holders of such revenue bonds as to the custody, safeguarding and disposition of the proceeds of such revenue bonds, the moneys in such special funds, sinking funds, reserve funds, or any other moneys or funds; as to the rank and priority, if any, of different issues of revenue bonds by the commission under the provisions of this section; as to the maintenance or revision of the amounts of such additional registration fees, and the terms and conditions, if any, under which such additional registration fees may be reduced; and as to any other matters or provisions which are deemed necessary and advisable by the commission in the best interests of the state and to enhance the marketability of such revenue bonds.

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

Such revenue bonds shall be and constitute negotiable instruments under the uniform commercial code of this state; shall, together with the interest thereon, be exempt from all taxation by the state of West Virginia, or by any county, school district, municipality or political subdivision thereof; and such revenue bonds may not be deemed to be obligations or debts of the state, and the credit or taxing power of the state may not be pledged therefor, but such revenue bonds shall be payable only from the revenue pledged therefor as provided in this section.

Additional revenue bonds may be issued by the commission pursuant to this section and financed by additional revenues or funds dedicated from other sources. It is the
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intend of the Legislature to authorize over a five year period from the effective date of this section additional sources of revenue and funds to effect such funding for capital improvement.

Funding of system-wide and campus-specific revenue bonds under any other section of this code is hereby continued and authorized pursuant to the terms of this section. Revenues of any state institution of higher education pledged to the repayment of any bonds issued pursuant to this code shall remain the responsibility of that institution.

ARTICLE 14. MISCELLANEOUS.

§18B-14-8. Statewide task force on teacher quality.

(a) There is hereby created a statewide task force on teacher quality to address issues which shall include, but not be limited to, the following:

(1) Need to strengthen teacher education in subject area fields by addressing the quality and regional accessibility of pre-service and in-service programs at both the baccalaureate and graduate degree levels;

(2) Need to address teacher salaries;

(3) Need to determine the appropriate supply of teachers to meet future demand;

(4) Need to determine the most effective method of staff development for teachers; and

(5) Need to address methods to prepare teachers to integrate technology effectively in the classroom, including the following:

(i) The resources necessary for teacher education programs to prepare teachers for the technology demands of the classroom environment;
(ii) The opportunities and resources for professional development experiences in technology; and

(6) Need to study methods to extend programs such as the Benedum collaborative model of teacher education at West Virginia university to other geographic areas of the state.

(b) The task force shall be chaired by the chancellor for higher education or a designee and shall be comprised of twenty-one members selected as follows: eight members to be appointed by the governor; five members to be appointed by the state board of education; five members to be appointed by the governing boards; one member to be selected by the West Virginia professional teachers standards commission from among their membership; one member representing private institutions of higher education selected by the West Virginia association of independent colleges, inc.; and the secretary of education and the arts or a designee. Of the eight members to be appointed by the governor, two shall be representatives of statewide teacher organizations and of the six members to be appointed by the state board of education, at least three shall be classroom teachers and at least one shall be selected from among the membership of the state board of education.

(c) Appointments to the task force shall be made so that members may begin their work no later than the first day of July, two thousand.

(d) The task force shall report on its progress to the legislative oversight commission on education accountability and the commission. The initial progress report shall be made in October, two thousand, and, additionally, in each quarter thereafter until the work of the task force is completed.
52 (e) The task force shall complete its work and make a
53 final report to the legislative oversight commission on
54 education accountability and the commission no later than
55 the first day of November, two thousand one. The final
56 report shall contain findings of fact, recommendations and
57 strategies for implementing recommended changes.

§18B-14-9. Statewide task force on student financial aid.

1 (a) There is hereby created a statewide task force on
2 student financial aid to address issues which shall include,
3 but not be limited to, the following:

4 (1) The impact of the full range of student aid and
5 prepaid admission programs including federal, state and
6 institutional programs;

7 (2) The interrelationships of the various programs;

8 (3) The feasibility and effectiveness of grants versus
9 loans; and

10 (4) A longitudinal study detailing the amount of money
11 spent for student aid in West Virginia over the past fifteen
12 years, or, if data for a full fifteen years is not available, for
13 the longest time period possible; the number of students
14 served; and the number of those students who have
15 remained in the state.

16 (b) The task force shall be chaired by the chancellor for
17 higher education or a designee and shall be comprised of
18 fourteen members selected as follows: Six members
19 selected by the governing boards; two members represent-
20 ing private institutions of higher education selected by the
21 West Virginia association of independent colleges, inc.;
22 four members selected by the state board of education; the
23 state treasurer or a designee; and the secretary of educa-
24 tion and the arts or a designee.
(c) Appointments to the task force shall be made so that members may begin their work no later than the first day of July, two thousand.

(d) The task force shall make an initial progress report to the legislative oversight commission on education accountability and the commission by the first day of December, two thousand, and shall report quarterly thereafter until the work of the task force is completed.

(e) The task force shall complete its work and make a final report to the legislative oversight commission on education accountability and the commission no later than the first day of October, two thousand one. The final report shall contain findings of fact, recommendations and strategies for implementing recommended changes.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within...this the...

Day of...

2000

Governor
PRESENTED TO THE
GOVERNOR
Date 3/31/00
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