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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000

## ENROLLED

SENATE BILL NO. 653

(Originating in the Committee  
~~on~~ on Education )

PASSED March 19, 2000

In Effect ninety days from Passage

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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 articles one-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-

istratively linked community and technical colleges and sponsoring institutions; community and technical college services in the responsibility areas of Marshall university, West Virginia state college and West Virginia university institute of technology; implementation board; continuing services; West Virginia anatomical board; purchase and acquisition; institutional boards of advisors; state advisory council of faculty; state advisory council of students; state advisory council of classified employees; personnel and faculty; classified and nonclassified employees; seniority; classified employee salary schedule and classification systems; maximum percentage of nonclassified employees; enrollment; tuition and fees; higher education resource fee; revenue bonds; statewide task force on teacher quality; and statewide task force on student financial aid.

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

That section forty-eight, article three, chapter 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.**

1     (a) The secretary of administration shall promulgate  
2     rules relating to the ownership, purchase, use, storage,  
3     maintenance and repair of all motor vehicles and aircraft  
4     owned by the state of West Virginia and in the possession  
5     of any department, institution or agency thereof: *Pro-*  
6     *vided*, That the provisions of sections forty-eight through  
7     fifty-three, inclusive, of this article do not apply to the  
8     division of highways of the department of transportation,  
9     the West Virginia state police of the department of mili-  
10    tary affairs and public safety, the division of natural  
11    resources, the division of forestry, the department of  
12    agriculture, the higher education policy commission and  
13    the higher education governing boards and their institu-  
14    tions: *Provided, however*, That the higher education  
15    governing boards and their institutions shall report  
16    annually to the chancellor for higher education and the  
17    legislative oversight commission on education account-  
18    ability in a form and manner as required by the chancellor  
19    for higher education. Such report shall include at least the  
20    following: The number of vehicles purchased and the  
21    purchase price, the number of donated vehicles and the  
22    cost of lease agreements on leased vehicles.

23    (b) If, in the judgment of the secretary of administration,  
24    economy or convenience indicate the expediency thereof,  
25    the secretary may require all vehicles and the aircraft

26 subject to regulation by this article, or those he or she may  
27 designate, to be kept in garages and other places of storage  
28 and to be made available in a manner and under the terms  
29 necessary for the official use of any departments, institu-  
30 tions, agencies, officers, agents and employees of the state  
31 as designated by the secretary in rules promulgated  
32 pursuant to this section. The secretary may administer the  
33 travel regulations promulgated by the governor in accor-  
34 dance with section eleven, article three, chapter twelve of  
35 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.**

1 The governor shall promulgate rules and regulations  
2 concerning out-of-state travel by state officials and  
3 employees, except those in the legislative and judicial  
4 branches of the state government and except for the  
5 attorney general, auditor, secretary of state, treasurer,  
6 board of investments, commissioner of agriculture and  
7 their employees, the higher education policy commission  
8 and the higher education governing boards and institu-  
9 tions under their jurisdiction. The Legislature, the su-  
10 preme court of appeals and the attorney general, auditor,  
11 secretary of state, treasurer, board of investments, com-  
12 missioner of agriculture, the higher education policy  
13 commission and the higher education governing boards  
14 shall promulgate rules and regulations concerning out-of-

15 state travel for their respective branches and departments  
16 of state government. Copies of such rules and regulations  
17 shall be filed with the auditor and the secretary of state.  
18 It shall be unlawful for the auditor to issue a warrant in  
19 payment of any claim for out-of-state travel expenses  
20 incurred by a state officer or employee unless such claim  
21 meets all the requirements of the rules and regulations so  
22 filed.

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

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

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

## CHAPTER 18B. HIGHER EDUCATION.

### ARTICLE 1. GOVERNANCE.

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

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

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

29     (2) Post-secondary education is changing throughout the  
30 nation. Place-bound adults, employers and communities  
31 are demanding education and student services that are



32 accessible at any time, at any place and at any pace.  
33 Institutions are seizing the opportunity to provide aca-  
34 demic content and support services on a global scale by  
35 designing new courseware, increasing information  
36 technology-based delivery, increasing access to library and  
37 other information resources and developing new methods  
38 to assess student competency rather than "seat time" as  
39 the basis for recognizing learning, allocating resources and  
40 ensuring accountability. In this changing environment,  
41 the state must take into account the continuing decline in  
42 the public school-age population, the limits of its fiscal  
43 resources and the imperative need to serve the educational  
44 needs of working-age adults. West Virginia cannot afford  
45 to finance quality higher education systems that aspire to  
46 offer a full array of programs while competing among  
47 themselves for a dwindling pool of traditional applicants.  
48 The competitive position of the state and its institutions  
49 will depend fundamentally on its capacity to reinforce the  
50 quality and differentiation of its institutions through  
51 policies that encourage focus and collaboration.

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

67 policy agenda and for allocating resources consistent with  
68 this policy agenda.

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

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

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

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

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

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

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

94 (1) A step-by-step process, as provided in articles one-b  
95 and three-c of this chapter, which will enable the state to  
96 achieve its public policy agenda through a system of  
97 higher education equipped to assist in producing the  
98 needed results. This process includes, but is not limited to,

99 separate institutional compacts with state institutions of  
100 higher education that describe changes in institutional  
101 missions in the areas of research, graduate education,  
102 admission standards, community and technical college  
103 education and geographical areas of responsibility to  
104 accomplish the following:

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

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

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

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

123 (E) Independently accredited community and technical  
124 colleges in every region of the state, to the extent possible,  
125 that: (i) Assess regional needs; (ii) ensure access to compre-  
126 hensive community and technical college and workforce  
127 development services within each of their respective  
128 regions; (iii) convene and act as a catalyst for local action  
129 in collaboration with regional leaders, employers and  
130 other educational institutions; (iv) provide and, as neces-  
131 sary, broker educational services; (v) provide necessary  
132 student services; (vi) fulfill such other aspects of the

133 community and technical college mission and general  
134 provisions for community and technical colleges as  
135 provided for in article three-c of this chapter; and (vii)  
136 make maximum use of existing infrastructure and re-  
137 sources within their regions to increase access, including,  
138 but not limited to, vocational technical centers, schools,  
139 libraries, industrial parks and work sites.

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

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

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

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

162 (c) *General goals for post-secondary education.* – In  
163 pursuance of the findings and the development of institu-  
164 tional compacts with higher education for the future of  
165 West Virginia pursuant to article one-a of this chapter, it  
166 is the intent of the Legislature to establish general goals

167 for post-secondary education and to have the commission  
168 report the progress toward achieving these goals in the  
169 higher education report card required pursuant to section  
170 eight, article one-b of this chapter and, where applicable,  
171 made a part of the institutional compacts. The Legislature  
172 establishes the general goals as follows:

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

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

189 (B) Collaboration, coordination and interaction between  
190 public and post-secondary education, the governor's  
191 council on literacy and the governor's workforce invest-  
192 ment office to promote the effective and efficient utiliza-  
193 tion of workforce investment and other funds to: (i)  
194 Provide greatly improved access to information and  
195 services for individuals and employers on education and  
196 training programs, financial assistance, labor markets and  
197 job placement; (ii) increase awareness among the state's  
198 citizens of the opportunities available to them to improve  
199 their basic literacy, workforce and post-secondary skills  
200 and credentials; and (iii) help improve their motivation to

201 take advantage of available opportunities by making the  
202 system more seamless and user friendly;

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

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

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

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

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

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

229 (D) A spirit of entrepreneurship and flexibility within  
230 post-secondary education that is responsive to the needs of  
231 the current workforce and other nontraditional students  
232 for upgrading and retraining college-level skills; and

233 (E) The expanded use of technology for instructional  
234 delivery and distance learning.

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

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

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

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

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

265 (D) College graduates meet or exceed national and  
266 international standards for skill levels in reading, oral and  
267 written communications, mathematics, critical thinking,  
268 science and technology, research and human relations;

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

273 (F) Admission and exit standards for students, profes-  
274 sional staff development, program assessment and evalua-  
275 tion and other incentives are used to improve teaching and  
276 learning.

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

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

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

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

294 (6) Post-secondary education enhances state efforts to  
295 diversify and expand the economy of the state. Efforts in



296 pursuit of this goal include, but are not limited to, the  
297 following:

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

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

305 (C) Closer linkages among higher education and busi-  
306 ness, labor, government and community and economic  
307 development organizations; and

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

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

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

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

1 (a) Notwithstanding any other provisions of this code to  
2 the contrary, each state institution of higher education  
3 may include in its strategic plan, pursuant to section one-c  
4 of this article, policies that offer various incentives for  
5 voluntary, early or phased retirement of employees or  
6 voluntary separation from employment when necessary to  
7 implement programmatic changes effectively pursuant to  
8 the findings, directives, goals and objectives of this article:

9 *Provided*, That such incentives for voluntary, early or  
10 phased retirement of employees or voluntary separation  
11 from employment must be submitted by the governing  
12 board to the legislative joint committee on pensions and  
13 retirement and approved before such policies are adopted  
14 as part of the institution's strategic plan.

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

25 (c) The policies may include the following provisions:

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

28 (2) Continuation of full salary to an employee for a  
29 predetermined period of time prior to the employee's  
30 resignation or retirement and a reduction in the em-  
31 ployee's hours of employment during the predetermined  
32 period of time;

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

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

39 (5) That an employee retiring pursuant to an early or  
40 phased retirement plan may begin collecting an annuity

41 from the employee's retirement plan prior to the statuto-  
42 rily designated retirement date without terminating his or  
43 her service with the institution.

44 (d) No incentive provided for in this section shall be  
45 granted except in furtherance of programmatic changes  
46 undertaken pursuant to the findings, directives, goals and  
47 objectives set forth in this article.

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

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

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

70 (g) The West Virginia network for educational  
71 telecomputing may utilize the incentives contained in any  
72 policy approved by the legislative joint committee on  
73 pensions and retirement pursuant to this section.

**§18B-1-2. Definitions.**

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

5     (a) For the transition year beginning on the first day of  
6 July, two thousand, and ending on the thirtieth day of  
7 June, two thousand one, only, "governing board" or  
8 "board" means the higher education interim governing  
9 board created pursuant to article one-c of this chapter;  
10 and, beginning on the first day of July, two thousand one,  
11 "governing board" or "board" means the institutional  
12 board of governors of West Virginia university, Marshall  
13 university, the West Virginia school of osteopathic medi-  
14 cine, Bluefield state college, Concord college, eastern West  
15 Virginia community and technical college, Fairmont state  
16 college, Glenville state college, Shepherd college, southern  
17 West Virginia community and technical college, West  
18 Liberty state college, West Virginia northern community  
19 and technical college and West Virginia state college,  
20 whichever is applicable within the context of the institu-  
21 tion or institutions referred to in this chapter or in other  
22 provisions of law;

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

27     (c) "Freestanding community and technical colleges"  
28 means southern West Virginia community and technical  
29 college, West Virginia northern community and technical  
30 college and eastern West Virginia community and techni-  
31 cal college, which shall not be operated as branches or  
32 off-campus locations of any other state institution of  
33 higher education;

34 (d) "Community college" or "community colleges"  
35 means community and technical college or colleges as  
36 those terms are defined in this section;

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

44 (f) "Community and technical college education" means  
45 the programs, faculty, administration and funding associ-  
46 ated with the mission of community and technical colleges  
47 as provided in article three-c of this chapter.

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

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

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

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

60 (k) "Institutional operating budget" or "operating  
61 budget" for any fiscal year means an institution's total  
62 unrestricted education and general funding from all  
63 sources in a prior fiscal year, including, but not limited to,  
64 tuition and fees and legislative appropriation, and any  
65 adjustments to that funding as approved by the commis-

66 sion based on comparisons with peer institutions or to  
67 reflect consistent components of peer operating budgets;

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

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

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

84 (o) "State college" means Bluefield state college, Con-  
85 cord college, Fairmont state college, Glenville state  
86 college, Shepherd college, West Liberty state college or  
87 West Virginia state college;

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

92 (q) "Regional campus" means West Virginia university  
93 at Parkersburg, Potomac state college of West Virginia  
94 university, and West Virginia university institute of  
95 technology. Each regional campus shall adopt separate  
96 strategic plans required by section one-c of this article;

97 (r) The advisory board previously appointed for the West  
98 Virginia graduate college shall be known as the "board of  
99 visitors" and shall provide guidance to the Marshall  
100 university graduate college;

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

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

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

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

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

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

126 (y) "Joint commission for vocational-technical-occupa-  
127 tional education" or "joint commission" means the

128 commission established pursuant to article three-a of this  
129 chapter.

**§18B-1-3. Transfer of powers, duties, property, obligations, etc.,  
of prior governing boards to the higher education  
interim governing board.**

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

14 (b) Title to all property previously transferred to or  
15 vested in the board of trustees and the board of directors  
16 and property vested in either of the boards separately,  
17 formerly existing under the provisions of chapter eighteen-  
18 b of this code, are hereby transferred to the interim  
19 governing board created in article one-c of this chapter.  
20 Property transferred to or vested in the board of trustees  
21 and board of directors shall include: (1) All property  
22 vested in the board of governors of West Virginia Univer-  
23 sity and transferred to and vested in the West Virginia  
24 board of regents; (2) all property acquired in the name of  
25 the state board of control or the West Virginia board of  
26 education and used by or for the state colleges and univer-  
27 sities and transferred to and vested in the West Virginia  
28 board of regents; (3) all property acquired in the name of  
29 the state commission on higher education and transferred  
30 to and vested in the West Virginia board of regents; and (4)



31 all property acquired in the name of the board of regents  
32 and transferred to and vested in the respective board of  
33 trustees and board of directors.

34 (c) Each valid agreement and obligation previously  
35 transferred to or vested in the board of trustees and board  
36 of directors formerly existing under the provisions of  
37 chapter eighteen-b of this code is hereby transferred to the  
38 interim governing board as those agreements and obliga-  
39 tions may apply to the institutions under its jurisdiction.  
40 Valid agreements and obligations transferred to the board  
41 of trustees and board of directors shall include: (1) Each  
42 valid agreement and obligation of the board of governors  
43 of West Virginia University transferred to and deemed the  
44 agreement and obligation of the West Virginia board of  
45 regents; (2) each valid agreement and obligation of the  
46 state board of education with respect to the state colleges  
47 and universities transferred to and deemed the agreement  
48 and obligation of the West Virginia board of regents; (3)  
49 each valid agreement and obligation of the state commis-  
50 sion on higher education transferred to and deemed the  
51 agreement and obligation of the West Virginia board of  
52 regents; and (4) each valid agreement and obligation of the  
53 board of regents transferred to and deemed the agreement  
54 and obligation of the respective board of trustees and  
55 board of directors.

56 (d) All orders, resolutions and rules adopted or promul-  
57 gated by the respective board of trustees and board of  
58 directors and in effect immediately prior to the first day of  
59 July, two thousand, are hereby transferred to the interim  
60 governing board and shall continue in effect and shall be  
61 deemed the orders, resolutions and rules of the interim  
62 governing board until rescinded, revised, altered or  
63 amended by the commission in the manner and to the  
64 extent authorized and permitted by law. Such orders,  
65 resolutions and rules shall include: (1) Those adopted or

66 promulgated by the board of governors of West Virginia  
67 University and in effect immediately prior to the first day  
68 of July, one thousand nine hundred sixty-nine, unless and  
69 until rescinded, revised, altered or amended by the board  
70 of regents in the manner and to the extent authorized and  
71 permitted by law; (2) those respecting state colleges and  
72 universities adopted or promulgated by the West Virginia  
73 board of education and in effect immediately prior to the  
74 first day of July, one thousand nine hundred sixty-nine,  
75 unless and until rescinded, revised, altered or amended by  
76 the board of regents in the manner and to the extent  
77 authorized and permitted by law; (3) those adopted or  
78 promulgated by the state commission on higher education  
79 and in effect immediately prior to the first day of July, one  
80 thousand nine hundred sixty-nine, unless and until  
81 rescinded, revised, altered or amended by the board of  
82 regents in the manner and to the extent authorized and  
83 permitted by law; and (4) those adopted or promulgated by  
84 the board of regents prior to the first day of July, one  
85 thousand nine hundred eighty-nine, unless and until  
86 rescinded, revised, altered or amended by the respective  
87 board of trustees or board of directors in the manner and  
88 to the extent authorized and permitted by law.

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

95 (f) Rules or provisions of law which refer to other  
96 provisions of law which were repealed, rendered inopera-  
97 tive or superseded by the provisions of this section shall  
98 remain in full force and effect to such extent as may still  
99 be applicable to higher education and may be so inter-  
100 preted. Such references include, but are not limited to,

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 three-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 three-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

7 Virginia long has recognized the value of education and,  
8 on a per capita income basis, invests more to support  
9 education than most other states. Based on its findings,  
10 the Legislature recognizes that because of a combination  
11 of state and national demographic and economic factors  
12 and emerging changes in higher education delivery  
13 systems, it is in the best interests of both the state and the  
14 state's higher education system to begin a process that will  
15 strengthen their capacity, over the long term, to provide  
16 the services of higher education so valued by the citizens  
17 of the state and so essential to the state's economic vital-  
18 ity. The compact with higher education for the future of  
19 West Virginia is intended to encourage continued progress  
20 toward achieving the state's goals for higher education and  
21 to provide incentives for change. The changes include  
22 strengthening the capacity of the higher education system  
23 and institutions to serve regional and state needs and  
24 responding to the challenges of growing national and  
25 global competition in higher education delivery systems.  
26 It is the intent of the Legislature that legislative appropri-  
27 ations for higher education for fiscal year two thousand  
28 two and thereafter will be made in accordance with this  
29 article and the strategies, policies, timelines and  
30 benchmarks for accomplishing the goals of the compact  
31 over a six-year period: *Provided*, That nothing in this  
32 article requires any specific level of appropriation by the  
33 Legislature.

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

- 1 (a) Each institution of higher education shall prepare an
- 2 institutional compact for submission to the commission.
- 3 When the process herein provided is completed, the
- 4 institutional compacts shall form the agreement between
- 5 the institutions of higher education and the commission

6 and, ultimately, between the institutions of higher educa-  
7 tion and the people of West Virginia on how the institu-  
8 tions will use their resources to address the intent of the  
9 Legislature and the goals set forth in section one-a, article  
10 one of this chapter. The compacts shall contain the  
11 following:

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

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

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

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

37 (5) A detailed statement of how the compact is aligned  
38 with and will be implemented in conjunction with the  
39 master plan of the institution;

40 (6) Such other items, requirements or initiatives, re-  
41 quired by the commission, designed to accomplish the  
42 intent of the Legislature and the goals set forth in section  
43 one-a, article one of this chapter or other public policy  
44 goals established by the commission.

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

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

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

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

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

62 (4) The commission shall review the initial institutional  
63 compacts and the annual updates and either shall adopt  
64 the institutional compact or return it with specific com-  
65 ments for change or improvement. The commission shall  
66 continue this process as long as it considers advisable;

67 (5) By the first day of May of each year, if the institu-  
68 tional compact of any institution as presented by that  
69 institution is not adopted by the commission, then the  
70 commission is empowered and directed to develop and

71 adopt the institutional compact for the institution and the  
72 institution shall be bound by the compact so adopted; and

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

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

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

94 (1) They shall be as objective as possible;

95 (2) They shall be directly linked to the goals in the  
96 compacts;

97 (3) They shall be measured by the indicators described in  
98 subsection (f) of this section; and

99 (4) Where applicable, they shall be used to measure  
100 progress in geographic areas of responsibility.

101 (f) The commission shall establish indicators which  
102 measure the degree to which the goals and objectives set

103 forth in section one-a, article one of this chapter, are being  
104 addressed and met. The benchmarks established in  
105 subsection (e) of this section shall be measured by the  
106 indicators. The commission shall, on or before the first  
107 day of January, two thousand one, file with the legislative  
108 oversight commission on education accountability, legisla-  
109 tive rules pursuant to article three-a, chapter twenty-nine-  
110 a of this code, that set forth at the least the following:

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

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

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

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

**§18B-1A-3. Peer institutions.**

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

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

9 (c) The peer institutions, as selected by the commission,  
10 shall be used as benchmarks for comparison purposes only  
11 and are not intended to reflect funding goals for West  
12 Virginia institutions of higher education. Such a use is  
13 inappropriate since institutions selected as peers for a



14 state institution may be located in an area of high per  
15 capita income or have their funding subject to other  
16 factors that make its use unrealistic for setting funding  
17 goals in West Virginia. The peer institutions shall be used  
18 for comparison in the following areas:

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

21 (2) To determine comparable levels of tuition;

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

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

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

39 (1) Institutional mission;

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

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

43 (4) The level of academic programs, including, but not  
44 limited to, number of degrees granted at the associate,

45 baccalaureate, masters, doctoral and first-professional  
46 level;

47 (5) The characteristics of academic programs such as  
48 health sciences, professional, technical or liberal arts and  
49 sciences; and

50 (6) The level of research funding from federal competi-  
51 tive funding sources.

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

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

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

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

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

11 (c) If the commission determines that appropriations are  
12 insufficient to fund the requirements of the institutional  
13 compacts, the commission first shall consider extending  
14 the length of the compacts or otherwise modifying the  
15 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

20 that are appropriated to it for other purposes: *Provided*,  
21 That, in order to determine institutional allocations, it is  
22 the responsibility of the institutions and their respective  
23 institutional boards of governors or advisors, as appropri-  
24 ate, to provide to the commission documentation on  
25 institutional progress toward mission enhancement,  
26 preliminary peer comparison calculations, performance of  
27 increased productivity and academic quality and measur-  
28 able attainment in fulfilling state priorities as set forth in  
29 this article. The documentation shall be provided to the  
30 commission no later than the first day of October each  
31 year for commission review and verification.

32 (b) *Legislative Funding Priorities.* -

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

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

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

48 (4) The Legislature places great importance on achieving  
49 the priority goals outlined in the public policy agenda and  
50 believes the state institutions of higher education should  
51 play a vital role in facilitating the attainment of these  
52 goals.

53 (5) The Legislature also believes it is imperative that the  
54 state make progress on narrowing the peer inequity while  
55 balancing the need for sustaining the quality of our  
56 institutions.

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

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

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

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

80 (iii) A ratio of the amount of the deficiency for an  
81 institution divided by the total amounts of deficiency for  
82 all West Virginia institutions shall be established for each  
83 institution; and

84 (iv) The allocation to each institution shall be calculated  
85 by multiplying the ratio by the total amount of money in  
86 the account.

87 (B) *Independently accredited community and technical*  
88 *colleges development.* – Funds appropriated for this  
89 purpose will ensure a smooth transition, where required,  
90 from “component” community and technical colleges to  
91 independently accredited community and technical  
92 colleges as defined in section two, article one of this  
93 chapter. Appropriations for this purpose are only to be  
94 allocated to those institutions having approved compacts  
95 with the commission that expressly include the transition  
96 of their component community colleges to independently  
97 accredited status and have demonstrated measurable  
98 progress towards this goal. By the first day of July, two  
99 thousand seven, or when all required community and  
100 technical colleges are independently accredited, whichever  
101 first occurs, funds for this purpose shall be allocated to the  
102 incentives for institutional contributions to state priorities:  
103 *Provided*, That if the commission determines that pay-  
104 ments from the account to the institutions should continue  
105 beyond the first day of July, two thousand seven, it shall  
106 request an extension from the Legislature;

107 (C) *Research challenge.* – Funds appropriated for this  
108 purpose shall assist public colleges and universities in  
109 West Virginia to compete on a national and international  
110 basis by providing incentives to increase their capacity to  
111 compete successfully for research funding. The Legisla-  
112 ture intends for institutions to collaborate in the develop-  
113 ment and execution of research projects to the extent  
114 practicable and to target research to the needs of the state  
115 as established in the public policy agenda and linked to  
116 the future competitiveness of this state.

117 (i) The commission shall develop criteria for awarding  
118 grants to institutions under this account, which may  
119 include, but are not limited to, the following:

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

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

125 (ii) The grants shall be distributed as follows:

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

129 (II) The balance of the moneys shall be distributed to  
130 each public college and university in the same percentage  
131 that the research funds received by that public college or  
132 university bears to the total research funds received by all  
133 public colleges and universities in the state for the previ-  
134 ous year.

135 (iii) The commission may establish an advisory council  
136 consisting of nationally prominent researchers and scien-  
137 tists, including representatives from outside the state, to  
138 assist in developing the criteria for awarding grants under  
139 this account.

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

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

149 provide incentives for mission enhancement as set forth in  
150 section two of this article.

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

159 (c) *Allocations to institutional operating budgets.* – For  
160 the purposes of this subsection, the commission shall  
161 establish by rule pursuant to subsection (f), section two of  
162 this article the method for measuring the progress of each  
163 institution towards meeting the benchmarks of its institu-  
164 tional compact.

165 (d) *Allocation of appropriations to the institutions.* –  
166 Appropriations in this section shall be allocated to the  
167 state institutions of higher education in the following  
168 manner:

169 (1) For the fiscal year two thousand two, appropriations  
170 above the fiscal year two thousand two institutional  
171 operating budget shall be allocated only to institutions  
172 with approved compacts, pursuant to this article;

173 (2) For the fiscal year two thousand three, and each fiscal  
174 year thereafter, appropriations from the funds shall be  
175 allocated only to institutions with approved compacts,  
176 pursuant to section two of this article and which also have  
177 achieved their annual benchmarks for accomplishing the  
178 goals of their compacts, as approved by the commission:  
179 *Provided*, That if an institution has not achieved all of its  
180 annual benchmarks, the commission may distribute a  
181 portion of the funds to the institution based on its progress  
182 as the commission determines appropriate: *Provided*,



183 *however*, That the commission shall establish by rule  
184 pursuant to subsection (f), section two, of this article the  
185 method for measuring the progress of each institution  
186 toward meeting the benchmarks of its institutional  
187 compact;

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

**§18B-1A-6. Graduate education.**

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

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

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

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

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

20 (4) There is a particular need for improved quality and  
21 accessibility of pre-service and in-service programs for  
22 teachers in subject matter fields.

OK  
K4DH

23 <sup>C</sup>(b) In order to meet the need for graduate education, the  
24 commission shall be responsible for accomplishing the  
25 following:

26 (1) Ensuring that West Virginia university and Marshall  
27 university expand access to master's degree programs  
28 throughout West Virginia, with a strong emphasis on  
29 collaboration with the baccalaureate colleges and commu-  
30 nity and technical colleges in each region;

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

37 (3) Focusing on providing courses that enhance the  
38 professional skills of teachers in their subject areas; and

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

OK  
K4DH

42 <sup>d</sup>(b) Concord college, Fairmont state college, Shepherd  
43 college, West Liberty state college and West Virginia state  
44 college shall meet the need for graduate education in their  
45 regions by following the procedures outlined below with  
46 each step building upon the foundation of the step before  
47 it:

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

53 (2) If the graduate education needs of the region have not  
54 been met through brokering, then the institutions may

55 begin collaborative programs with other institutions  
56 leading to the granting of master's degrees in selected  
57 areas that are demonstrated to be related directly to the  
58 needs of their regions and that draw on faculty strengths.  
59 An institution may continue to offer collaborative pro-  
60 grams aimed at meeting the documented needs with the  
61 approval of the commission or, if a sustained need still  
62 exists, the institution may move to the next level.

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

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

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

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

78 (D) Demonstrate that the core mission of the baccalaure-  
79 ate institution will not be impaired by offering the gradu-  
80 ate program;

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

83 (F) Demonstrate that the need documented in subdivi-  
84 sion (B) of this subsection is not currently being met by  
85 any other state institution of higher education; and

86 (G) Such other conditions as the commission may  
87 determine.

OK  
KL/DH  
88 <sup>e</sup>  
88 ~~(d)~~ There is an urgent need for master's degree programs  
89 for teachers in disciplines or subject areas, such as mathe-  
90 matics, science, history, literature, foreign languages and  
91 the arts. Currently, master's-level courses in education  
92 that are offered in the regions served by the state universi-  
93 ties are primarily in areas such as guidance and counsel-  
94 ing, administration, special education and other disci-  
95 plines unrelated to teaching in subject areas. If the  
96 commission determines that this need is not being met or  
97 can not be met in a region through the procedure estab-  
OK  
KL/DH  
98 lished in subsection <sup>f</sup>~~(e)~~ of this section, then the graduate  
99 center in that region may plan one master's degree pro-  
100 gram in education focused on teaching in subject area  
101 fields. No institution may begin a graduate program under  
102 the provisions of this section until the program has been  
103 reviewed and approved by the commission. The commis-  
104 sion shall approve only those programs, as authorized by  
105 this subsection, that emphasize serving the needs of  
106 teachers and schools in the colleges' immediate regions. In  
107 determining whether a program should be approved, the  
108 commission also shall rely upon the recommendations of  
109 the statewide task force on teacher quality provided for in  
110 section eight, article fourteen of this chapter.

OK  
KL/DH  
111 <sup>f</sup>  
111 ~~(e)~~ The commission shall review all graduate programs  
112 being offered under the provisions of this section and,  
113 using the criteria established for program startup in  
114 subsection (c) of this section, determine which programs  
115 should be discontinued.

OK  
KL/DH  
116 <sup>g</sup>  
116 ~~(f)~~ At least annually, the governing boards shall evaluate  
117 graduate programs developed pursuant to the provisions  
118 of this section and report to the commission on the follow-  
119 ing:

120 (1) The number of programs being offered and the  
121 courses offered within each program;

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

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

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

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

127 The governing boards shall provide the commission with  
128 any additional information the commission requests in  
129 order to make a determination on the viability of a pro-  
130 gram.

OK  
KLDH

131 <sup>h</sup>  
(g) In developing any graduate program under the  
132 provisions of this section, institutions shall consider  
133 delivering courses at times and places convenient to adult  
134 students who are employed full time. Institutions shall  
135 place an emphasis on extended degree programs, distance  
136 learning and off-campus centers which utilize the cost-  
137 effective nature of extending existing university capacity  
138 to serve the state rather than duplicating the core univer-  
139 sity capacity and incurring the increased cost of develop-  
140 ing master's degree programs at other institutions  
141 throughout the state.

OK  
KLDH

142 <sup>i</sup>  
(h) Brokering institutions shall invite proposals from  
143 other public institutions of higher education for service  
144 provision prior to contracting with other institutions:  
145 *Provided*, That if institutions propose providing graduate  
146 programs in service areas other than in their responsibility  
147 district, the institution seeking to establish a program  
148 shall work through the district's lead institution in provid-  
149 ing those services.

OK  
KLDH

150 <sup>j</sup>  
(i) In addition to the approval required by the commis-  
151 sion, authorization for any institution to offer a master's  
152 degree program under the provisions of this section is

153 subject to the formal approval processes established by the  
154 governing boards.

**§18B-1A-7. Contrary provisions.**

1 Effective the first day of July, two thousand, the provi-  
2 sions of this article shall supersede any provision of this  
3 code to the contrary.

**§18B-1A-8. Sections repealed.**

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

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

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

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

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

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

20 (g) Effective the first day of July, two thousand, section  
21 six, article three of this chapter, relating to increasing  
22 flexibility for freestanding community and technical  
23 colleges, is repealed.

24 (h) Effective the thirtieth day of June, two thousand one,  
25 section one-b, article one of this chapter, relating to  
26 implementation of findings, directives, goals and objec-  
27 tives, is repealed.

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

32 (j) Effective the first day of July, two thousand, section  
33 five, article one of this chapter, relating to placing govern-  
34 ing boards under the department of education and the arts,  
35 is repealed.

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

39 (l) Effective the thirtieth day of June, two thousand one,  
40 section one, article five of this chapter, relating to appro-  
41 priations, is repealed.

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

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

48 (o) Effective the thirtieth day of June, two thousand,  
49 section three, article six of this chapter, relating to advi-  
50 sory councils of students, is repealed.

51 (p) Effective the thirtieth day of June, two thousand,  
52 section four, article six of this chapter, relating to advisory  
53 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.**

1     There is hereby created the "higher education policy  
2     commission", hereinafter referred to as the "commission",  
3     which is responsible for developing, gaining consensus  
4     around and overseeing the implementation of a public  
5     policy agenda. It is the intent of the Legislature that the  
6     commission be responsible for development and articula-  
7     tion of the public policy agenda for higher education and  
8     other statewide issues pursuant to section one-a, article  
9     one of this chapter. All matters of governance not specifi-  
10    cally assigned to the commission by law are the duty and  
11    responsibility of the governing board or boards.

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

1     (a) The commission is comprised of nine members, all of  
2     whom are entitled to vote. One is the secretary of educa-  
3     tion and the arts, ex officio. One is the state superinten-  
4     dent of schools: *Provided*, That if the state superintendent  
5     of schools desires not to serve, the state board of education  
6     shall submit to the governor the names of three nominees,  
7     which may include members of the state board of educa-  
8     tion. The governor shall select from the nominees a  
9     member to serve on the commission. The three nominees  
10    shall be persons who are knowledgeable in the area of  
11    public education policy, are able to represent the state  
12    board of education and who understand and are commit-  
13    ted to achieving the goals and objectives as set forth in the  
14    institutional compacts and in section one-a, article one of  
15    this chapter.

16    (b) The other seven members of the commission shall be  
17    citizens of the state, appointed by the governor, by and



18 with the advice and consent of the Senate: *Provided, That*  
19 prior to appointment, the governor shall interview each  
20 candidate to assure that the person selected understands  
21 and is committed to achieving the goals and objectives as  
22 set forth in the institutional compacts and in section one-a,  
23 article one of this chapter. The governor shall invite the  
24 president of the Senate, the speaker of the House of  
25 Delegates, the chairs of the Senate and House of Delegates  
26 committees on finance and education and such other  
27 legislative leaders as the governor may determine to  
28 participate in interviewing potential candidates. Each  
29 member appointed to the commission by the governor shall  
30 represent the public interest and shall be committed to the  
31 legislative intent and goals set forth in section one-a,  
32 article one of this chapter.

33 (c) The governor may not appoint any person to be a  
34 member of the commission who is an officer, employee or  
35 member of an advisory board of any state college or  
36 university, an officer or member of any political party  
37 executive committee, the holder of any other public office  
38 or public employment under the government of this state  
39 or any of its political subdivisions or an appointee or  
40 employee of any governing board or an immediate family  
41 member of any employee under the jurisdiction of the  
42 commission or any governing board. Of the members  
43 appointed by the governor from the public at large, no  
44 more than four thereof shall belong to the same political  
45 party and at least two shall be appointed from each  
46 congressional district.

47 (d) The governor shall appoint seven members to the  
48 commission on the first day of July, two thousand, or as  
49 soon thereafter as is practicable and the original terms of  
50 all members shall commence on the first day of July, two  
51 thousand.

52 (e) The terms of the members appointed by the governor  
53 shall be for overlapping terms of four years, except, of the  
54 original appointments, one shall be appointed to a term of  
55 one year, two shall be appointed to a term of two years,  
56 two shall be appointed to a term of three years and two  
57 shall be appointed to a term of four years. Each subse-  
58 quent appointment which is not for the purpose of filling  
59 a vacancy in an unexpired term shall be for a term of four  
60 years.

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

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

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

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

### **§18B-1B-3. Meetings and compensation.**

1 (a) The secretary of education and the arts shall call the  
2 initial meeting of the commission and preside until a

3 chairperson is selected. Thereafter, the commission shall  
4 meet as needed at the time and place specified by the call  
5 of the chairperson.

6 (b) The commission shall hold an annual meeting each  
7 June for the purpose of electing officers for the next fiscal  
8 year. At the annual meeting, the commission shall elect  
9 from its members appointed by the governor a chairperson  
10 and other officers as it may consider necessary or desirable:  
11 *Provided*, That the initial meeting for the purpose of  
12 selecting the first chairperson and other officers shall be  
13 held during July, two thousand, or as soon thereafter as  
14 practicable. All officers shall be elected from the citizen  
15 appointees. The chairperson and other officers shall be  
16 elected for a one-year term commencing on the first day of  
17 July following the annual meeting and ending on the  
18 thirtieth day of June of the following year: *Provided*,  
19 *however*, That the terms of officers elected in July, two  
20 thousand, begin upon election and end on the thirtieth day  
21 of June, two thousand one. The chairperson of the board  
22 may serve no more than two consecutive terms as chair.

23 (c) Members of the commission shall be reimbursed for  
24 actual and necessary expenses incident to the performance  
25 of their duties upon presentation of an itemized sworn  
26 statement thereof. The foregoing reimbursement for  
27 actual and necessary expenses shall be paid from appropriations  
28 made by the Legislature to the commission.

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

**§18B-1B-4. Powers and duties of higher education policy commission.**

1 (a) The primary responsibility of the commission is to  
2 develop, establish and implement policy that will achieve  
3 the goals and objectives found in section one-a, article one

4 of this chapter. To that end, the commission has the  
5 following powers and duties:

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

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

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

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

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

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

30 (A) Developing, building public consensus around and  
31 sustaining attention to a long-range public policy agenda.  
32 In developing the agenda, the commission shall seek input  
33 from the Legislature and the governor and specifically  
34 from the state board of education and local school districts  
35 in order to create the necessary linkages to assure smooth,

36 effective and seamless movement of students through the  
37 public education and post-secondary education systems  
38 and to ensure that the needs of public school courses and  
39 programs can be fulfilled by the graduates produced and  
40 the programs offered;

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

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

48 (4) Develop and adopt each institutional compact;

49 (5) Review and adopt the annual updates of the institu-  
50 tional compacts;

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

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

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

65 (9) Establish and implement a peer group for each public  
66 institution of higher education in the state as described in  
67 section three, article one-a of this chapter;

68 (10) Establish and implement the benchmarks and  
69 performance indicators necessary to measure institutional  
70 achievement towards state policy priorities and institu-  
71 tional missions;

72 (11) In January, two thousand one, and annually thereaf-  
73 ter, report to the Legislature and to the legislative over-  
74 sight commission on education accountability during the  
75 January interim meetings, on a date and at a time and  
76 location to be determined by the president of the Senate  
77 and the speaker of the House of Delegates. The report  
78 shall address at least the following:

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

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

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

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

96 (12) Establish a formal process for identifying needs for  
97 capital investments and for determining priorities for  
98 these investments;

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

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

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

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

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

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

127 (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

132 to the legislative oversight commission on education  
133 accountability by the first day of July, two thousand one;

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

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

149 (22) Establish and implement the policy of the state to  
150 assure that parents and students have sufficient informa-  
151 tion at the earliest possible age on which to base academic  
152 decisions about what is required for students to be suc-  
153 cessful in college, other postsecondary education and  
154 careers related, as far as possible, to results from current  
155 assessment tools in use in West Virginia;

156 (23) Approve and implement a uniform standard, as  
157 developed by the chancellor, to determine which students  
158 shall be placed in remedial or developmental courses. The  
159 standard shall be aligned with college admission tests and  
160 assessment tools used in West Virginia and shall be  
161 applied uniformly by the governing boards throughout the  
162 public higher education system. The chancellor shall  
163 develop a clear, concise explanation of the standard which  
164 the governing boards shall communicate to the state board  
165 of education and the state superintendent of schools;



166 (24) Review and approve or disapprove capital projects  
167 as described in subdivision (12), subsection (a) of this  
168 section;

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

171 (A) Expanding distance learning and technology net-  
172 works to enhance teaching and learning, promote access to  
173 quality educational offerings with minimum duplication  
174 of effort, increase the delivery of instruction to nontradi-  
175 tional students, provide services to business and industry  
176 and increase the management capabilities of the higher  
177 education system; and

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

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

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

195 (28) Establish and implement policies and procedures to  
196 ensure that students may transfer and apply toward the  
197 requirements for a master's degree the maximum number  
198 of credits earned at any regionally accredited in-state or

199 out-of-state higher education institution with as few  
200 requirements to repeat courses or to incur additional costs  
201 as is consistent with sound academic policy;

202 (29) Establish and implement policies and programs, in  
203 cooperation with the institutions of higher education,  
204 through which students who have gained knowledge and  
205 skills through employment, participation in education and  
206 training at vocational schools or other education institu-  
207 tions, or internet-based education programs, may demon-  
208 strate by competency-based assessment that they have the  
209 necessary knowledge and skills to be granted academic  
210 credit or advanced placement standing toward the require-  
211 ments of an associate degree or a bachelor's degree at a  
212 state institution of higher education;

213 (30) Seek out and attend regional, national and interna-  
214 tional meetings and forums on education and workforce  
215 development related topics, as in the commission's discre-  
216 tion is critical for the performance of their duties as  
217 members, for the purpose of keeping abreast of education  
218 trends and policies to aid it in developing the policies for  
219 this state to meet the established education goals and  
220 objectives pursuant to section one-a, article one of this  
221 chapter;

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

226 (A) That the governing boards and institutions not  
227 approve or promote projects that give competitive advan-  
228 tage to new private sector projects over existing West  
229 Virginia businesses, unless the commission determines  
230 such private sector projects are in the best interest of the  
231 students, the institution and the community to be served;  
232 and

233 (B) That the governing boards and institutions not  
234 approve or promote projects involving private sector  
235 businesses which would have the effect of reducing  
236 property taxes on existing properties or avoiding, in whole  
237 or in part, the full amount of taxes which would be due on  
238 newly developed or future properties.

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

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

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

259 (34) Initiate a full review and analysis of all student fees  
260 charged by state institutions of higher education and make  
261 recommendations to the legislative oversight commission  
262 on education accountability no later than the second day  
263 of January, two thousand two. The final report shall  
264 contain findings of fact and recommendations for pro-  
265 posed legislation to condense, simplify and streamline the

266 fee schedule and the use of fees or other money collected  
267 by state institutions of higher education;

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

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

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

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

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

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

293 (4) Academic program review and approval including the  
294 use of institutional missions as a template to judge the  
295 appropriateness of both new and existing programs and  
296 the authority to implement needed changes;

297 (5) Development of budget and allocation of resources,  
298 including reviewing and approving institutional operating  
299 and capital budgets and distributing incentive and  
300 performance-based funding;

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

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

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

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

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

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

325 (c) In addition to the powers and duties provided for in  
326 subsections (a) and (b) of this section and any other powers  
327 and duties as may be assigned to it by law, the commission

328 has such other powers and duties as may be necessary or  
329 expedient to accomplish the purposes of this article.

330 (d) The commission is authorized to withdraw specific  
331 powers of any institutional governing board for a period  
332 not to exceed two years if the commission makes a deter-  
333 mination that:

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

337 (2) The commission has received information, substanti-  
338 ated by independent audit, of significant mismanagement  
339 or failure to carry out the powers and duties of the institu-  
340 tional board of governors according to state law; or

341 (3) Other circumstances which, in the view of the com-  
342 mission, severely limit the capacity of the institutional  
343 board of governors to carry out its duties and responsibili-  
344 ties.

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

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

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

356 (A) Strategies to ensure access to graduate education;

357 (B) The development of state colleges as regional gradu-  
358 ate centers with authority to broker access to graduate  
359 programs in their responsibility areas;

360 (C) The process by which state colleges obtain authoriza-  
361 tion to grant graduate degrees;

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

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

369 (2) The commission shall report the findings of this study  
370 along with the recommendations for legislative actions, if  
371 any, to address these findings and the intent of this  
372 section, to the legislative oversight commission on educa-  
373 tion accountability by the first day of January, two  
374 thousand one.

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

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

7 (b) The commission shall set the qualifications for the  
8 position of chancellor and shall conduct a thorough  
9 nationwide search for qualified candidates. A qualified  
10 candidate is one who meets at least the following criteria:

11 (1) Possesses an excellent academic and administrative  
12 background;

13 (2) Demonstrates strong communication skills;

14 (3) Has significant experience and an established na-  
15 tional reputation as a professional in the field of higher  
16 education;

17 (4) Is free of institutional or regional biases; and

18 (5) Holds or retains no other administrative position  
19 within the system of higher education while employed as  
20 chancellor.

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

26 (d) With the approval of the commission, the chancellor  
27 may employ a vice chancellor for health sciences who shall  
28 serve at the will and pleasure of the chancellor. The vice  
29 chancellor for health sciences shall coordinate the West  
30 Virginia university school of medicine, the Marshall  
31 university school of medicine, and the West Virginia school  
32 of osteopathic medicine and also shall provide assistance  
33 to the governing boards on matters related to medical  
34 education and health sciences. The vice chancellor for  
35 health sciences shall perform all duties assigned by the  
36 chancellor, the commission and state law. In the case of a  
37 vacancy in the office of vice chancellor of health sciences,  
38 the duties assigned to this office by law are the responsi-  
39 bility of the chancellor or a designee;

40 (e) With the approval of the commission, the chancellor  
41 shall employ a vice chancellor for community and techni-  
42 cal college education and workforce development who



43 serves at the will and pleasure of the chancellor. The  
44 duties of this position include the general supervision of  
45 the joint commission for vocational-technical-occupa-  
46 tional education, as provided in article three-a of this  
47 chapter, and such other duties as assigned. Any reference  
48 in this code to the vice chancellor for community and  
49 technical colleges means the vice chancellor for commu-  
50 nity and technical college education and workforce  
51 development, which vice chancellor for community and  
52 technical colleges shall become the vice chancellor for  
53 community and technical college education and workforce  
54 development. It is the duty and responsibility of the vice  
55 chancellor for community and technical college education  
56 and workforce development to:

57 (1) Provide assistance to the commission, the chancellor  
58 and the governing boards on matters related to community  
59 and technical college education;

60 (2) Advise, assist and consult regularly with the institu-  
61 tional presidents; institutional boards of governors or  
62 boards of advisors, as appropriate; and district consortia  
63 committees of the state institutions of higher education  
64 involved in community and technical college education;  
65 and

66 (3) Perform all duties assigned by the chancellor, the  
67 commission and state law.

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

71 (g) With the approval of the commission, the chancellor  
72 shall employ a vice chancellor for state colleges who shall  
73 serve at the will and pleasure of the chancellor. It is the  
74 duty and responsibility of the vice chancellor for state  
75 colleges to:

76 (1) Provide assistance to the commission, the chancellor  
77 and the state colleges and freestanding community and  
78 technical colleges on matters related to or of interest and  
79 concern to these institutions;

80 (2) Advise, assist and consult regularly with the institu-  
81 tional presidents and institutional boards of governors of  
82 each state college or freestanding community and techni-  
83 cal college;

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

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

91 (5) Establish such guidelines as believed appropriate to  
92 restrict the use of public funds by the state colleges and  
93 freestanding community and technical colleges for influ-  
94 encing public policy development.

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

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

105 (i) The chancellor may enter into agreements with any  
106 state agency or political subdivision of the state, any state  
107 higher education institution or any other person or entity

108 to enlist staff assistance to implement the powers and  
109 duties assigned by the commission or by state law;

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

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

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

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

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

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

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

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

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

137 (D) Ensure that all the requirements are met for promul-  
138 gating rules as set forth in article three-a, chapter twenty-

139 nine-a of this code: *Provided*, That nothing in said chapter  
140 shall be construed to require the approval and filing of  
141 institution rules except for approval by the chancellor and  
142 filing in the office of the vice chancellor as provided  
143 herein; and

144 (E) Establish a process for the transition from the rules  
145 promulgated by the previous board of trustees, board of  
146 directors and the interim governing board to new rules  
147 filed by the chancellor, subject to approval of the policy  
148 commission. Until new rules are filed, the existing rules of  
149 said boards shall remain in effect and applicable to the  
150 respective state institutions of higher education. The  
151 chancellor shall review all new rules filed to replace the  
152 existing rules of the said boards and determine their  
153 proper classification as legislative, procedural or interpre-  
154 tive, notwithstanding the classification of the existing rule  
155 or a classification established for a specific rule by this  
156 code prior to the effective date of this section. The chan-  
157 cellor shall strictly and uniformly apply the definitions of  
158 rule, legislative rule, interpretive rule and procedural rule  
159 set forth in section two, article one, chapter twenty-nine-a  
160 of this code and unless specifically mandated by an act of  
161 the Legislature following the effective date of this section,  
162 may not require the filing, as rules, of regulations relating  
163 solely to the internal management of the commission,  
164 governing boards and institutions under their jurisdiction.  
165 The chancellor shall be responsible for ensuring that any  
166 policy which is required to be uniform across the institu-  
167 tions is applied in a uniform manner;

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

170 (k) The chancellor shall be reimbursed for all actual and  
171 necessary expenses incurred in the performance of all  
172 assigned duties and responsibilities;

173 (l) The chancellor is the primary advocate for higher  
174 education and, with the commission, advises the Legisla-  
175 ture on matters of higher education in West Virginia. As  
176 the primary advocate for higher education, the chancellor  
177 shall work closely with the legislative oversight commis-  
178 sion on education accountability and with the elected  
179 leadership of the state to ensure that they are fully in-  
180 formed about higher education issues and that the com-  
181 mission fully understands the goals for higher education  
182 that the Legislature has established by law;

183 (m) The chancellor may design and develop for consider-  
184 ation by the commission new statewide or regional initia-  
185 tives in accordance with the goals set forth in section one-  
186 a, article one of this chapter and the public policy agenda  
187 articulated by the commission.

188 (n) The chancellor shall work closely with members of  
189 the state board of education and with the state superinten-  
190 dent of schools to assure that the following goals are met:

191 (1) Development and implementation of a seamless  
192 kindergarten-through-college system of education; and

193 (2) Appropriate coordination of missions and programs.  
194 To further the goals of cooperation and coordination  
195 between the commission and the state board of education,  
196 the chancellor shall serve as an ex officio, nonvoting  
197 member of the state board of education.

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

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

5 (1) Subject to the approval of the commission, the  
6 appropriate governing board of the institution shall

7 appoint a president for Bluefield state college, Concord  
8 college, eastern West Virginia community and technical  
9 college, Fairmont state college, Glenville state college,  
10 Marshall university, Shepherd college, southern West  
11 Virginia community and technical college, West Liberty  
12 state college, West Virginia northern community and  
13 technical college, West Virginia school of osteopathic  
14 medicine, West Virginia state college and West Virginia  
15 university;

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

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

36 (b) *Incumbent heads of institutions.* — Any president of a  
37 public institution of higher education in office on the first  
38 day of July, two thousand, shall continue in office subject  
39 to state law: *Provided, That* the provost of an administra-  
40 tively linked community and technical college in office on  
41 the thirtieth day of June, two thousand one, may become

42 the president of that community and technical college on  
43 the first day of July, two thousand one, with the approval  
44 of the governing board of the institution and subject to the  
45 consent of the commission. The presidents shall continue  
46 in office subject to state law and subject to the will and  
47 pleasure of the appropriate governing board or employing  
48 institution.

49 (c) *Evaluation of institutional presidents.* - The govern-  
50 ing board shall conduct written performance evaluations  
51 of each institution's president: *Provided*, That the presi-  
52 dents of regional campuses shall be evaluated by the  
53 president of West Virginia university and the presidents of  
54 administratively linked community and technical colleges  
55 shall be evaluated by the president of the employing  
56 institution. Evaluations shall be done in every fourth year  
57 of employment as president, recognizing unique character-  
58 istics of the institution and utilizing institutional person-  
59 nel, institutional boards of advisors as appropriate, staff  
60 of the appropriate governing board and persons knowl-  
61 edgeable in higher education matters who are not other-  
62 wise employed by a governing board. A part of the  
63 evaluation shall be a determination of the success of the  
64 institution in meeting the requirements of its institutional  
65 compact.

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

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

5 (a) The higher education interim governing board,  
6 established in article one c of this chapter, is the govern-  
7 ing agency for public higher education in West Virginia;

8 (b) The chancellor for higher education shall provide to  
9 the governing board adequate and appropriate staff  
10 assistance to carry out its duties and responsibilities as  
11 assigned by law;

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

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

22 (e) The commission shall focus its attention second on the  
23 following policy areas, but may consider others as appro-  
24 priate:

25 (1) Developing legislative rules as required by law;

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

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

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

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

35 (6) Developing a plan to provide on-going education and  
36 training opportunities to members of institutional boards  
37 of governors and institutional boards of advisors, includ-  
38 ing, but not limited to, exploring the possibility of obtain-



39 ing private funds to bring members together for orienta-  
40 tion, education and leadership training prior to the first  
41 day of July, two thousand one;

42 (7) Establishing a peer group for each public institution  
43 of higher education in the state as provided in section  
44 three, article one-a of this chapter; and

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

50 (f) On or before the first day of January, two thousand  
51 one, the commission shall certify to the governor, the  
52 president of the Senate and the speaker of the House of  
53 Delegates draft legislation which will accomplish the  
54 transfer on the first day of July, two thousand one, of all  
55 powers, duties, property, obligations, contracts, rules,  
56 orders, resolutions or any other matters which should be  
57 transferred or vested in the commission, the governing  
58 boards or any other agency. In the event the Legislature  
59 does not enact legislation which accomplishes the recom-  
60 mended transfers or vesting, effective the first day of July,  
61 two thousand one, all such matters are transferred to and  
62 vested in the commission and the commission is hereby  
63 authorized and directed to delegate such matters as is  
64 consistent with assigned powers and duties in section four  
65 of this article and section four, article two-a of this  
66 chapter. In the event of a dispute between or among the  
67 commission and the governing boards as to the proper  
68 delegation of these matters, the decision of the commission  
69 shall control.

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

1 Effective on the first day of July, two thousand one:

2 (a) The commission is directed to make information  
3 available to parents, students, faculty, staff, state  
4 policymakers and the general public on the quality and  
5 performance of public higher education. This information  
6 shall be consistent and comparable between and among  
7 the state institutions of higher education and, if applica-  
8 ble, comparable with information from peer institutions in  
9 the region and the nation.

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

35 (c) The president or chief executive officer of each public  
36 college, university or community and technical college

37 shall prepare and submit annually all requested data to  
38 the commission at the time established by the commission.

39 The commission shall prepare report cards for institu-  
40 tions under their jurisdiction and in accordance with the  
41 guidelines set forth in this section and rules promulgated  
42 under this section.

43 (d) The higher education central office staff under the  
44 direction of the vice chancellor for administration shall  
45 provide technical assistance to each institution and  
46 governing board in data collection and reporting and is  
47 responsible for assembling the statewide report card from  
48 information submitted by each governing board. The  
49 statewide report card shall include the data for each  
50 institution for each separately listed, applicable indicator  
51 and the aggregate of the data for all public institutions of  
52 higher education. The statewide report card shall be  
53 prepared using actual institutional, state, regional and  
54 national data, as applicable and available, indicating the  
55 present performance of the individual institutions, the  
56 governing boards and the state system of higher education.  
57 The report card also shall include goals and trends for the  
58 institutions and the higher education system and shall  
59 include all the information required either by statute or by  
60 rule as authorized in subsection (b) of this section. State-  
61 wide report cards shall be based upon information for the  
62 current school year or for the most recent school year for  
63 which the information is available, in which case such year  
64 shall be clearly footnoted.

65 (e) The statewide report card shall be completed and  
66 disseminated with copies to the legislative oversight  
67 commission on education accountability prior to the first  
68 day of January of each year.

69 (f) For a reasonable fee, the chancellor shall make copies  
70 of the report cards available to any individual requesting  
71 them.

**§18B-1B-9. Statewide master plan.**

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

3 (b) The plan shall be developed on or before the first day  
4 of July, two thousand one, and shall be communicated to  
5 the legislative oversight commission on education account-  
6 ability.

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

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

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

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

25 (d) The master plan for higher education for the state  
26 shall be established for periods of not less than three nor  
27 more than six years and shall be revised periodically as  
28 necessary.

**ARTICLE 1C. TRANSITION IMPLEMENTATION.****§18B-1C-1. Transition oversight.**

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

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

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

9 (2) Reviewing the implementation of financing policy  
10 including:

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

14 (B) Monitoring the process for determining the institu-  
15 tional operating budgets pursuant to section five, article  
16 one-a of this chapter;

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

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

24 (5) Subject to the provisions of section eight, article  
25 three-c of this chapter, evaluating the existing community  
26 and technical college programs and services at each of the  
27 community and technical colleges and determining the  
28 effectiveness of the indicated manner to accomplish the  
29 essential conditions at each institution. Notwithstanding

30 the provisions of section eight, article three-c of this  
31 chapter, the team shall determine if the goals of section  
32 one-a, article one of this chapter are being met under the  
33 current structure;

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

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

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

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

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

22 (d) Any person appointed to a position on the board shall  
23 have governing experience in higher education, be knowl-  
24 edgeable on education matters and represent the public  
25 interest.

26 (e) The members shall elect a chairman.

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

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

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

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

40 (3) To advise and assist the commission on implementa-  
41 tion of the act in a manner which achieves the intent,  
42 purposes and goals of the act;

43 (4) To resolve, or seek appropriate remedy of, errors,  
44 omissions, oversights or conflicts relative to implementa-  
45 tion of the act; and

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

50 (h) Members of the board shall be reimbursed for actual  
51 and necessary expenses incident to the performance of  
52 their duties upon presentation of an itemized sworn  
53 statement thereof. The reimbursement shall be paid from  
54 legislative appropriations and other funds available to the  
55 board.

56 (i) A majority of the members constitutes a quorum for  
57 conducting the business of the board.

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

63 (k) The provisions of this section expire on the thirtieth  
64 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 reappoint-  
ment; oath of office; removal from office.**

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

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



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

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

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

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

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

54 fill the vacancy within sixty days of the occurrence of the  
55 vacancy.

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

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

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

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

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

83 (f) On the first day of July, two thousand, there is  
84 transferred to the interim governing board, all powers,  
85 duties, property, obligations, contracts, rules, orders,

86 resolutions or any other matters which were vested in the  
87 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 reappoint-  
ment.**

1 (a) Effective the thirtieth day of June, two thousand one,  
2 the institutional boards of advisors at Bluefield state  
3 college, Concord college, eastern West Virginia community  
4 and technical college, Fairmont state college, Glenville  
5 state college, Marshall university, Shepherd college,  
6 southern West Virginia community and technical college,  
7 West Liberty state college, West Virginia northern commu-  
8 nity and technical college, the West Virginia school of  
9 osteopathic medicine, West Virginia state college and West  
10 Virginia university are abolished.

11 (b) Effective the first day of July, two thousand one, an  
12 institutional board of governors is established at each of  
13 the following institutions: Bluefield state college, Concord  
14 college, eastern West Virginia community and technical  
15 college, Fairmont state college, Glenville state college,  
16 Marshall university, Shepherd college, southern West  
17 Virginia community and technical college, West Liberty  
18 state college, West Virginia northern community and  
19 technical college, the West Virginia school of osteopathic  
20 medicine, West Virginia state college and West Virginia  
21 university. Each institutional board of governors shall  
22 consist of twelve persons: *Provided*, That the institutional  
23 boards of governors for Marshall university and West  
24 Virginia university shall consist of fifteen persons. Each  
25 institutional board of governors shall include:

26 (1) A full-time member of the faculty with the rank of  
27 instructor or above duly elected by the faculty;

28 (2) A member of the student body in good academic  
29 standing, enrolled for college credit work and duly elected  
30 by the student body;

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

33 (4) Nine lay members appointed by the governor by and  
34 with the advice and consent of the Senate pursuant to  
35 section one-a, article six of this chapter: *Provided*, That  
36 for the institutional boards of governors at Marshall  
37 university and West Virginia university, twelve lay  
38 members shall be appointed by the governor by and with  
39 the advice and consent of the Senate pursuant to section  
40 one-a, article six of this chapter: *Provided, however*, That,  
41 of the appointed lay members, the governor shall appoint  
42 one superintendent of a county board of education from  
43 the area served by the institution: *Provided further*, That  
44 in making the initial appointments to the institutional  
45 boards of governors, the governor shall appoint, except in  
46 the case of death, resignation or failure to be confirmed by  
47 the Senate, those persons who are lay members of the  
48 institutional boards of advisors for those institutions  
49 named in subsection (a) on the thirtieth day of June, two  
50 thousand one, and appointed pursuant to section one-a,  
51 article six of this chapter.

52 (c) Of the nine members appointed by the governor, no  
53 more than five may be of the same political party: *Pro-*  
54 *vided*, That of the twelve members appointed by the  
55 governor to the governing boards of Marshall university  
56 and West Virginia university, no more than seven may be  
57 of the same political party. At least six of the members  
58 shall be residents of the state: *Provided, however*, That of  
59 the twelve members appointed by the governor to the  
60 governing boards of Marshall university and West Virginia  
61 university, at least eight of the members shall be residents  
62 of the state. The student member shall serve for a term of

63 one year. The term beginning in July, two thousand, shall  
64 end on the thirtieth day of June, two thousand one. The  
65 term beginning in July, two thousand one, shall end on the  
66 thirtieth day of June, two thousand two. Thereafter, the  
67 term shall begin on the first day of July. The faculty  
68 member and the classified staff member shall serve for a  
69 term of two years. The term beginning in July, two  
70 thousand, shall end on the thirtieth day of June, two  
71 thousand one, and the term beginning in July, two thou-  
72 sand one, shall end on the thirtieth day of June, two  
73 thousand three. Thereafter, the term shall begin on the  
74 first day of July. The appointed lay citizen members shall  
75 serve terms of four years each. All members shall be  
76 eligible to succeed themselves for no more than one  
77 additional term. A vacancy in an unexpired term of a  
78 member shall be filled for the unexpired term within thirty  
79 days of the occurrence of the vacancy in the same manner  
80 as the original appointment or election. Except in the case  
81 of a vacancy, all elections shall be held and all appoint-  
82 ments shall be made no later than the thirtieth day of June  
83 preceding the commencement of the term, except the  
84 election of officers for the term beginning in July, two  
85 thousand one shall be made that July. Each institutional  
86 board of governors shall elect one of its appointed lay  
87 members to be chairperson in June of each year. No  
88 member may serve as chairperson for more than two  
89 consecutive years.

90 (d) The appointed members of the institutional boards of  
91 governors shall serve staggered terms. Of the initial  
92 appointments by the governor to each of the institutional  
93 boards of governors, two shall be appointed for terms of  
94 one year, two shall be appointed for terms of two years,  
95 two shall be appointed for terms of three years and three  
96 shall be appointed for terms of four years: *Provided*, That  
97 for the initial appointments to the governing boards of  
98 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

133 institutional board of governors shall serve without  
134 compensation, but shall be reimbursed for all reasonable  
135 and necessary expenses actually incurred in the perfor-  
136 mance of their official duties under this article upon  
137 presentation of an itemized sworn statement of their  
138 expenses. All expenses incurred by the institutional board  
139 of governors and the institution under this section shall be  
140 paid from funds allocated to the institution for that  
141 purpose.

**§18B-2A-2. Meetings.**

1 (a) The boards of governors shall hold at least six  
2 meetings in every fiscal year, including an annual meeting  
3 each June: *Provided*, That an annual meeting for the  
4 purpose of selecting the first chairperson and other  
5 officers shall be held during July, two thousand one. The  
6 president of the appropriate institution shall call the first  
7 meeting of the institutional board of governors in July,  
8 two thousand one, or as soon thereafter as practicable and  
9 preside until officers are elected. Officers elected in July,  
10 two thousand one, shall begin their terms upon election  
11 and shall serve until the thirtieth day of June the following  
12 year. Of the twelve voting members of the boards of  
13 governors, seven shall constitute a quorum: *Provided*, That  
14 of the fifteen voting members of each of the boards of  
15 governors for the state universities, eight shall constitute  
16 a quorum. A majority vote of the quorum shall be neces-  
17 sary to pass upon matters before the institutional board of  
18 governors.

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

**§18B-2A-3. Supervision of governing boards; promulgation of rules.**

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

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

16 (c) The governing boards and the state board of educa-  
17 tion shall provide any and all information requested by the  
18 chancellor in a timely manner.

**§18B-2A-4. Powers and duties of governing boards generally.**

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

4 (a) Determine, control, supervise and manage the finan-  
5 cial, business and education policies and affairs of the  
6 state institutions of higher education under its jurisdic-  
7 tion;

8 (b) Develop a master plan for the institutions under its  
9 jurisdiction; except the administratively linked community  
10 and technical colleges shall develop their master plans  
11 subject to the provisions of section one, article six of this  
12 chapter. The ultimate responsibility for developing and  
13 updating the master plans at the institutional level resides  
14 with the institutional board of governors or board of



15 advisors, as applicable, but the ultimate responsibility for  
16 approving the final version of the institutional master  
17 plans, including periodic updates, resides with the com-  
18 mission. Each master plan shall include, but not be  
19 limited to, the following:

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

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

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

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

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

45 (d) Direct the preparation of a budget request for the  
46 state institutions of higher education under its jurisdic-  
47 tion, such request to relate directly to missions, goals and

48 projections as found in the institutional master plans and  
49 the institutional compacts;

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

53 (f) Review, at least every five years, all academic pro-  
54 grams offered at the state institutions of higher education  
55 under its jurisdiction. The review shall address the  
56 viability, adequacy and necessity of the programs in  
57 relation to its institutional master plan, the institutional  
58 compact and the education and workforce needs of its  
59 responsibility district. As a part of the review, each  
60 governing board shall require the institutions under its  
61 jurisdiction to conduct periodic studies of its graduates  
62 and their employers to determine placement patterns and  
63 the effectiveness of the education experience. Where  
64 appropriate, these studies should coincide with the studies  
65 required of many academic disciplines by their accrediting  
66 bodies.

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

80 (h) Subject to the provisions of article one-b of this  
81 chapter, the appropriate governing board has the exclusive

82 authority to approve the teacher education programs  
83 offered in the institution under its control. In order to  
84 permit graduates of teacher education programs to receive  
85 a degree from a nationally accredited program and in  
86 order to prevent expensive duplication of program accred-  
87 itation, the chancellor may select and utilize one nation-  
88 ally recognized teacher education program accreditation  
89 standard as the appropriate standard for program evalua-  
90 tion.

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

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

103 (k) Administer a system for the hearing of employee  
104 grievances and appeals therefrom as prescribed by article  
105 twenty-nine, chapter eighteen of this code so that a g-  
106rieved parties may be assured of timely and objective  
107 review: *Provided*, That after the first day of July, two  
108 thousand, the procedure established in article twenty-nine,  
109 chapter eighteen of this code shall be the exclusive mecha-  
110 nism for hearing employee grievances and appeals.

111 (l) Solicit and utilize or expend voluntary support,  
112 including financial contributions and support services, for  
113 the state institutions of higher education under its juris-  
114 diction;

115 (m) Appoint a president or other administrative head for  
116 the institutions of higher education under its jurisdiction  
117 subject to the provisions of section six, article one-b of this  
118 chapter.

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

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

127 (p) Enter into contracts or consortium agreements with  
128 the public schools, private schools or private industry to  
129 provide technical, vocational, college preparatory, reme-  
130 dial and customized training courses at locations either on  
131 campuses of the public institution of higher education or  
132 at offcampus locations in the institution's responsibility  
133 district. To accomplish this goal, the boards are permitted  
134 to share resources among the various groups in the com-  
135 munity.

136 (q) Delegate, with prescribed standards and limitations,  
137 the part of its power and control over the business affairs  
138 of a particular state institution of higher education under  
139 its jurisdiction to the president or other administrative  
140 head of the state institution of higher education in any  
141 case where it considers the delegation necessary and  
142 prudent in order to enable the institution to function in a  
143 proper and expeditious manner and to meet the require-  
144 ments of its institutional compact. If a governing board  
145 elects to delegate any of its power and control under the  
146 provisions of this subsection, it shall notify the chancellor.  
147 Any such delegation of power and control may be re-

148 scinded by the appropriate governing board or the chan-  
149 cellor at any time, in whole or in part.

150 (r) Unless changed by the interim governing board or the  
151 chancellor, the governing boards shall continue to abide by  
152 existing rules setting forth standards for acceptance of  
153 advanced placement credit for their respective institutions.  
154 Individual departments at institutions of higher education  
155 may, upon approval of the institutional faculty senate,  
156 require higher scores on the advanced placement test than  
157 scores designated by the appropriate governing board  
158 when the credit is to be used toward meeting a require-  
159 ment of the core curriculum for a major in that depart-  
160 ment.

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

170 (t) The governing boards in consultation with the chan-  
171 cellor and the secretary of the department of administra-  
172 tion shall develop, update as necessary and maintain a  
173 plan to administer a consistent method of conducting  
174 personnel transactions, including, but not limited to,  
175 hiring, dismissal, promotions and transfers at the institu-  
176 tions under their jurisdiction. Each such personnel  
177 transaction shall be accompanied by the appropriate  
178 standardized system or forms which will be submitted to  
179 the respective governing board and the department of  
180 finance and administration.

181 (u) Notwithstanding any other provision of this code to  
182 the contrary, the governing boards shall have the authority  
183 to transfer funds from any account specifically appropri-  
184 ated for their use to any corresponding line item in a  
185 general revenue account at any agency or institution under  
186 their jurisdiction as long as such transferred funds are  
187 used for the purposes appropriated. The governing boards  
188 also shall have the authority to transfer funds from  
189 appropriated special revenue accounts for capital im-  
190 provements under their jurisdiction to special revenue  
191 accounts at agencies or institutions under their jurisdic-  
192 tion as long as such transferred funds are used for the  
193 purposes appropriated; and

194 (v) Notwithstanding any other provision of this code to  
195 the contrary, the governing boards may acquire legal  
196 services as are considered necessary, including representa-  
197 tion of the governing boards, their institutions, employees  
198 and officers before any court or administrative body. The  
199 counsel may be employed either on a salaried basis or on  
200 a reasonable fee basis. In addition, the governing boards  
201 may, but are not required to, call upon the attorney  
202 general for legal assistance and representation as provided  
203 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.

1 (a) The board of directors of the state college system  
2 shall consist of sixteen persons, of whom one shall be the  
3 chancellor of the university of West Virginia board of  
4 trustees, ex officio, who shall not be entitled to vote; one  
5 shall be the state superintendent of schools, ex officio, who  
6 shall not be entitled to vote; one shall be the chair of the  
7 joint commission for vocational-technical-occupational  
8 education, ex officio, who shall not be entitled to vote; one

9 shall be the chairman of the advisory council of students,  
10 ex officio, who shall be entitled to vote; one shall be the  
11 chairman of the advisory council of faculty, ex officio, who  
12 shall be entitled to vote; and one shall be the chairman of  
13 the advisory council of classified employces, ex officio,  
14 who shall be entitled to vote. The other ten directors shall  
15 be citizens of the state, appointed by the governor, by and  
16 with the advice and consent of the Senate. On or after the  
17 tenth day of March, one thousand nine hundred ninety-six,  
18 the board shall be reconstituted and all terms of members  
19 appointed by the governor prior to the tenth day of March,  
20 one thousand nine hundred ninety-six, shall expire upon  
21 the appointment by the governor of all the directors  
22 required to be appointed by this section. The governor  
23 shall make appointments required by this section no later  
24 than the fifteenth day of March, one thousand nine  
25 hundred ninety-six.

26 Each of the directors appointed to the board by the  
27 governor shall represent the public interest and shall be  
28 especially qualified in the field of higher education by  
29 virtue of the person's knowledge, learning, experience or  
30 interest in the field. The relative enrollments of baccalau-  
31 reate and community and technical students in the state  
32 college system shall be considered by the governor when  
33 making such appointments and the governor shall use his  
34 or her best efforts to achieve a balance among the mem-  
35 bers who reflect the various interests, goals and concerns  
36 reflected by the relative enrollments.

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

44 subdivisions, or an appointee or employee of the board of  
45 trustees or board of directors: *Provided*, That if there are  
46 no ethical restrictions under state or federal law, a federal  
47 employee may serve as a member of the board of directors.  
48 Of the ten directors appointed by the governor from the  
49 public at large, not more than five thereof shall belong to  
50 the same political party and at least three directors of the  
51 board shall be appointed from each congressional district.

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

54 (b) The governor shall appoint ten directors as soon after  
55 the tenth day of March, one thousand nine hundred ninety-  
56 six, as is practicable and the original terms of all directors  
57 shall commence on that date. The terms of the directors  
58 appointed by the governor shall be for overlapping terms  
59 of six years, except, of the original appointments, three  
60 shall be appointed to terms of two years, three shall be  
61 appointed to terms of four years and four shall be ap-  
62 pointed to terms of six years. Each subsequent appoint-  
63 ment which is not for the purpose of filling a vacancy in an  
64 unexpired term shall be appointed to a term of six years.

65 The governor shall appoint a director to fill any vacancy  
66 among the ten directors appointed by the governor, by and  
67 with the advice and consent of the Senate, which director  
68 appointed to fill such vacancy shall serve for the unex-  
69 pired term of the vacating director. The governor shall fill  
70 the vacancy within sixty days of the occurrence of the  
71 vacancy.

72 All directors appointed by the governor shall be eligible  
73 for reappointment: *Provided*, That a person who serves as  
74 a director or trustee during all or any part of two consecu-  
75 tive terms beginning after the first day of March, one  
76 thousand nine hundred ninety-six, shall be ineligible to



77 serve as a director for a period of three years immediately  
78 following the second of the two consecutive terms.

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

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

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

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

100 (f) On the first day of July, two thousand, there is  
101 transferred to the interim governing board all powers,  
102 duties, property, obligations, contracts, rules, orders,  
103 resolutions or any other matters which were vested in the  
104 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.**

1 The West Virginia joint commission for vocational-  
2 technical-occupational education, hereinafter referred to  
3 in this article as the joint commission, is hereby continued.  
4 The joint commission is subject to the jurisdiction of the  
5 commission established in article one-b of this chapter and  
6 is subject to the supervision of the chancellor and the vice  
7 chancellor for community and technical college education  
8 and workforce development.

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

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

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

24 The Legislature further finds that certain acts to stream-  
25 line accountability, to make maximum use of existing

26 assets to meet new demands and target new funding to  
27 initiatives designed to enhance and reorient existing  
28 capacity, to provide incentives for brokering and collabo-  
29 ration and to focus on new demands now require that  
30 many of the responsibilities originally charged to the joint  
31 commission be reexamined.

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

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

1 (a) The joint commission is comprised of nine persons,  
2 seven of whom are appointed by the governor, with the  
3 advice and consent of the Senate. The vice chancellor for  
4 community and technical college education and workforce  
5 development and the assistant superintendent for techni-  
6 cal and adult education of the state department of educa-  
7 tion shall serve as ex officio, nonvoting members of the  
8 joint commission. On or after the effective date of this  
9 section, the joint commission shall be reconstituted and all  
10 terms of members appointed by the governor prior to the  
11 effective date of this section, shall expire upon the ap-  
12 pointment by the governor of all the members required to  
13 be appointed by this section.

14 The seven members appointed by the governor shall  
15 represent the interests of the business, labor and employer  
16 communities and demonstrate knowledge of the workforce  
17 needs of the various areas of the state. No person who is  
18 employed by an institution of higher education and no  
19 person who is engaged in providing, or employed by a

20 person or company whose primary function is to provide  
21 workforce development services and activities, is eligible  
22 to serve on the joint commission. No provider of education  
23 services, workforce development services or related  
24 activities may serve on the joint commission. The governor  
25 shall appoint three members from each congressional  
26 district. Not more than four of the members may be from  
27 the same political party.

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

37 (c) The vice chancellor for community and technical  
38 college education and workforce development shall call  
39 the initial meeting of the commission and preside until a  
40 chairperson is selected. The members shall elect a chair-  
41 person from among the persons appointed by the governor.  
42 The joint commission shall meet at least quarterly and  
43 may meet more often at the call of the chairperson. One  
44 such meeting shall be a public forum for the discussion of  
45 the goals and standards for vocational education in the  
46 state. Members of the joint commission shall serve with-  
47 out compensation, but shall be reimbursed for all reason-  
48 able and necessary expenses actually incurred in the  
49 performance of their official duties under this article upon  
50 presentation of an itemized sworn statement of their  
51 expenses, except that members of the commission who are  
52 employees of the state shall be reimbursed by their em-  
53 ploying agency.

**§18B-3A-4. Definitions.**

1 As used in this article:

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

7 (b) "Post-secondary vocational-technical-occupational  
8 education" means any course or program beyond the high  
9 school level that results in, or may result in, the awarding  
10 of a two-year associate degree, certificate or other creden-  
11 tial from an institution under the jurisdiction of a govern-  
12 ing board or other public or private education provider.

13 (c) "Adult basic education" means adult basic skills  
14 education designed to improve the basic literacy needs of  
15 adults, including information processing skills, communi-  
16 cation skills and computational skills, leading to a high  
17 school equivalency diploma, under the jurisdiction of the  
18 state board of education.

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

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

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

8 (1) Policies to strengthen vocational-technical-occupa-  
9 tional and adult basic education;

10 (2) Programs and methods to assist in the improvement,  
11 modernization and expanded delivery of vocational-  
12 technical-occupational and adult basic education pro-  
13 grams;

14 (3) The distribution of federal vocational education  
15 funding provided under the Carl D. Perkins Vocational  
16 and Technical Education Act of 1998, PL 105-332, with an  
17 emphasis on the distribution of financial assistance among  
18 secondary and post-secondary vocational-technical-  
19 occupational and adult basic education programs to help  
20 meet the public policy agenda;

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

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

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

37 (b) Analyze and report to the commission on the distri-  
38 bution of spending for vocational-technical-occupational  
39 and adult basic education in the state and on the availabil-  
40 ity of vocational-technical-occupational and adult basic  
41 education activities and services within the state.

42 (c) Promote the delivery of vocational-technical-occupa-  
43 tional and adult basic education programs in the state  
44 which emphasize the involvement of business and labor  
45 organizations.

46 (d) Promote public participation in the provision of  
47 vocational-technical-occupational and adult basic educa-  
48 tion at the local level, with an emphasis on programs  
49 which involve the participation of local employers and  
50 labor organizations.

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

59 (f) Assist the commission, the chancellor, the vice  
60 chancellor for community and technical college education  
61 and workforce development and those institutions deliver-  
62 ing community and technical college education, as defined  
63 in section two, article one, of this chapter in the successful  
64 and efficient development, coordination and delivery of  
65 community and technical college programs and services in  
66 the state.

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

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

74 (2) To interview nominees for appointment as community  
75 and technical college presidents or provosts and make  
76 recommendations to the chancellor, or in the case of a  
77 provost, to the institutional president;

78 (3) To review and make recommendations to the commis-  
79 sion for the approval of the institutional compacts for the  
80 community and technical colleges;

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

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

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

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

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

102 (9) To assist the commission in developing a statewide  
103 system of community and technical college programs and  
104 services to place-bound adults and employers in every  
105 region of West Virginia for competency-based certification  
106 of knowledge and skills, including a statewide  
107 competency-based associate degree program; and



108 (10) To review and make recommendations to the  
109 commission for the approval of the institutional master  
110 plans for the community and technical colleges.

**ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.**

**§18B-3C-1. Legislative findings.**

1 (a) *Findings.* —The Legislature hereby finds:

2 (1) That community and technical colleges in every  
3 region of West Virginia are essential elements of a state-  
4 wide strategy to prepare students for further post-second-  
5 ary education, life long learning and development of the  
6 workforce necessary to diversity and grow the state's  
7 economy.

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

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

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

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

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

22 (3) That, despite progress made in developing community  
23 and technical colleges pursuant to Senate Bill No. 547,  
24 most of these colleges remain subordinated to colleges and  
25 universities with four-year and graduate missions.

26 (4) That, while the number of high school graduates is  
27 declining and the needs of adults for further education and  
28 training is increasing, less than twenty-five percent of the  
29 students enrolled in West Virginia institutions are over age  
30 twenty-five.

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

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

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

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

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

53 (10) That, despite the needs of place-bound adults, adults  
54 in the workplace and employers, current higher education  
55 financing policy provides strong disincentives for both  
56 free-standing and component community and technical  
57 colleges to provide off-campus programs and services.

58     (11) That Senate Bill No. 547 set forth a definition of the  
59     kinds of community and technical college programs or  
60     service that should be available and accessible in every  
61     region of West Virginia.

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

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

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

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

87     (16) That since the enactment of Senate Bill No. 547  
88     increasing attention has been given to the related priority  
89     of workforce development.

90 (17) That since the enactment of Senate Bill No. 547  
91 changes have accelerated dramatically in post-secondary  
92 education demand and delivery systems.

93 (18) That the substantive goal of Senate Bill No. 547 to  
94 ensure access to community and technical college pro-  
95 grams and services remains valid and is even more impor-  
96 tant today than five years ago; and

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

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

**§18B-3C-2. Purposes of article.**

1 The general purposes of this article are the following:

2 (a) To establish community and technical college educa-  
3 tion that is well articulated with the public schools and  
4 four-year colleges; that makes maximum use of shared  
5 facilities, faculty, staff, equipment and other resources;  
6 that encourages traditional and nontraditional students

7 and adult learners to pursue a life-time of learning; that  
8 serves as an instrument of economic development; and that  
9 has the independence and flexibility to respond quickly to  
10 changing needs;

11 (b) To charge the respective governing boards with  
12 providing community and technical college education at  
13 state institutions of higher education under their jurisdic-  
14 tion that has the administrative, programmatic and  
15 budgetary control necessary to allow maximum flexibility  
16 and responsiveness to district and community needs.  
17 Education services shall be provided consistent with the  
18 goal of sharing facilities, faculty, staff, equipment and  
19 other resources within and among the districts, the other  
20 systems of public and higher education and other educa-  
21 tion and training programs;

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

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

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

36 (f) To define the full range of programs and services that  
37 every community and technical college has the responsibil-  
38 ity to provide; and

39 (g) To establish such other policies and procedures  
40 necessary to ensure that the needs of West Virginia, its  
41 people and its businesses are met for the programs and  
42 services that can be provided through a comprehensive  
43 system of community and technical colleges.

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

1 The Legislature hereby establishes the following essen-  
2 tial conditions for community and technical college  
3 programs and services:

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

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

13 (c) Programmatic approval consistent with the provi-  
14 sions of section nine of this article;

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

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

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

23 (2) Instructional support services;

24 (3) Access to information and library services;

- 25 (4) Physical space in which courses can be offered;
- 26 (5) Access to necessary technology for students, faculty  
27 and mentors;
- 28 (6) Monitoring and assessment; and
- 29 (7) Administrative services, including, but not limited to,  
30 registration, fee collection and bookstore and other  
31 services for the distribution of learning materials;
- 32 (f) A president who is the chief academic and adminis-  
33 trative officer of the community and technical college  
34 appointed and serving pursuant to the terms of section six,  
35 article one-b of this chapter;
- 36 (g) An institutional board of governors or an institutional  
37 board of advisors appointed and serving as required by  
38 law;
- 39 (h) A full-time core faculty, complemented by persons  
40 engaged through contract or other arrangements, includ-  
41 ing college and university faculty, to teach community  
42 college courses and qualified business, industry and labor  
43 persons engaged as adjunct faculty in technical areas;
- 44 (i) A faculty personnel policy, formally established to be  
45 separate and distinct from that of other institutions, which  
46 includes, but is not limited to, appointment, promotion,  
47 workload and, if appropriate, tenure pursuant to section  
48 nine of this article. These policies shall be appropriate for  
49 the community and technical college mission and may not  
50 be linked to the policies of any other institution;
- 51 (j) Community and technical colleges designed and  
52 operating as open-provider centers with the authority and  
53 flexibility to draw on the resources of the best and most  
54 appropriate provider to ensure that community and  
55 technical college services are available and delivered in the  
56 region in a highly responsive manner. A community and

57 technical college may contract with other institutions and  
58 providers as necessary to obtain the academic programs  
59 and resources to complement those available through a  
60 sponsoring college, where applicable, in order to meet the  
61 region's needs.

62 (k) Separately identified state funding allocations for  
63 each of the community and technical colleges. The  
64 president of the community and technical college has full  
65 budgetary authority for the entity, subject to accountabil-  
66 ity to its governing board, including authority to retain all  
67 tuition and fees generated by the community and technical  
68 college for use to carry out its mission.

**§18B-3C-4. Responsibility districts.**

1 (a) Each community and technical college is hereby  
2 assigned a responsibility district within which it is respon-  
3 sible for providing the full array of community and  
4 technical college programs and services as defined in  
5 section six of this article. The programs and services shall  
6 address the public policy agenda, compact elements and  
7 goals for post-secondary education established in section  
8 one-a, article one of this chapter as they relate to commu-  
9 nity and technical colleges, and other goals which may be  
10 established by the commission. The responsibility districts  
11 shall be comprised of contiguous areas of the state which  
12 have similar economic, industrial, educational, community  
13 and employment characteristics to facilitate specialization  
14 in mission and programming. For the purposes of initial  
15 implementation and organization, the districts shall be  
16 comprised as follows and assigned to the designated  
17 community and technical colleges:

18 (1) West Virginia northern community and technical  
19 college - Ohio, Brooke, Hancock, Marshall, Tyler and  
20 Wetzel counties;



21 (2) West Virginia university at Parkersburg - Wood,  
22 Jackson, Pleasants, Ritchie, Roane, Tyler and Wirt coun-  
23 ties;

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

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

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

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

36 (7) Shepherd community and technical college - Jeffer-  
37 son, Berkeley, Grant and Morgan counties;

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

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

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

46 (11) *Marshall university community and technical*  
47 *college* - Cabell, Mason, Putnam and Wayne counties.

48 (b) It is the intent of the Legislature that, where counties  
49 are listed in more than one district, the county shall be the  
50 joint responsibility of each community and technical  
51 college assigned that county or shall be divided as deter-

52 mined by the commission. The boundaries of the districts  
53 may be modified from time to time by the commission to  
54 serve better the needs within the districts. Such modifica-  
55 tions are not required to follow county boundaries.

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

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

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

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

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

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

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

19 (4) Workforce training and retraining and contract  
20 education with business and industry to train or retrain  
21 employees;

22 (5) Continuing development assistance and education  
23 credit and noncredit courses for professional and self-  
24 development, certification and licensure and literacy  
25 training;

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

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

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

52 (c) Independently accredited community and technical  
53 colleges will serve as higher education centers for their  
54 regions by brokering with colleges, universities and other  
55 providers, in state and out of state to ensure the coordi-

56 nated access of students, employers, and other clients to  
57 needed programs and services.

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

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

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

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

24 (3) Planning and development of a unified effort to meet  
25 the documented workforce development needs of the  
26 district through individual and cooperative programs,  
27 shared facilities, faculty, staff, equipment and other  
28 resources and the development and use of distance learn-  
29 ing and other education technologies;

30 (4) Regularly reviewing and revising curricula to ensure  
31 that the workforce needs are met, developing new pro-  
32 grams and phasing out or modifying existing programs as  
33 appropriate to meet such needs, streamlining procedures  
34 for designing and implementing customized training  
35 programs and accomplishing such other complements of a  
36 quality comprehensive community and technical college;

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

42 (A) Helps students focus on career objectives;

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

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

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

51 (6) Planning and implementation of integrated profes-  
52 sional development activities for secondary and post-  
53 secondary faculty, staff and administrators and other  
54 consortium partners throughout the district;

55 (7) Ensuring that program graduates have attained the  
56 competencies required for successful employment through  
57 the involvement of business, industry and labor in estab-  
58 lishing student credentialing;

59 (8) Performance assessment of student knowledge and  
60 skills which may be gained from multiple sources so that  
61 students gain credit toward program completion and

62 advance more rapidly without repeating coursework in  
63 which they already possess competency;

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

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

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

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

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

10 (b) To be eligible for funds appropriated to develop  
11 independently accredited community and technical  
12 colleges, a state institution of higher education shall  
13 demonstrate the following:

14 (1) That it has as a part of its institutional compact  
15 approved by the commission a step-by-step plan with  
16 measurable benchmarks for developing an independently  
17 accredited community and technical college that meets the  
18 essential conditions set forth in section three of this  
19 article, except as limited in subdivisions (1),(2) and (4),  
20 subsection (c), of this section;

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

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

30 (c) The following are recommended strategies for moving  
31 from the current arrangement of "component" community  
32 and technical colleges to the legislatively mandated  
33 statewide network of independently accredited community  
34 and technical colleges serving every region of the state.  
35 The Legislature recognizes that there may be other means  
36 to achieve this ultimate objective; however, it is the intent  
37 of the Legislature that the move from the current arrange-  
38 ment of "component" community and technical colleges to  
39 the legislatively mandated statewide network of independ-  
40 ently accredited community and technical colleges serving  
41 every region of the state shall be accomplished. The  
42 following recommendations are designed to reflect signifi-  
43 cant variations among regions and the potential impacts  
44 on the sponsoring institutions.

45 (1) *Marshall university community and technical college,*  
46 *West Virginia state community and technical college and*  
47 *West Virginia university institute of technology.* – The

48 status of these institutions shall be determined pursuant to  
49 the provisions of article three-f of this chapter.

50 (2) *Bluefield state community and technical college.* –  
51 Bluefield state community and technical college, including  
52 the Lewisburg center, should retain its relationship as a  
53 component of Bluefield state college. The president and  
54 the institutional board of governors of Bluefield state  
55 college are accountable to the commission for ensuring  
56 that the full range of community and technical college  
57 services is available throughout the region and that the  
58 community and technical college adheres, as nearly as  
59 possible, to the essential conditions pursuant to section  
60 three of this article with the possible exception of inde-  
61 pendent accreditation.

62 (3) *Center for higher education and workforce develop-*  
63 *ment at Beckley.* – The president of Bluefield state college  
64 and the institutional board of advisors are responsible,  
65 according to a plan approved by the commission, for the  
66 step-by-step implementation of a new independently  
67 accredited community and technical college administra-  
68 tively linked to Bluefield state college, known as the center  
69 for higher education and workforce development, which  
70 adheres to the essential conditions pursuant to section  
71 three of this article. As an independently accredited  
72 community and technical college, the center also shall  
73 serve as higher education center for its region by brokering  
74 with other colleges, universities and other providers, in-  
75 state and out-of-state, both public and private, to ensure  
76 the coordinated access of students, employers, and other  
77 clients to needed programs and services. The new commu-  
78 nity and technical college shall serve Raleigh, Summers  
79 and Fayette counties and be headquartered in Beckley.  
80 The commission shall appoint an institutional board of  
81 advisors for the center at Beckley which is separate from  
82 the institutional board of advisors of Bluefield state



83 college but may have some overlap in membership to  
84 facilitate coordination. In addition, the president of the  
85 center shall appoint a district consortium committee to  
86 advise the president on a comprehensive assessment of the  
87 needs in the region, on coordinating efforts with regional  
88 labor market information systems, and on other areas as  
89 provided for in section seven of this article relating to the  
90 duties of district consortia committees. The center shall  
91 facilitate the planning and development of a unified effort  
92 involving multiple providers and facilities, including, but  
93 not limited to, Concord college, the college of West Vir-  
94 ginia, Marshall university, West Virginia university, West  
95 Virginia university institute of technology and other  
96 entities to meet the documented workforce development  
97 needs in the region: *Provided*, That nothing in this subdivi-  
98 sion prohibits or limits any existing, or the continuation of  
99 any existing affiliation between the college of West  
100 Virginia, West Virginia university institute of technology  
101 and West Virginia university. The center for higher  
102 education and workforce development at Beckley shall  
103 also provide the facilities and support services for other  
104 public and private institutions delivering courses, pro-  
105 grams and services in Beckley. The objective would be to  
106 assure students and employers in the area that there would  
107 be coordination and efficient use of resources among the  
108 separate programs and facilities, existing and planned, in  
109 the Beckley area. If, at a future time, the commission  
110 believes it appropriate, it may recommend to the Legisla-  
111 ture that the Beckley institution be created as a freestand-  
112 ing institution.

113 (4) *Glenville state community and technical college.* -  
114 Glenville state community and technical college, including  
115 the centers in Nicholas, Lewis and Roane counties, should  
116 retain its relationship as a component of Glenville state  
117 college. The president of Glenville state college and the  
118 governing board are accountable to the commission for

119 ensuring that the full range of community and technical  
120 college services is available throughout the region and that  
121 the community and technical college adheres as nearly as  
122 possible to the essential conditions pursuant to section  
123 three of this article, with the possible exception of inde-  
124 pendent accreditation.

125     (5) *Fairmont state community and technical college.* --  
126 Fairmont state community and technical college should be  
127 an independently accredited community and technical  
128 college serving Marion, Doddridge, Barbour, Harrison,  
129 Monongalia, Preston, Randolph and Taylor counties. The  
130 community and technical college is developed on the base  
131 of the existing component community and technical  
132 college of Fairmont state college. Subject to the provisions  
133 of section eight of this article, the president and the  
134 governing board of Fairmont state college are responsible,  
135 according to a plan approved by the commission, for  
136 step-by-step implementation of the independently accred-  
137 ited community and technical college which adheres to the  
138 essential conditions pursuant to section three of this  
139 article. Subject to the provisions of section eight of this  
140 article, the community and technical college will remain  
141 administratively linked to Fairmont state college. Nothing  
142 herein shall be construed to require Fairmont state college  
143 to discontinue any associate degree program in areas of  
144 particular institutional strength which are closely articu-  
145 lated to their baccalaureate programs and missions or  
146 which are of a high-cost nature and can best be provided  
147 in direct coordination with a baccalaureate institution.

148     (6) *Shepherd community and technical college.* - Shep-  
149 herd community and technical college should become an  
150 independently accredited community and technical  
151 college. It should serve Jefferson, Berkeley and Morgan  
152 counties. The new community and technical college is  
153 developed on the base of the existing component commu-

154 nity and technical college of Shepherd college. Subject to  
155 the provisions of section eight of this article, the president  
156 and the governing board of Shepherd college are responsi-  
157 ble, according to a plan approved by the commission, for  
158 step-by-step implementation of the new independently  
159 accredited community and technical college which adheres  
160 to the essential conditions pursuant to section three of this  
161 article. Subject to the provisions of section eight of this  
162 article, the community and technical college will remain  
163 administratively linked to Shepherd college. Nothing  
164 herein shall be construed to require Shepherd college to  
165 discontinue any associate degree program in areas of  
166 particular institutional strength which are closely articu-  
167 lated to their baccalaureate programs and missions or  
168 which are of a high-cost nature and can best be provided  
169 in direct coordination with a baccalaureate institution.

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

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

4 (1) Incorporate the most effective and efficient use of  
5 technology in accessing and delivering courses and pro-  
6 grams in order to make the best use of available resources  
7 and to control costs;

8 (2) Incorporate a model to offer occupational program  
9 curricula in smaller modules to accommodate specific  
10 student and employer needs and to gain sufficient flexibil-  
11 ity in formatting courses;

12 (3) Serve as a facilitator for education programs from  
13 outside delivery sources to meet the needs of the residents  
14 and employers of the district; and

15 (4) Employ faculty in the most effective manner to serve  
16 the core mission of the community and technical college.

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

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

46 (b) The governing boards shall adopt a model of program  
47 approval for the community and technical colleges that  
48 permits occupational programs to be customized to meet  
49 needs without requiring approval by any governing board

50 or other agency of government and, furthermore, that  
51 incorporates a post-audit review of such programs on a  
52 three-year cycle to determine the effectiveness of such  
53 programs in meeting district needs.

54 (c) The interim governing board or the chancellor shall  
55 promulgate rules to implement the provisions of this  
56 section and shall file these rules for review and approval  
57 with the chancellor no later than the first day of Decem-  
58 ber, two thousand.

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

1 (a) During the transition year, beginning the first day of  
2 July, two thousand, and ending the thirtieth day of June,  
3 two thousand one, the appropriate governing board may  
4 fix tuition and establish and set such other fees to be  
5 charged students at community and technical colleges as  
6 it considers appropriate and shall pay such tuition and  
7 fees collected into a revolving fund for the partial or full  
8 support, including the making of capital improvements, of  
9 any community and technical college. Funds collected at  
10 any such community and technical college may be used  
11 only for the benefit of that community and technical  
12 college. The appropriate governing board also may  
13 establish special fees for such purposes as, including, but  
14 not limited to, health services, student activities, student  
15 recreation, athletics or any other extracurricular purposes.  
16 Such special fees shall be paid into special funds in the  
17 state treasury and used only for the purposes for which  
18 collected.

19 (b) Beginning on the first day of July, two thousand one,  
20 the appropriate governing board may fix tuition and  
21 establish and set such other fees to be charged students at  
22 community and technical colleges as it considers appropri-

23 ate, subject to the provisions of subdivision (2) of this  
24 subsection.

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

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

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

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

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

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

48 (c) All tuition and fee charges in the total aggregate shall  
49 comply with the terms of the institutions compact ap-  
50 proved by the commission based on peer comparisons or  
51 cost of instruction as set forth in the goals for post-second-  
52 ary education pursuant to section one-a, article one of this  
53 chapter.

**§18B-3C-11. Shared facilities and resources; memoranda of agreements; and joint administrative boards.**

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

14 (b) The governing boards may accept federal grants and  
15 funds from county boards of education, other local govern-  
16 mental bodies, corporations or persons. The governing  
17 boards may enter into memoranda of understanding  
18 agreements with such governmental bodies, corporations  
19 or persons for the use or acceptance of local facilities and  
20 for the acceptance of grants or contributions toward the  
21 cost of the acquisition or construction of such facilities.  
22 Such local governmental bodies may convey capital  
23 improvements, or lease the same without monetary  
24 consideration, to the governing boards for the use by the  
25 community and technical college and the governing boards  
26 may accept such facilities, or the use or lease thereof, and  
27 grants or contributions for such purposes from such  
28 governmental bodies, the federal government or any  
29 corporation or person. In addition, the various education  
30 agencies shall establish cooperative relationships to utilize  
31 existing community and technical colleges and programs,  
32 public school vocational centers and other existing facili-

33 ties to serve the identified needs within the community  
34 and technical college district.

35 (c) To facilitate the administration, operation and  
36 financing of programs in shared facilities of any institu-  
37 tion of public higher education and a county board or  
38 boards of education, the affected president and county  
39 board or boards of education may appoint a joint adminis-  
40 trative board consisting of such membership and possess-  
41 ing such delegated authorities as the respective boards  
42 consider necessary and prudent for the operation of such  
43 shared facilities. Such joint administrative boards, as an  
44 example, may consist of five members appointed as  
45 follows: The county board of education appoints two  
46 members; the president appoints two members; and one  
47 at-large member, who shall chair the joint administrative  
48 board, is appointed by mutual agreement of the board and  
49 the president. When two or more county boards of educa-  
50 tion are participating in such shared program, such county  
51 board appointments would be made by mutual agreement  
52 of each of the participating county boards. Members  
53 would serve for staggered terms of three years. With  
54 respect to initial appointments, one member appointed by  
55 the county board or boards of education and one member  
56 appointed by the governing board would serve for one  
57 year, one member appointed by the county board or boards  
58 of education and one member appointed by the governing  
59 board would serve for two years and the at-large member  
60 would serve for three years. Subsequent appointments  
61 should be for three years. A member would not serve more  
62 than two consecutive terms. Members would be reim-  
63 bursed for reasonable and necessary expenses actually  
64 incurred in the performance of its duties as board mem-  
65 bers from funds allocated to the shared facility, except  
66 that members who are employed by a board of education,  
67 governing board or state institution of higher education  
68 would be reimbursed by their employer.



**§18B-3C-12. Relationship between administratively linked community and technical colleges and sponsoring institutions.**

1     (a) *Intent and Purposes.* —

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

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

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

18    (b) Where independently accredited community and  
19    technical colleges are linked administratively to a sponsor-  
20    ing state college or university in order to ensure efficient  
21    use of limited resources, the following conditions shall  
22    apply:

23    (1) The community and technical college shall be accred-  
24    ited separately from the sponsoring institution;

25    (2) All state funding allocations for the community and  
26    technical college shall be transferred directly to the  
27    community and technical college. The sponsoring institu-  
28    tion may charge fees for administrative overhead costs  
29    subject to a schedule approved by the commission.

30 (3) Policies shall be formally established to ensure the  
31 separation of academic and faculty personnel policies of  
32 the community and technical college from those of the  
33 sponsoring institution. These policies include, but are not  
34 limited to, appointment, promotion, workload and, if  
35 appropriate, tenure.

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

39 (1) Personnel management;

40 (2) Recordkeeping;

41 (3) Payroll;

42 (4) Accounting;

43 (5) Legal services;

44 (6) Registration;

45 (7) Student aid;

46 (8) Student records; and

47 (9) Such other services as determined to be necessary and  
48 appropriate by the commission.

49 (d) Subject to the approval of the appropriate governing  
50 board, the president of the sponsoring institution, pursu-  
51 ant to the terms of section six, article one-b of this chap-  
52 ter, shall appoint the presidents of the community and  
53 technical college, who shall serve at the will and pleasure  
54 of the institutional president. Subject to the provisions of  
55 section six, article one-b of this chapter, the appropriate  
56 governing board shall appoint the president of the spon-  
57 soring institution.

58 (e) The governing board and the president of the spon-  
59 soring 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 (f) The president of the sponsoring institution shall have  
64 such responsibilities, powers and duties in the develop-  
65 ment of the community and technical college and in  
66 compliance with the essential conditions, as directed by  
67 the governing board or as are necessary for the proper  
68 implementation of the provisions of this act.

69 (g) Notwithstanding any other provision of the code to  
70 the contrary, the commission shall take necessary steps to  
71 ensure that institutional bonded indebtedness is secure  
72 and that administratively linked community and technical  
73 colleges assume their fair share of any institutional debt  
74 acquired while they were part of the baccalaureate  
75 institution.

76 (h) The community and technical college is encouraged  
77 to secure academic services from the sponsoring institution  
78 when it is in the best interests of the students to be served,  
79 the community and technical college and the sponsoring  
80 institution. In determining whether or not to secure  
81 services from the sponsoring institution, the community  
82 and technical college shall consider the following:

83 (1) The cost of the academic services;

84 (2) The quality of the academic services;

85 (3) The availability, both as to time and place, of the  
86 academic services; and

87 (4) Such other considerations as the community and  
88 technical college finds appropriate taking into account the  
89 best interests of the students to be served, the community  
90 and technical college, and the sponsoring institution:  
91 *Provided*, That nothing in this article shall be construed to  
92 prohibit any state institution of higher education from

93 purchasing or brokering remedial and/or developmental  
94 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.**

1 (a) *Legislative Intent.* – It is the intent of the Legislature  
2 to enhance community and technical college services in the  
3 responsibility areas of Marshall university, West Virginia  
4 state college and West Virginia university institute of  
5 technology through the delivery of community and techni-  
6 cal college services that meet the goals of section six,  
7 article three-c of this chapter and are delivered pursuant  
8 to the essential conditions of section three, article three-c  
9 of this chapter. It is further the intent of the Legislature  
10 to make maximum use of existing institutions in the region  
11 and to focus on the benefits available to the Kanawha  
12 valley and to the state of providing quality community and  
13 technical college education.

14 (b) *Findings.* – The Legislature finds the following:

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

20 (2) That, in order to satisfy the growing needs of the  
21 Kanawha valley region for access to quality higher  
22 education programs, the delivery of community and  
23 technical college services in the Kanawha valley must  
24 meet the goals for comprehensive community and techni-  
25 cal college education described in section two, article  
26 three-c of this chapter and must meet the essential condi-  
27 tions for a comprehensive community and technical

28 college education as described in section three, article  
29 three-c of this chapter.

**§18B-3F-2. Implementation board established.**

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

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

14 (c) The implementation board shall develop a plan, to be  
15 recommended to the commission, for the most effective  
16 and efficient method to deliver comprehensive community  
17 and technical college education to the citizens and employ-  
18 ers of the responsibility areas of Marshall university, West  
19 Virginia state college and West Virginia university insti-  
20 tute of technology. The plan shall include, but not be  
21 limited to:

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

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

27 (3) The impact of the status of West Virginia state college  
28 as an historically black institution of higher education and

29 as an eighteen hundred and ninety land grant institution;  
30 and

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

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

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

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

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

1 Subject to change by the commission through the process  
2 for the establishment of institutional compacts defined in  
3 section two, article one-a of this chapter, nothing in this  
4 article may be construed to require Marshall university,

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 ministe-  
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

25 system of job classifications as stated in article nine of this  
26 chapter shall be accorded the job title, compensation and  
27 rights established in the article as well as all other rights  
28 and privileges accorded classified employees by the  
29 provisions of this code.

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

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

46 (f) The vice chancellor for administration, in accordance  
47 with established guidelines and in consultation with and  
48 under the direction of the chancellor, shall administer,  
49 oversee or monitor all state and federal student assistance  
50 and support programs administered on the state level,  
51 including those provided for in chapter eighteen-c of this  
52 code.

53 (g) The vice chancellor for administration has a fiduciary  
54 responsibility to administer the tuition and registration fee  
55 capital improvement revenue bond accounts of the govern-  
56 ing boards.

57 (h) The vice chancellor for administration shall adminis-  
58 ter the purchasing system or systems of the commission,



59 the office of the chancellor, and the governing boards:  
60 *Provided*, That the chancellor may delegate authority for  
61 the purchasing systems or portions thereof to the institu-  
62 tion presidents.

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

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

76 (k) Effective on the first day of July, two thousand, the  
77 vice chancellor for administration may administer any  
78 program or service authorized or required to be performed  
79 by the board of trustees or the board of directors on the  
80 thirtieth day of June, two thousand, and not specifically  
81 assigned to another agency. In addition, the vice chancel-  
82 lor for administration may administer any program or  
83 service authorized or required to be performed by the  
84 commission or the chancellor for higher education, but not  
85 assigned specifically to the commission or the chancellor.  
86 Such program or service may include, but shall not be  
87 limited to, telecommunications activities and other  
88 programs and services provided for under grants and  
89 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.**

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

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

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

29 (d) All dead human bodies which may come under the  
30 charge or control of any mortician, any officer or agent of  
31 the department of welfare or of any county commission or  
32 municipality, or any superintendent, officer or agent

33 having the supervision of any prison, morgue, hospital or  
34 other public institution in this state and which may be  
35 required to be buried at public expense, shall be subject to  
36 the requisition of the board as provided in this section. No  
37 such body shall be delivered to the board if any person  
38 related to the deceased by blood or marriage shall make a  
39 statement in writing to that effect and shall claim such  
40 body for burial or shall make affidavit that the relative is  
41 unable to bear the expense of burial and desires that the  
42 deceased be buried at public expense. This statement and  
43 affidavit may be filed by any such relative with the person  
44 having charge and control of the body of the person so  
45 claimed, either before or after the death of such person.

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

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

68 tion of any body delivered pursuant to the order of the  
69 board shall be paid by the education institution receiving  
70 the body.

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

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

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

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

1 The governing boards and the commission are authorized  
2 and empowered to enter into contracts and expend funds  
3 for programs, services and facilities provided by public  
4 and private education institutions, associations, boards,  
5 agencies, consortia, corporations, partnerships, individuals  
6 and local, state and federal governmental bodies within  
7 and outside of West Virginia in order that maximum

8 higher education opportunities of high quality may be  
9 provided to the citizens of the state in the most economical  
10 manner: *Provided*, That in no event may a contract for  
11 such services and facilities be entered into unless the  
12 commission or the governing boards have determined that  
13 such services and facilities are necessary and that such  
14 services and facilities would be at a savings to the state.

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

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

1 (a) The commission and each governing board, through  
2 the vice chancellor for administration shall purchase or  
3 acquire all materials, supplies, equipment and printing  
4 required for that governing board or the commission, as  
5 appropriate, and the state institutions of higher education  
6 under their jurisdiction. The commission shall adopt rules  
7 governing and controlling acquisitions and purchases in  
8 accordance with the provisions of this section. Such rules  
9 shall assure that the governing boards: (1) Do not preclude  
10 any person from participating and making sales thereof to  
11 the governing board or to the higher education commission  
12 except as otherwise provided in section five of this article:  
13 *Provided*, That the providing of consultant services such  
14 as strategic planning services will not preclude or inhibit  
15 the governing boards or the commission from considering  
16 any qualified bid or response for delivery of a product or  
17 a commodity because of the rendering of those consultant  
18 services; (2) shall establish and prescribe specifications, in

19 all proper cases, for materials, supplies, equipment and  
20 printing to be purchased; (3) shall adopt and prescribe  
21 such purchase order, requisition or other forms as may be  
22 required; (4) shall negotiate for and make purchases and  
23 acquisitions in such quantities, at such times and under  
24 contract, in the open market or through other accepted  
25 methods of governmental purchasing as may be practica-  
26 ble in accordance with general law; (5) shall advertise for  
27 bids on all purchases exceeding fifteen thousand dollars,  
28 to purchase by means of sealed bids and competitive  
29 bidding or to effect advantageous purchases through other  
30 accepted governmental methods and practices: *Provided*,  
31 *however*, That for printing services, bids shall be adver-  
32 tised by written notification of such bids to any print shop,  
33 affiliated with an institution of higher education and  
34 operated by classified employees, on all purchases exceed-  
35 ing five thousand dollars; (6) shall post notices of all  
36 acquisitions and purchases for which competitive bids are  
37 being solicited in the purchasing office of the specified  
38 institution involved in the purchase, at least two weeks  
39 prior to making such purchases and ensure that the notice  
40 is available to the public during business hours; (7) shall  
41 provide for purchasing in the open market; (8) shall make  
42 provision for vendor notification of bid solicitation and  
43 emergency purchasing; and (9) provide that competitive  
44 bids are not required for purchases of one thousand dollars  
45 or less.

46 (b) The commission or each governing board, through the  
47 vice chancellor for administration may issue a check in  
48 advance to a company supplying postage meters for  
49 postage used by that board, the commission and by the  
50 state institutions of higher education under their jurisdic-  
51 tion.

52 (c) When a purchase is to be made by bid, any or all bids  
53 may be rejected. *However*, all purchases based on adver-

54 tised bid requests shall be awarded to the lowest responsi-  
55 ble bidder taking into consideration the qualities of the  
56 articles to be supplied, their conformity with specifica-  
57 tions, their suitability to the requirements of the governing  
58 boards, the commission and delivery terms: *Provided,*  
59 That the preference for resident vendors as provided in  
60 section thirty-seven, article three, chapter five-a of this  
61 code shall apply to the competitive bids made pursuant to  
62 this section.

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

80 (e) The commission also shall adopt rules to prescribe  
81 qualifications to be met by any person who is to be em-  
82 ployed as a buyer pursuant to this section. These rules  
83 shall require that no person may be employed as a buyer  
84 unless that person, at the time of employment, either is:  
85 (1) A graduate of an accredited college or university; or (2)  
86 has at least four years' experience in purchasing for any  
87 unit of government or for any business, commercial or  
88 industrial enterprise. Any person making purchases and

89 acquisitions pursuant to this section shall execute a bond  
90 in the penalty of fifty thousand dollars, payable to the  
91 state of West Virginia, with a corporate bonding or surety  
92 company authorized to do business in this state as surety  
93 thereon, in form prescribed by the attorney general and  
94 conditioned upon the faithful performance of all duties in  
95 accordance with sections four through eight of this article  
96 and the rules of the interim governing board and the  
97 commission. In lieu of separate bonds for such buyers, a  
98 blanket surety bond may be obtained. Any such bond or  
99 bonds shall be filed with the secretary of state. The cost of  
100 any such bond or bonds shall be paid from funds appropri-  
101 ated to the applicable governing board or commission.

102 (f) All purchases and acquisitions shall be made in  
103 consideration and within limits of available appropria-  
104 tions and funds and in accordance with applicable provi-  
105 sions of article two, chapter five-a of this code, relating to  
106 expenditure schedules and quarterly allotments of funds.

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

116 (h) Contracts entered into pursuant to this section shall  
117 be signed by the applicable governing board or the com-  
118 mission in the name of the state and shall be approved as  
119 to form by the attorney general: *Provided*, That a contract  
120 in which the total does not exceed five thousand dollars  
121 and for which the attorney general has not responded  
122 within fifteen days of presentation of the contract, the  
123 contract shall be deemed approved: *Provided, however*,



124 That a contract or a change order for that contract which  
125 in total does not exceed fifteen thousand dollars and which  
126 uses terms and conditions or standardized forms previ-  
127 ously approved by the attorney general and does not make  
128 substantive changes in the terms and conditions of the  
129 contract does not require approval by the attorney general:  
130 *Provided further, That* the attorney general shall make a  
131 list of those changes which he or she deems to be substan-  
132 tive and the list, and any changes thereto, shall be pub-  
133 lished in the state register. A contract that exceeds fifteen  
134 thousand dollars shall be filed with the state auditor: *And*  
135 *provided further, That* upon request, the governing boards  
136 or the commission shall make all contracts available for  
137 inspection by the state auditor. The governing board or  
138 the commission, as appropriate shall prescribe the amount  
139 of deposit or bond to be submitted with a bid or contract,  
140 if any, and the amount of deposit or bond to be given for  
141 the faithful performance of a contract. If the governing  
142 board or the commission purchases or contracts for  
143 materials, supplies, equipment and printing contrary to  
144 the provisions of sections four through seven of this article  
145 or the rules pursuant thereto, such purchase or contract  
146 shall be void and of no effect.

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

156 (j) Each governing board or the commission, as appropri-  
157 ate, shall permit private institutions of higher education to  
158 join as purchasers on purchase contracts for materials,

159 supplies and equipment entered into by that governing  
160 board or the commission. Any private school desiring to  
161 join as purchasers on such purchase contracts shall file  
162 with that governing board or the commission an affidavit  
163 signed by the president of the institution of higher educa-  
164 tion or a designee requesting that it be authorized to join  
165 as purchaser on purchase contracts of that governing  
166 board or the commission, as appropriate, and agreeing that  
167 it will be bound by such terms and conditions as that  
168 governing board or the commission may prescribe and that  
169 it will be responsible for payment directly to the vendor  
170 under each purchase contract.

171 (k) Notwithstanding any other provision of this code to  
172 the contrary, the governing boards and the commission, as  
173 appropriate, may make purchases from the federal govern-  
174 ment or from federal government contracts if the materi-  
175 als, supplies, equipment or printing to be purchased is  
176 available from the federal government or from a federal  
177 contract and purchasing from the federal government or  
178 from a federal government contract would be the most  
179 financially advantageous manner of making the purchase.

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

188 (m) The governing boards shall require each institution  
189 under their respective jurisdictions to notify and inform  
190 every vendor doing business with that institution of the  
191 provisions of section fifty-four, article three, chapter five-  
192 a of this code, also known as the "prompt pay act of 1990".

193 (n) Consultant services, such as strategic planning  
194 services, may not preclude or inhibit the governing boards  
195 or the commission from considering any qualified bid or  
196 response for delivery of a product or a commodity because  
197 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.**

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

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

17 (2) The lay members of the institutional board of advisors  
18 established for the administratively linked community  
19 and technical colleges are appointed by the joint commission.  
20

21 (b) The board of advisors consists of fifteen members,  
22 including a full-time member of the faculty with the rank  
23 of instructor or above duly elected by the faculty; a  
24 member of the student body in good academic standing,

25 enrolled for college credit work and duly elected by the  
26 student body; a member of the institutional classified staff  
27 duly elected by the classified staff; and twelve lay persons  
28 appointed pursuant to subsection (a) of this section who  
29 have demonstrated a sincere interest in and concern for  
30 the welfare of that institution and who are representative  
31 of the population of its responsibility district and fields of  
32 study. At least eight of the twelve lay persons appointed  
33 shall be residents of the state. Of the lay members who are  
34 residents of the state, at least two shall be alumni of the  
35 institution and no more than a simple majority may be of  
36 the same political party.

37 (c) The student member shall serve for a term of one year  
38 beginning upon appointment in July, two thousand, and  
39 ending on the thirtieth day of April, two thousand one.  
40 Thereafter the term shall begin on the first day of May.  
41 The faculty member and the classified staff member shall  
42 serve for a term of two years beginning upon appointment  
43 in July, two thousand, and ending on the thirtieth day of  
44 April, two thousand two. Thereafter the term shall begin  
45 on the first day of May; and the twelve lay members shall  
46 serve terms of four years each beginning upon appoint-  
47 ment in July, two thousand. Thereafter the term shall  
48 begin on the first day of May. All members are eligible to  
49 succeed themselves for no more than one additional term.  
50 A vacancy in an unexpired term of a member shall be  
51 filled for the remainder of the unexpired term within  
52 thirty days of the occurrence thereof in the same manner  
53 as the original appointment or election. Except in the case  
54 of a vacancy, all elections shall be held and all appoint-  
55 ments shall be made no later than the thirtieth day of  
56 April preceding the commencement of the term.

57 (d) Each board of advisors shall hold a regular meeting  
58 at least quarterly, commencing in May of each year.  
59 Additional meetings may be held upon the call of the

60 chairperson, president of the institution or upon the  
61 written request of at least five members. A majority of the  
62 members constitutes a quorum for conducting the business  
63 of the board of advisors.

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

69 (f) The president of the institution shall make available  
70 resources of the institution for conducting the business of  
71 the board of advisors. The members of the board of  
72 advisors shall be reimbursed for all reasonable and  
73 necessary expenses actually incurred in the performance  
74 of their official duties under this section upon presentation  
75 of an itemized sworn statement thereof. All expenses  
76 incurred by the boards of advisors and the institutions  
77 under this section shall be paid from funds allocated to the  
78 institutions for that purpose.

79 (g) The board of advisors shall review, prior to the  
80 submission by the president to its governing board, all  
81 proposals of the institution in the areas of mission, aca-  
82 demic programs, budget, capital facilities and such other  
83 matters as requested by the president of the institution or  
84 its governing board or otherwise assigned to it by law. The  
85 board of advisors shall comment on each such proposal in  
86 writing, with such recommendations for concurrence  
87 therein or revision or rejection thereof as it considers  
88 proper. The written comments and recommendations shall  
89 accompany the proposal to the governing board and the  
90 governing board shall include the comments and recom-  
91 mendations in its consideration of and action on the  
92 proposal. The governing board shall promptly acknowl-  
93 edge receipt of the comments and recommendations and

94 shall notify the board of advisors in writing of any action  
95 taken thereon.

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

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

114 (j) Upon the occurrence of a vacancy in the office of  
115 president of the institution, the board of advisors shall  
116 serve as a search and screening committee for candidates  
117 to fill the vacancy under guidelines established by the  
118 commission pursuant to the provisions of section six,  
119 article one-b of this chapter. When serving as a search and  
120 screening committee, the board of advisors and its govern-  
121 ing board are each authorized to appoint up to three  
122 additional persons to serve on the committee as long as the  
123 search and screening process is in effect. The three  
124 additional appointees of the board of advisors shall be  
125 faculty members of the institution. Only for the purposes  
126 of the search and screening process, the additional mem-  
127 bers shall possess the same powers and rights as the  
128 regular members of the board of advisors, including

129 reimbursement for all reasonable and necessary expenses  
130 actually incurred. Following the search and screening  
131 process, the committee shall submit the names of at least  
132 three candidates to the president of the sponsoring institu-  
133 tion for consideration and appointment. If the president  
134 rejects all candidates submitted, the committee shall  
135 submit the names of at least three additional candidates  
136 and this process shall be repeated until the president  
137 appoints one of the candidates submitted. The governing  
138 board shall provide all necessary staff assistance to the  
139 board of advisors in its role as a search and screening  
140 committee.

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

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

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

160 (3) Documentation of the involvement of the commission,  
161 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-6-1a. 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;



22 (B) A member of the student body in good academic  
23 standing, enrolled for college credit work and duly elected  
24 by the student body;

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

27 (D) Nine lay members appointed by the governor, by and  
28 with the advice and consent of the Senate: *Provided*, That  
29 for the institutional boards of advisors at Marshall univer-  
30 sity and West Virginia university, the governor shall  
31 appoint twelve members, by and with the advice and  
32 consent of the Senate: *Provided, however*, That, of the  
33 appointed lay members, the governor shall appoint one  
34 superintendent of a county board of education from the  
35 area served by the institution: *Provided further*, That in  
36 making the initial appointments only, the governor shall  
37 endeavor to make appointments from a pool of those  
38 persons who, on the thirtieth day of June, two thousand,  
39 are members of the board of trustees and the board of  
40 directors.

41 (2) Of the nine members appointed by the governor, no  
42 more than five may be of the same political party: *Pro-*  
43 *vided*, That for the appointed members of the institutional  
44 boards of advisors of Marshall university and West  
45 Virginia university, no more than seven may be of the same  
46 political party. At least six of the members shall be  
47 residents of the state: *Provided, however*, That for the  
48 appointed members of the institutional boards of advisors  
49 of Marshall university and West Virginia university, at  
50 least eight of the members shall be residents of the state.  
51 All members shall serve for a term of one year. A vacancy  
52 in an unexpired term of a member shall be filled for the  
53 unexpired term within thirty days of the occurrence of the  
54 vacancy in the same manner as the original appointment  
55 or election. Except in the case of a vacancy, all elections  
56 shall be held and all appointments shall be made no later

57 than the thirtieth day of June preceding the commence-  
58 ment of the term: *Provided further*, That election of  
59 officers for the term beginning in July, two thousand, shall  
60 be made in July. Each board of advisors shall elect one of  
61 its appointed lay members to be chairperson.

62 (3) Each board of advisors shall hold a regular meeting  
63 at least quarterly, commencing in July, two thousand.  
64 Additional meetings may be held upon the call of the  
65 chairperson or upon the written request of at least four  
66 members: *Provided*, That for the institutional boards of  
67 advisors of Marshall university and West Virginia univer-  
68 sity, additional meetings may be held upon the call of the  
69 chairperson or upon the written request of at least five  
70 members. A majority of the members constitutes a quorum  
71 for conducting the business of the board of advisors.

72 (4) The president of the institution shall make available  
73 resources of the institution for conducting the business of  
74 the board of advisors. The members of the board of  
75 advisors shall serve without compensation, but shall be  
76 reimbursed for all reasonable and necessary expenses  
77 actually incurred in the performance of their official  
78 duties under this section upon presentation of an itemized  
79 sworn statement thereof. All expenses incurred by the  
80 board of advisors and the institution under this section  
81 shall be paid from funds allocated to the institution for  
82 that purpose.

83 (5) The board of advisors shall review, prior to the  
84 submission by the president to its governing board, all  
85 proposals of the institution in the areas of mission, aca-  
86 demic programs, budget, capital facilities and such other  
87 matters as requested by the president of the institution or  
88 its governing board or otherwise assigned to it by law. The  
89 board of advisors shall comment on each such proposal in  
90 writing, with such recommendations for concurrence  
91 therein or revision or rejection thereof as it considers

92 proper. The written comments and recommendations shall  
93 accompany the proposal to the governing board and the  
94 governing board shall include the comments and recom-  
95 mendations in its consideration of and action on the  
96 proposal. The governing board shall promptly acknowl-  
97 edge receipt of the comments and recommendations and  
98 shall notify the board of advisors in writing of any action  
99 taken thereon.

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

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

118 (8) Upon the occurrence of a vacancy in the office of  
119 president of the institution, the board of advisors serves as  
120 a search and screening committee for candidates to fill the  
121 vacancy under guidelines established by its governing  
122 board. When serving as a search and screening committee,  
123 the board of advisors and its governing board are each  
124 authorized to appoint up to three additional persons to  
125 serve on the committee as long as the search and screening  
126 process is in effect. The three additional appointees of the

127 board of advisors shall be faculty members of the institu-  
128 tion. Only for the purposes of the search and screening  
129 process, the additional members shall possess the same  
130 powers and rights as the regular members of the board of  
131 advisors, including reimbursement for all reasonable and  
132 necessary expenses actually incurred. Following the  
133 search and screening process, the committee shall submit  
134 the names of at least three candidates to the governing  
135 board for consideration and appointment. If the governing  
136 board rejects all candidates submitted, the committee shall  
137 submit the names of at least three additional candidates  
138 and this process shall be repeated until the governing  
139 board appoints one of the candidates submitted. The  
140 governing board shall provide all necessary staff assis-  
141 tance to the board of advisors in its role as a search and  
142 screening committee.

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

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

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

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

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

5 (b) During the month of April of each odd-numbered  
6 year, beginning in the year two thousand one, each presi-  
7 dent or other administrative head of a state institution of

8 higher education, including, but not limited to, Potomac  
9 state college of West Virginia university, West Virginia  
10 university at Parkersburg, West Virginia university  
11 institute of technology, Robert C. Byrd health sciences  
12 Charleston division of West Virginia university and the  
13 Marshall university graduate college, at the direction of  
14 the council and in accordance with procedures established  
15 by the council, shall convene a meeting or otherwise  
16 institute a balloting process to elect one faculty to serve on  
17 the institutional board of governors or the institutional  
18 board of advisors, as applicable. Terms of the members of  
19 the council shall be for two years and shall begin on the  
20 first day of July of each odd-numbered year. Members of  
21 the council shall be eligible to succeed themselves. Each  
22 person so elected shall be a member of the statewide  
23 advisory council of faculty.

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

40 (d) The council, through its chairperson and in any  
41 appropriate manner, shall communicate to the commis-

42 sion, through the chancellor, matters of higher education  
43 in which the faculty members may have an interest.

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

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

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

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

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

5 (b) During the month of April of each year, beginning in  
6 the year two thousand one, each student government  
7 organization at each state institution of higher education,  
8 including, but not limited to, Potomac state college of  
9 West Virginia university, West Virginia university at  
10 Parkersburg, West Virginia university institute of technol-  
11 ogy, Robert C. Byrd health sciences Charleston division of  
12 West Virginia university and the Marshall university  
13 graduate college, at the direction of the council and in  
14 accordance with procedures established by the council,  
15 shall elect a student, who may be the elected head or  
16 president of the organization, to serve on the institutional  
17 board of governors or the institutional board of advisors,

18 as applicable. Terms of the members of the council shall  
19 be for one year and shall begin on the first day of July of  
20 each year. Members of the council shall be eligible to  
21 succeed themselves. Each person so elected shall be a  
22 member of the statewide advisory council of students.

23 (c) The council shall meet at least once each quarter.  
24 One of the quarterly meetings shall be during the month of  
25 July, at which meeting the council shall elect a chairper-  
26 son. No member may vote by proxy at the election. In the  
27 event of a tie in the last vote taken for such election, a  
28 member authorized by the council shall select the chair-  
29 person by lot from the names of those persons tied.  
30 Immediately following the election of a chairperson, the  
31 council shall elect, in the manner prescribed by this section  
32 for the election of a chairperson, a member of the council  
33 to preside over meetings of the council in the chairperson's  
34 absence. Should the chairperson vacate the position, the  
35 council shall meet and elect a new chairperson to fill the  
36 unexpired term within thirty days following the vacancy.

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

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

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

50 (g) The council shall cause to be prepared minutes of its  
51 meetings, which minutes shall be available, upon request,

52 to any student of a state institution of higher education  
53 represented on the council.

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

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

6 (b) During the month of April of each odd-numbered  
7 year, beginning in the year two thousand one, each presi-  
8 dent or other administrative head of a state institution of  
9 higher education, including, but not limited to, Potomac  
10 state college of West Virginia university, West Virginia  
11 university at Parkersburg, West Virginia university  
12 institute of technology, Robert C. Byrd health sciences  
13 Charleston division of West Virginia university and the  
14 Marshall university graduate college, at the direction of  
15 the council and in accordance with procedures established  
16 by the council, shall convene a meeting or otherwise  
17 institute a balloting process to elect one classified em-  
18 ployee to serve on the institutional board of governors or  
19 the institutional board of advisors. Terms of the members  
20 of each council shall be for two years and shall begin on  
21 the first day of July of each odd-numbered year and  
22 members of the council shall be eligible to succeed them-  
23 selves. Each person so elected shall be a member of the  
24 statewide advisory council of classified employees.

25 (c) The council of classified employees shall meet at least  
26 once each quarter. One of the quarterly meetings shall be  
27 during the month of July, at which meeting the council  
28 shall elect a chairperson: *Provided*, That the chair shall  
29 serve no more than two consecutive terms as chair. No  
30 member may vote by proxy at the election. In the event of  
31 a tie in the last vote taken for such election, a member



32 authorized by the council shall select the chairperson by  
33 lot from the names of those persons tied. Immediately  
34 following the election of a chairperson, the council shall  
35 elect, in the manner prescribed by this section for the  
36 election of a chairperson, a member of the council to  
37 preside over meetings of the council in the chairperson's  
38 absence. Should the chairperson vacate the position, the  
39 council shall meet and elect a new chairperson to fill the  
40 unexpired term within thirty days following the vacancy.

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

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

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

54 (g) The council shall cause to be prepared minutes of its  
55 meetings, which minutes shall be available, upon request,  
56 to any classified employee of a state institution of higher  
57 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.**

1 (a) Definitions for terms used in this section are in  
2 accordance with those provided in section two, article nine  
3 of this chapter except that the provisions of this section

4 shall apply only to classified employees whose employ-  
5 ment, if continued, accumulates to a minimum total of one  
6 thousand forty hours during a calendar year and extends  
7 over at least nine months of a calendar year: *Provided*,  
8 That this section also applies to any classified employee  
9 who is involuntarily transferred to a position in  
10 nonclassified status for which he or she did not apply:  
11 *Provided, however*, That any classified employee involun-  
12 tarily transferred to a position in nonclassified status may  
13 only exercise the rights set out in this section for positions  
14 equivalent to or lower than the last job class the employee  
15 held.

16 (b) All decisions by the appropriate governing board, the  
17 commission or its agents at state institutions of higher  
18 education concerning reductions in work force of full-time  
19 classified personnel, whether by temporary furlough or  
20 permanent termination, shall be made in accordance with  
21 this section. For layoffs by classification for reason of lack  
22 of funds or work, or abolition of position or material  
23 changes in duties or organization and for recall of employ-  
24 ees laid off, consideration shall be given to an employee's  
25 seniority as measured by permanent employment in the  
26 service of the state system of higher education. In the  
27 event that the institution wishes to lay off a more senior  
28 employee, the institution shall demonstrate that the senior  
29 employee cannot perform any other job duties held by less  
30 senior employees of that institution in the same job class  
31 or any other equivalent or lower job class for which the  
32 senior employee is qualified: *Provided*, That if an em-  
33 ployee refuses to accept a position in a lower job class, the  
34 employee shall retain all rights of recall provided in this  
35 section. If two or more employees accumulate identical  
36 seniority, the priority shall be determined by a random  
37 selection system established by the employees and ap-  
38 proved by the institution.

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

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

67 (d) A nonexempt classified employee, including a  
68 nonexempt employee who has not accumulated a mini-  
69 mum total of one thousand forty hours during the calendar  
70 year or whose contract does not extend over at least nine  
71 months of a calendar year, who meets the minimum  
72 qualifications for a nonexempt job opening at the institu-  
73 tion where the employee is currently employed, whether

74 the job is a lateral transfer or a promotion, and applies for  
75 the job shall be transferred or promoted before a new  
76 person is hired unless the hiring is affected by mandates in  
77 affirmative action plans or the requirements of Public Law  
78 101-336, the Americans With Disabilities Act. If more  
79 than one qualified, nonexempt classified employee applies,  
80 the best-qualified nonexempt classified employee shall be  
81 awarded the position. In instances where the classified  
82 employees are equally qualified, the nonexempt classified  
83 employee with the greatest amount of continuous seniority  
84 at that state institution of higher education shall be  
85 awarded the position. A nonexempt classified employee is  
86 one to whom the provisions of the federal Fair Labor  
87 Standards Act, as amended, apply.

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

**ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND CLASSI-  
FICATION SYSTEM.**

**§18B-9-2. Definitions.**

1 As used in this article:

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

12 (b) "Nonclassified employee" means an individual who  
13 is responsible for policy formation at the department or

14 institutional level, or reports directly to the president, or  
15 is in a position considered critical to the institution by the  
16 president pursuant to policies adopted by the governing  
17 board: *Provided*, That the percentage of personnel placed  
18 in the category of "nonclassified" at any given institution  
19 shall not exceed ten percent of the total number of em-  
20 ployees of that institution who are eligible for membership  
21 in any state retirement system of the state of West Virginia  
22 or other retirement plan authorized by the state: *Provided*,  
23 *however*, That an additional ten percent of the total  
24 number of employees of that institution as defined in this  
25 subsection may be placed in the category of  
26 "nonclassified" if they are in a position considered critical  
27 to the institution by the president. Final approval of such  
28 placement shall be with the appropriate governing board;

29 (c) "Job description" means the specific listing of duties  
30 and responsibilities as determined by the appropriate  
31 governing board and associated with a particular job title;

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

34 (e) "Merit increases and salary adjustments" means the  
35 amount of additional salary increase allowed on a merit  
36 basis or to rectify salary inequities or accommodate  
37 competitive market conditions in accordance with rules  
38 established by the interim governing board or the commis-  
39 sion;

40 (f) "Pay grade" means the number assigned by the  
41 appropriate governing board to a particular job title and  
42 refers to the vertical column heading of the salary schedule  
43 established in section three of this article;

44 (g) "Personnel classification system" means the process  
45 of job categorization adopted by the appropriate govern-  
46 ing board by which job title, job description, pay grade  
47 and placement on the salary schedule are determined;

48 (h) "Salary" means the amount of compensation paid  
49 through the state treasury per annum to a classified  
50 employee;

51 (i) "Schedule" or "salary schedule" means the grid of  
52 annual salary figures established in section three of this  
53 article; and

54 (j) "Years of experience" means the number of years a  
55 person has been an employee of the state of West Virginia  
56 and refers to the horizontal column heading of the salary  
57 schedule established in section three of this article. For  
58 the purpose of placement on the salary schedule pursuant  
59 to said section, employment for nine months or more shall  
60 equal one year of experience, but no classified employee  
61 may accrue more than one year of experience during any  
62 given fiscal year. Employment for less than full time or  
63 less than nine months during any fiscal year shall be  
64 prorated. For the purpose of determining the amount of  
65 annual salary increase pursuant to subsection (b), section  
66 five of this article, employment for less than twelve  
67 months during any fiscal year shall be prorated. In  
68 accordance with rules established by the interim governing  
69 board or the commission, a classified employee may be  
70 granted additional years of experience not to exceed the  
71 actual number of years of prior, relevant work or experi-  
72 ence at accredited institutions of higher education other  
73 than state institutions of higher education.

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTITU-  
TIONS OF HIGHER EDUCATION.**

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

1 (a) Each governing board shall fix tuition and other fees  
2 for each school term for the different classes or categories  
3 of students enrolling at each state institution of higher  
4 education under its jurisdiction and may include among

5 such fees any one or more of the following: (1) Health  
6 service fees; (2) infirmary fees; (3) student activities,  
7 recreational, athletic and extracurricular fees, which fees  
8 may be used to finance a students' attorney to perform  
9 legal services for students in civil matters at such institu-  
10 tions: *Provided*, That such legal services shall be limited  
11 to only those types of cases, programs or services approved  
12 by the administrative head of such institution where such  
13 legal services are to be performed; and (4) graduate center  
14 fees and branch college fees, or either, if the establishment  
15 and operations of graduate centers or branch colleges are  
16 otherwise authorized by law. All fees collected at any  
17 graduate center or at any branch college shall be paid into  
18 special funds and shall be used solely for the maintenance  
19 and operation of the graduate center or branch college at  
20 which they were collected: *Provided, however*, That the  
21 governing boards shall use the median of the average  
22 tuition and required fees at similarly classified institutions  
23 in member states of the southern regional education board  
24 as a goal in establishing tuition and required fee levels for  
25 residents at state institutions of higher education under  
26 their jurisdiction: *Provided further*, That the governing  
27 boards shall use the actual instructional cost as the same  
28 shall be determined in accordance with commission rule,  
29 in establishing nonresident undergraduate fees, with the  
30 goal of having tuition and fees cover the actual cost by  
31 fiscal year one thousand nine hundred ninety-six: *And*  
32 *provided further*, That effective the first day of July, two  
33 thousand one, tuition and fees for nonresident, undergrad-  
34 uate students shall, at a minimum, cover actual instruc-  
35 tional costs: *And provided further*, That students enrolled  
36 in undergraduate courses offered at off-campus locations  
37 shall pay an off-campus instruction fee and shall not pay  
38 the athletic fee and the student activity fee. The  
39 off-campus instruction fee shall be used solely for the  
40 support of off campus courses offered by the institution.  
41 Off-campus locations for each institution shall be defined

42 by the appropriate governing board. The schedule of all  
43 fees, and any changes therein, shall be entered in the  
44 minutes of the meeting of the appropriate governing  
45 board, and the board shall file with the legislative auditor  
46 a certified copy of such schedule and changes.

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

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



76 a regular term shall have their fees reduced pro rata based  
77 upon one ninth of the full-time rate per credit hour.

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

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

85 (1) The governing boards shall permit fee payments to be  
86 made in up to three installments over the course of the  
87 academic term: *Provided*, That all fees must be paid prior  
88 to the awarding of course credit at the end of the academic  
89 term.

90 (2) The governing boards also shall authorize the accep-  
91 tance of credit cards or other payment methods which may  
92 be generally available to students for the payment of fees:  
93 *Provided*, That the governing boards may charge the  
94 students for the reasonable and customary charges in-  
95 curred in accepting credit cards and other methods of  
96 payment.

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

105 (e) On or before the first day of July, two thousand one,  
106 the chancellor for higher education shall review policy  
107 series twenty-two of the governing boards, related to  
108 assessment, payment and refund of fees and determine

109 whether a new rule should be adopted regarding the  
110 refund of any fees upon the voluntary or involuntary  
111 withdrawal from classes of any student. The rules shall  
112 comply with all applicable state and federal laws and shall  
113 be uniformly applied throughout the system.

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

123 (g) Any proposed fee increase which would become  
124 effective during the transition year beginning on the first  
125 day of July, two thousand, and ending on the thirtieth day  
126 of June, two thousand one, and which has been approved  
127 by the governing board, shall then be submitted by the  
128 governing board to the secretary for education and the arts  
129 for approval. Such approval shall be granted only upon  
130 the certification that such institution requesting a fee  
131 increase is in compliance with the strategic plans required  
132 to be submitted, pursuant to section one-b, article one of  
133 this chapter. Notice, in the form of a report, shall be  
134 provided by the chancellor to the legislative oversight  
135 commission on education accountability describing such  
136 fee increases and showing how such increases compare  
137 with the average tuition and fees charged at comparable  
138 peer institutions in member states of the southern regional  
139 education board. Effective the first day of July, two  
140 thousand one, tuition and fees rates shall be determined in  
141 accordance with subsection (h), subsection (i) and subsec-  
142 tion (j) of this section.

143 (h) Effective the first day of July, two thousand one,  
144 institutions shall retain tuition and fee revenues not  
145 pledged for bonded indebtedness or other purposes in  
146 accordance with a revised tuition policy adopted by the  
147 respective governing boards and approved by the commis-  
148 sion. The revised tuition policy shall:

149 (1) Provide a basis for establishing nonresident tuition  
150 and fees;

151 (2) Allow institutions to charge different tuition and fees  
152 for different programs; and

153 (3) Establish methodology, where applicable, to ensure  
154 that, within the appropriate time period under the com-  
155 pact, community and technical college tuition rates for  
156 community and technical college students in all independ-  
157 ently accredited community and technical colleges will be  
158 commensurate with the tuition and fees charged by their  
159 peer institutions.

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

171 (j) No governing board may increase tuition and fees  
172 more than four percent nor increase tuition and fees to  
173 more than one hundred percent of the tuition and fees of  
174 peer institutions, as determined by the commission,  
175 without the approval of the commission.

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

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

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

32 The commission shall, on or before the first day of July  
33 of each year, provide the legislative auditor with a report

34 of the projected fee collections for the board and each of  
35 its institutions and the expenditures proposed for such fee.

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

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

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

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

22 (b) There is created in the state treasury a state system  
23 special capital improvements fund into which shall be paid  
24 all proceeds of the additional registration fees collected  
25 from students at all state institutions of higher education  
26 pursuant to this section to be expended by the commission  
27 for the payment of the principal of or interest on any  
28 revenue bonds issued by the board of regents or the

29 succeeding governing boards for which such registration  
30 fees were pledged prior to the enactment of this section.

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

48 The commission, in its discretion, may use the moneys in  
49 such special capital improvements funds to finance the  
50 costs of the above purposes on a cash basis, or may from  
51 time to time issue revenue bonds of the state as provided  
52 in this section to finance all or part of such purposes and  
53 pledge all or any part of the moneys in such special funds  
54 for the payment of the principal of and interest on such  
55 revenue bonds, and for reserves therefor. Any pledge of  
56 such special funds for such revenue bonds shall be a prior  
57 and superior charge on such special funds over the use of  
58 any of the moneys in such funds to pay for the cost of any  
59 of such purposes on a cash basis: *Provided*, That any  
60 expenditures from such special funds, other than for the  
61 retirement of revenue bonds, may only be made by the  
62 commission to meet the cost of a predetermined capital  
63 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

99 issuance of such bonds may enter into valid and legally  
100 binding covenants with the holders of such revenue bonds  
101 as to the custody, safeguarding and disposition of the  
102 proceeds of such revenue bonds, the moneys in such special  
103 funds, sinking funds, reserve funds, or any other moneys or  
104 funds; as to the rank and priority, if any, of different issues  
105 of revenue bonds by the commission under the provisions  
106 of this section; as to the maintenance or revision of the  
107 amounts of such additional registration fees, and the terms  
108 and conditions, if any, under which such additional  
109 registration fees may be reduced; and as to any other  
110 matters or provisions which are deemed necessary and  
111 advisable by the commission in the best interests of the  
112 state and to enhance the marketability of such revenue  
113 bonds.

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

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

131 Additional revenue bonds may be issued by the commis-  
132 sion pursuant to this section and financed by additional  
133 revenues or funds dedicated from other sources. It is the



134 intent of the Legislature to authorize over a five year  
135 period from the effective date of this section additional  
136 sources of revenue and funds to effect such funding for  
137 capital improvement.

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

**ARTICLE 14. MISCELLANEOUS.**

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

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

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

8 (2) Need to address teacher salaries;

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

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

13 (5) Need to address methods to prepare teachers to  
14 integrate technology effectively in the classroom, includ-  
15 ing the following:

16 (i) The resources necessary for teacher education pro-  
17 grams to prepare teachers for the technology demands of  
18 the classroom environment;

19 (ii) The opportunities and resources for professional  
20 development experiences in technology; and

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

25 (b) The task force shall be chaired by the chancellor for  
26 higher education or a designee and shall be comprised of  
27 twenty-one members selected as follows: eight members to  
28 be appointed by the governor; five members to be ap-  
29 pointed by the state board of education; five members to  
30 be appointed by the governing boards; one member to be  
31 selected by the West Virginia professional teachers stan-  
32 dards commission from among their membership; one  
33 member representing private institutions of higher educa-  
34 tion selected by the West Virginia association of independ-  
35 ent colleges, inc.; and the secretary of education and the  
36 arts or a designee. Of the eight members to be appointed  
37 by the governor, two shall be representatives of statewide  
38 teacher organizations and of the six members to be  
39 appointed by the state board of education, at least three  
40 shall be classroom teachers and at least one shall be  
41 selected from among the membership of the state board of  
42 education.

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

46 (d) The task force shall report on its progress to the  
47 legislative oversight commission on education account-  
48 ability and the commission. The initial progress report  
49 shall be made in October, two thousand, and, additionally,  
50 in each quarter thereafter until the work of the task force  
51 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.

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

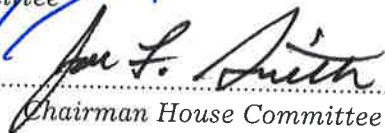
28 (d) The task force shall make an initial progress report to  
29 the legislative oversight commission on education account-  
30 ability and the commission by the first day of December,  
31 two thousand, and shall report quarterly thereafter until  
32 the work of the task force is completed.

33 (e) The task force shall complete its work and make a  
34 final report to the legislative oversight commission on  
35 education accountability and the commission no later than  
36 the first day of October, two thousand one. The final  
37 report shall contain findings of fact, recommendations and  
38 strategies for implementing recommended changes.

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



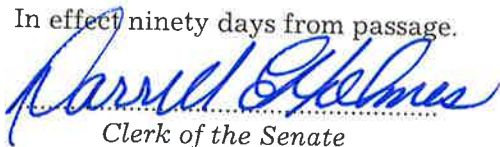
Chairman Senate Committee



Chairman House Committee

Originating in the Senate.

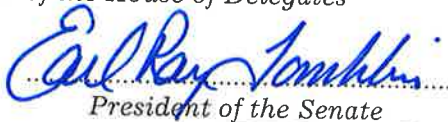
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

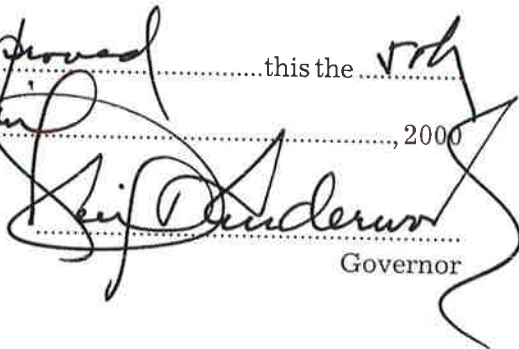


President of the Senate



Speaker House of Delegates

The within.....*approved*.....this the *vrh*  
Day of.....*April*....., 2000



Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/00

Time 4:15 pm