

VETO SB 653

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

SENATE BILL NO. 653

Originating in the Committee
(By Senator on Education)



PASSED March 11, 2000

In Effect July 1, 2000 Passage

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Senate Bill No. 653

(Originating in the Committee on Education)

[Passed March 11, 2000; to take effect July 1, 2000.]

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-d and two, article one, chapter eighteen-b of said code; to amend said article by adding thereto a new section, designated section one-a; 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; motor vehicle and travel rules; goals for post-secondary education; retirement and separation incentives; defining terms; compact with higher education; institutional compacts; peer institutions; legislative financing goals; financing; institutional operating budget; additional funding; graduate education; repealing inconsistent and obsolete sections; education policy commission; development of a public policy agenda; composition of commission; terms and qualifications of commission members; vacancies; eligibility for reappointment; oath of office; removal from office; meetings and compensation of commission; powers and duties of commission; chief executive officer; chief of operations; executive director for community colleges and workforce development; executive director for health sciences research and development; institutional presidents; evaluation; implementation team; report cards; statewide master plan; institutional boards of advisors; state advisory councils of faculty, classified staff and students; community and technical college system; essential conditions for community and technical colleges; responsibility districts; presidents; programs; district consortia committee; process for achieving independently accredited community and technical colleges; increasing flexibility; tuition and fees; shared facilities and resources; creating the community and technical college serving the Kanawha valley; 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-d and two, article one, chapter eighteen-b of said code be amended and reenacted; that said article be further amended by adding thereto a new section, designated section one-a; 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 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 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 office of the state fire marshal, the higher
13 education policy commission and the higher education
14 governing boards and their institutions: *Provided, how-*
15 *ever,* That the higher education governing boards and their
16 institutions shall report annually to the chancellor for
17 higher education and the legislative oversight commission
18 on education accountability in a form and manner as
19 required by the chancellor for higher education. Such
20 report shall include at least the following: The number of
21 vehicles purchased and the purchase price, the number of
22 donated vehicles and the cost of lease agreements on
23 leased vehicles.

24 (b) If, in the judgment of the secretary of administration,
25 economy or convenience indicate the expediency thereof,
26 the secretary may require all vehicles and the aircraft
27 subject to regulation by this article, or those he or she may
28 designate, to be kept in garages and other places of storage
29 and to be made available in a manner and under the terms
30 necessary for the official use of any departments, institu-
31 tions, agencies, officers, agents and employees of the state
32 as designated by the secretary in rules promulgated
33 pursuant to this section. The secretary may administer the
34 travel regulations promulgated by the governor in accor-
35 dance with section eleven, article three, chapter twelve of
36 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 crosscutting 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 initiative 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 nine, 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 state human resources invest-
192 ment council 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 state human resources invest-
217 ment council 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
276 and 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 pursuant to subsection (b), section
26 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 (e) "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 missions and responsibility districts in accordance with
42 the provisions of sections seven and eight, article three-c
43 of 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) "Senior administrator" means the vice chancellor for
78 administration employed by the commission in accordance
79 with section two, article four of this chapter. The vice
80 chancellor for administration shall assume all the powers
81 and duties that are assigned by law to the senior adminis-
82 trator;

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

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

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

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

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

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

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

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 educational
118 services; and

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 educational 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 educational
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.

**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 short falls. 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, time lines 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 time line for achieving the objectives
17 which shall, where applicable, include benchmarks to
18 measure institutional progress as defined in subsection (e)
19 of this 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;

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,
4 independently-accredited community and technical
5 colleges.

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

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

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

22 (2) To determine comparable levels of tuition;

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

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

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

40 (1) Institutional mission;

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

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

44 (4) The level of academic programs, including, but not
45 limited to, number of degrees granted at the associate,
46 baccalaureate, masters, doctoral and first-professional
47 level;

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

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

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

59 (f) Nothing herein shall be construed to prevent the
60 commission from using the same peers or peer groups for
61 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 commis-
2 sion has the responsibility to develop a budget for the state
3 system of higher education, and submit a budget request
4 to the governor before the first day of September, begin-
5 ning in two thousand, and for each fiscal year thereafter.
6 The budget request specifically shall include the amount
7 of the institutional operating budgets, as defined in section
8 two, article one of this chapter, required for all state
9 institutions of higher education. The budget appropriation
10 for 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 appropri-
16 ations 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 article one-a of this chapter. The documentation shall be
30 provided to the commission no later than the first day of
31 October each year, for policy commission review and
32 verification.

33 (b) *Legislative Funding Priorities.* -

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

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

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

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

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

58 (6) It is the charge of the policy commission to allocate
59 all funds appropriated in excess of the fiscal year two-
60 thousand one general revenue appropriations in alignment

61 with the legislative funding priorities listed below. The
62 policy commission shall consider the priorities and assign
63 a percentage of the total appropriation of new funds to
64 each priority.

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

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

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

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

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

89 (B) *Independently accredited community and technical*
90 *colleges development.* – Funds appropriated for this
91 purpose will ensure a smooth transition, where required,
92 from "component" community and technical colleges to
93 independently-accredited community and technical

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

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

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

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

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

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

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

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

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

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

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

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

161 (c) *Allocations to institutional operating budgets.* – For
162 the purposes of this subsection, the commission shall
163 establish by rule pursuant to subsection (e), section two,
164 article one-b of this chapter the method for measuring the
165 progress of each institution towards meeting the
166 benchmarks of its institutional compact.

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

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

175 (2) For the fiscal year two thousand three, and each
176 fiscal year thereafter, appropriations from the funds shall
177 be allocated only to institutions with approved compacts,
178 pursuant to section two of this article, and which also have
179 achieved their annual benchmarks for accomplishing the
180 goals of their compacts, as approved by the commission:
181 *Provided, That, if an institution has not achieved all of its*
182 *annual benchmarks, the commission may distribute a*
183 *portion of the funds to the institution based on its progress*
184 *as the commission determines appropriate: Provided,*
185 *however, That the commission shall establish by rule*
186 *pursuant to section four, article one-b of this chapter the*
187 *method for measuring the progress of each institution*
188 *toward meeting the benchmarks of its institutional*
189 *compact;*

190 (e) Nothing in this section shall be construed in a manner
191 that limits the appropriation or collection of fees necessary
192 to effectuate the operation and purpose of the policy
193 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.

23 (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; and

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

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

42 (c) 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
54 not 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
64 not been met through brokering and collaborative pro-
65 grams, the institution may explore the option of beginning

66 its own graduate-level program leading to the granting of
67 a master's degree. The institution may begin its own
68 master'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.

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-

198 lished in subsection (c) of this section, then the graduate
199 center in that region may plan one master's degree pro-
200 gram in education focused on teaching in subject area
201 fields. No institution may begin a graduate program under
202 the provisions of this section until the program has been
203 reviewed and approved by the commission. The commis-
204 sion shall approve only those programs, as authorized by
205 this subsection, that emphasize serving the needs of
206 teachers and schools in the colleges' immediate regions. In
207 determining whether a program should be approved, the
208 commission also shall rely upon the recommendations of
209 the statewide task force on teacher quality provided for in
210 section six of this article.

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

216 (f) At least annually, the governing boards shall evaluate
217 graduate programs developed pursuant to the provisions
218 of this section and report to the commission on the follow-
219 ing:

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

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

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

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

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

227 The governing boards shall provide the commission with
228 any additional information the commission requests in

129 order to make a determination on the viability of a program.

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

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

149 (i) In addition to the approval required by the commis-
150 sion, authorization for any institution to offer a master's
151 degree program under the provisions of this section is
152 subject to the formal approval processes established by the
153 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
43 one, section two, article five of this chapter, relating to
44 resource 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 board; terms and qualifications of
members; vacancies; eligibility for reappoint-
ment; oath of office; removal from office.**

1 (a) The commission is comprised of nine members, of
2 whom one shall be the secretary of education and the arts,
3 ex officio, who is entitled to vote; and one shall be a
4 member of the state board of education, selected by that
5 board, who is entitled to vote. The member selected by the
6 state board of education shall not continue as a member of
7 the commission if he or she is no longer serving as a
8 member of the state board of education. In that event,
9 another member of the state board shall be selected by
10 that board.

11 (b) The other seven members of the commission shall be
12 citizens of the state, appointed by the governor, by and
13 with the advice and consent of the Senate: *Provided*, That,
14 prior to appointment, the governor shall interview each
15 candidate to assure that the person selected understands
16 and is committed to achieving the goals and objectives as
17 set forth in the institutional compacts and in section one-a,
18 article one of this chapter. The governor shall invite the
19 president of the senate, the speaker of the house, the chairs
20 of the senate and house committees on finance and educa-
21 tion and such other legislative leaders as the governor may
22 determine to participate in interviewing potential candi-
23 dates. Each member appointed to the commission by the
24 governor shall represent the public interest and shall be
25 committed to the legislative intent and goals set forth in
26 section one-a, article one of this chapter.

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

41 (d) The governor shall appoint seven members to the
42 commission on the first day of July, two thousand, or as
43 soon thereafter as is practicable and the original terms of
44 all members shall commence on the first day of July, two
45 thousand.

46 (e) The terms of the members appointed by the governor
47 shall be for overlapping terms of five years, except, of the
48 original appointments, one shall be appointed to a term of
49 one year, two shall be appointed to a term of two years,
50 two shall be appointed to a term of three years, and two
51 shall be appointed to a term of four years. Each subse-
52 quent appointment which is not for the purpose of filling
53 a vacancy in an unexpired term shall be for a term of four
54 years.

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

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

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

70 (i) No member of the commission appointed by the
71 governor may be removed from office by the governor
72 except for official misconduct, incompetence, neglect of
73 duty or gross immorality, and then only in the manner
74 prescribed by law for the removal of the state elective
75 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 desir-
11 able: *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 appro-
28 priations 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 com-
mission.**

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

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

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

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

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

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

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

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

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

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

47 (4) Develop and adopt each institutional compact;

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

50 (6) Review the progress of community and technical
51 colleges in every region of West Virginia; such review

52 includes, but is not limited to, evaluating and reporting
53 annually to the legislative oversight commission on
54 education accountability on the step-by-step implementa-
55 tion required in article three-c of this chapter;

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

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

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

67 (10) Establish the benchmarks and performance indica-
68 tors necessary to measure institutional achievement
69 towards state policy priorities and institutional missions;

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

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

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

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

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

94 (12) Develop a formal process for identifying needs for
95 capital investments and for establishing priorities for these
96 investments;

97 (13) Effective the first day of July, two thousand,
98 develop guidelines for institutions to follow concerning
99 extensive capital projects. The guidelines shall provide a
100 process for developing capital projects, including, but not
101 limited to, the notification by an institution to the com-
102 mission of any proposed capital project which has the
103 potential to exceed one million dollars in cost. No such
104 project may be pursued by an institution without the
105 approval of the commission: *Provided, That*, this provision
106 does not apply to any project begun prior to the first day
107 of July, two thousand. Neither the commission nor any
108 institution shall approve or promote any capital project or
109 policy for housing which gives a financial advantage to a
110 private sector capital project over an existing West
111 Virginia business;

112 (14) Draw upon the expertise available within the human
113 resources investment council and the West Virginia
114 development office as a resource in the area of workforce
115 development and training;

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

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

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

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

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

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

145 (21) Approve the total compensation package from all
146 sources for institutional presidents, as proposed by the
147 governing boards. The governing boards must obtain
148 approval from the commission of the total compensation

149 package both when institutional presidents are employed
150 initially and afterward when any change is made in the
151 amount of the total compensation package;

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

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

169 (24) Review and approve or disapprove capital projects
170 as described in section subdivision (12), subsection (a) of
171 this section; and

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

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

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

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

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

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

205 (29) Establish policies and programs, in cooperation with
206 the institutions of higher education, through which
207 students who have gained knowledge and skills through
208 employment, participation in education and training at
209 vocational schools or other education institutions, or
210 internet-based educational programs, may demonstrate by
211 competency-based assessment that they have the necessary
212 knowledge and skills to be granted academic credit or
213 advanced placement standing toward the requirements of

214 an associate degree or a bachelor's degree at a state
215 institution of higher education;

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

225 (31) Develop guidelines for higher education governing
226 boards and institutions to follow providing, without
227 limitation, that higher education governing boards and
228 institutions shall not support or promote, directly or
229 indirectly, any private sector capital project for housing
230 that removes real property or a capital project from the
231 property tax rolls or reduces the property taxes for real
232 property or a capital project;

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

238 (33) Consider and submit to the appropriate agencies of
239 the executive and legislative branches of state government,
240 a single budget for higher education that reflects recom-
241 mended appropriations: *Provided*, That on the first day of
242 January, two thousand one, and annually thereafter, the
243 policy commission shall submit the proposed institutional
244 allocations based on each institution's progress towards its
245 institutional compact;

246 (34) Initiate a full review and analysis of all student fees
247 charged by state institutions of higher education and make

248 recommendations to the legislative oversight commission
249 on education accountability no later than the second day
250 of January, two thousand two. The final report shall
251 contain findings of fact and recommendations for pro-
252 posed legislation to condense, simplify and streamline the
253 fee schedule and the use of fees or other money collected
254 by state institutions of higher education;

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

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

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

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

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

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

279 (4) Academic program review and approval including the
280 use of institutional missions as a template to judge the
281 appropriateness of both new and existing programs;

282 (5) Development of budget, allocation of resources
283 including reviewing and approving institutional operating
284 and capital budgets and distributing incentive and
285 performance-based funding;

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

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

291 (8) Development of information, assessment and ac-
292 countability systems including maintenance of statewide
293 data systems that facilitate long-term planning and
294 accurate measurement of strategic outcomes and perfor-
295 mance indicators;

296 (9) Licensing and oversight for both public and private
297 degree-granting and nondegree granting institutions that
298 provide post-secondary education courses or programs in
299 the state;

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

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

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

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

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

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

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

324 (3) Other circumstances which, in the view of the policy
325 commission, severely limit the capacity of the institutional
326 board of governors to carry out its duties and responsibili-
327 ties.

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

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

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

340 (2) The commission has received information, substanti-
341 ated by independent audit, of significant mismanagement

342 or failure to carry out the powers and duties of the institu-
343 tional board of governors according to state law; or

344 (3) Other circumstances which, in the view of the policy
345 commission, severely limit the capacity of the institutional
346 board of governors to carry out its duties and responsibili-
347 ties.

348 (g) The period of withdrawal of specific powers may not
349 exceed two years during which time the policy commission
350 is authorized to take steps necessary to re-establish the
351 conditions for restoration of sound, stable and responsible
352 institutional governance.

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

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

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

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

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

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

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

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

**§18B-1B-5. Employment of chancellor for higher education;
office; powers and duties generally; employment
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 office of the commission
4 and who shall serve at its will and pleasure. The vice
5 chancellor for administration, employed by the commis-
6 sion pursuant to section two, article four of this chapter,
7 shall serve as the interim chancellor until a chancellor is
8 employed.

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

13 (1) Possesses an excellent academic and administrative
14 background;

15 (2) Demonstrates strong communication skills;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88 (2) To develop and submit annual reports on the imple-
89 mentation plan to achieve the goals and objectives set

90 forth in section one-a, article one of this chapter and in the
91 institutional compacts;

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

95 (4) To serve as the accountability point for rules promul-
96 gated by the governing boards by:

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

99 (B) Reviewing rules promulgated by the governing
100 boards and approving them for filing with the office of the
101 secretary of state;

102 (C) Determining when a joint rule among the governing
103 boards is necessary or required by law, and, in those
104 instances and in consultation with the governing boards,
105 promulgating the joint rule; and

106 (D) Ensuring that the governing boards meet all the
107 requirements for promulgating rules as set forth in article
108 three-a, chapter twenty-nine-a of this code;

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

111 (6) The chancellor shall be reimbursed for all actual and
112 necessary expenses incurred in the performance of all
113 assigned duties and responsibilities;

114 (7) The chancellor is the primary advocate for higher
115 education and, with the commission, advises the Legisla-
116 ture on matters of higher education in West Virginia. As
117 the primary advocate for higher education, the chancellor
118 shall work closely with the legislative oversight commis-
119 sion on education accountability and with the elected
120 leadership of the state to ensure that they are fully in-

121 formed about higher education issues and that the com-
122 mission fully understands the goals for higher education
123 that the Legislature has established by law;

124 (h) The chancellor may design and develop for consider-
125 ation by the commission new statewide or regional initia-
126 tives in accordance with the goals set forth in section one-
127 a, article one of this chapter and the public policy agenda
128 articulated by the commission.

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

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

134 (2) Appropriate coordination of missions and programs.
135 To further the goals of cooperation and coordination
136 between the commission and the state board of education,
137 the chancellor shall serve as an ex officio, nonvoting
138 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.

25 (3) Subject to the approval of the commission and to the
26 provisions of article three-c of this chapter, the president
27 of Bluefield state college, the president of Glenville state
28 college and the president of West Virginia state college
29 shall appoint the provost of the community and technical
30 college at their respective institutions, who shall serve at
31 the will and pleasure of the president of the employing
32 institution.

33 (b) *Incumbent heads of institutions.* – Any president of a
34 public institution of higher education in office on the first
35 day of July, two thousand, shall continue in office subject
36 to state law: *Provided, That the provost of an administra-*
37 *tively linked community and technical college in office on*
38 *the thirtieth day of June, two thousand one, shall become*
39 *the president of that community and technical college on*
40 *the first day of July, two thousand one, unless the govern-*
41 *ing board of the institution, subject to the consent of the*
42 *commission, determines otherwise. The presidents shall*
43 *continue in office subject to state law and subject to the*
44 *will and pleasure of the appropriate governing board or*
45 *employing institution.*

46 (c) *Evaluation of institutional presidents.* – The govern-
47 ing boards shall conduct written performance evaluations

48 of each institution's president: *Provided*, That the presi-
49 dents of regional campuses and of administratively linked
50 community and technical colleges shall be evaluated by
51 the president of the employing institution, in every fourth
52 year of employment as president, recognizing unique
53 characteristics of the institution and utilizing institutional
54 personnel, institutional boards of advisors as appropriate,
55 staff of the appropriate governing board and persons
56 knowledgeable in higher education matters who are not
57 otherwise employed by a governing board. A part of the
58 evaluation shall be a determination of the success of the
59 institution in meeting the requirements of its institutional
60 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 shall focus its attention first on
13 organizing itself to carry out its duties and responsibilities,
14 including, but not limited to, establishing a search and
15 screening process to identify candidates and to employ a
16 chancellor;

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

20 (1) Developing legislative rules as required by law.

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

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

26 (4) Developing a statewide master plan pursuant to
27 section nine, article one-b of this chapter;

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

30 (6) Developing a plan to provide on-going education and
31 training opportunities to members of institutional boards
32 of governors and institutional boards of advisors, includ-
33 ing, but not limited to, exploring the possibility of obtain-
34 ing private funds to bring members together for orienta-
35 tion, education and leadership training prior to the first
36 day of July, two thousand one;

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

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

45 (e) On or before the first day of January, two thousand
46 one, the commission shall certify to the governor, the
47 president of the senate and the speaker of the house of

48 delegates draft legislation which will accomplish the
49 transfer of all powers, duties, property, obligations,
50 contracts, rules, orders, resolutions or any other matters
51 which should be transferred or vested in the commission,
52 the governing boards or any other agency. In the event the
53 Legislature does not enact legislation which accomplishes
54 the recommended transfers or vesting, effective the first
55 day of July, two thousand one, all such matters are trans-
56 ferred to and vested in the commission and the commission
57 is hereby authorized and directed to delegate such matters
58 as is consistent with assigned powers and duties in section
59 four of this article and section four, article two-a of this
60 chapter. In the event of a dispute between or among the
61 commission and the governing boards as to the proper
62 delegation of these matters, the decision of the commission
63 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 commission shall review policy series sixteen, related
12 to the higher education report card, of the rules of the
13 board of trustees and board of directors and determine
14 whether a new rule should be adopted providing for the
15 collection, analysis and dissemination of data and infor-
16 mation on the performance of the state institutions of

17 higher education, including health sciences education, in
18 relation to the findings, directives, goals and objectives set
19 forth in section one-a, article one of this chapter, the
20 institutional compacts, and in comparison to their peers.
21 The rules shall provide the legislative oversight commis-
22 sion on education accountability with full and accurate
23 information while minimizing the institutional burden of
24 recordkeeping and reporting. The rules shall include
25 uniform definitions for the various indicators of student
26 and institutional performance and guidelines for the
27 collection and reporting of data and the preparation,
28 printing and distribution of report cards under this
29 section. The report card forms shall provide for brief,
30 concise reporting in nontechnical language of required
31 information. Any technical or explanatory material which
32 a governing board wishes to include shall be contained in
33 a separate appendix available for a reasonable fee to the
34 general public upon 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 educa-
57 tion. The report card also shall include goals and trends
58 for the institutions and the higher education system and
59 shall include all the information required either by statute
60 or by rule as authorized in subsection (b) of this section.
61 Statewide report cards shall be based upon information
62 for the current school year or for the most recent school
63 year for which the information is available, in which case
64 such year 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 policy commis-
8 sion and institutions in implementing the provisions of this
9 act;

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

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

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

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

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

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

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

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

1 (a) There is hereby established the higher education
2 interim governing board, to serve as the "institutional
3 board of governors" for all state institution of higher
4 education, as provided for in article two-a of this chapter,
5 from the effective date of this act through the thirtieth day
6 of June, two thousand one.

7 (b) The interim governing board is comprised of seven
8 persons, appointed by the governor, with the advice and
9 consent of the Senate. Nothing prohibits any member of
10 any other governing board from being appointed to this
11 board.

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

18 (d) Any person appointed to a position on the board shall
19 have governing experience in higher education; be knowl-
20 edgeable on education matters; represent the public
21 interest; and be especially qualified in the field of higher
22 education.

23 (e) The members shall elect a chairman.

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

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

29 (1) To serve and act as the governing board for state
30 institutions of higher education for the period of one year
31 beginning the first day of July, two thousand, and ending
32 the thirtieth day of June, two thousand one, and to ensure
33 a smooth, efficient transition to a new governing structure
34 to be effective the first day of July, two thousand one;

35 (2) Initiate the implementation of this act to inform the
36 governor and the Legislature of the implementation status
37 and any areas in which further executive or legislative
38 action may be necessary;

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

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

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

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

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

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

61 (k) The provisions of this section expires the thirtieth day
62 of June, two thousand one.

ARTICLE 2. UNIVERSITY OF WEST VIRGINIA BOARD OF TRUSTEES.

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

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. ● If 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 shall
42 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: *Provided further*, That the term begin-
70 ning in July, two thousand, shall end on the thirtieth day
71 of June, two thousand one, and the term beginning in July,
72 two thousand one, shall end on the thirtieth day of June,
73 two thousand three. Thereafter, the term shall begin on
74 the first day of July. The appointed lay citizen members
75 shall 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: *And provided*
84 *further*, That election of officers for the term beginning in

85 July, two thousand, one shall be made that July. Each
86 institutional board of governors shall elect one of its
87 appointed lay members to be chairperson in June of each
88 year: *And provided further*, That no member may serve as
89 chairperson for more than two 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
106 is an officer, employee or member of any other institu-
107 tional board of governors, a member of an institutional
108 board of advisors of any public institution of higher
109 education, an employee of any institution of higher
110 education, an officer or member of any political party
111 executive committee, the holder of any other public
112 office or public employment under the government of
113 this state or any of its political subdivisions or a member
114 of the commission: *Provided*, That this subsection shall
115 not be construed to prevent the faculty, classified staff,
116 student representative or superintendent of a county
117 board of education from being members of the governing
118 boards: *Provided, however*, That a member of the board
119 of trustees or board of directors who is selected to serve

120 on an institutional board of governors also may retain a
121 seat on the governing board from which he or she was
122 selected.

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

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

135 (h) The president of the institution shall make avail-
136 able resources of the institution for conducting the
137 business of its institutional board of governors. The
138 members of the institutional board of governors shall
139 serve without compensation, but shall be reimbursed for
140 all reasonable and necessary expenses actually incurred
141 in the performance of their official duties under this
142 article upon presentation of an itemized sworn statement
143 of their expenses. All expenses incurred by the institu-
144 tional board of governors and the institution under this
145 section shall be paid from funds allocated to the institu-
146 tion for that 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
3 meeting each June: *Provided*, That an annual meeting for
4 the 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
9 and preside until officers are elected. Officers elected in
10 July, two thousand one, shall begin their terms upon
11 election and shall serve until the thirtieth day of June the
12 following year. Of the twelve voting members of the
13 boards of governors, seven shall constitute a quorum,
14 and a majority vote of the quorum shall be necessary to
15 pass upon matters before the institutional board of
16 governors.

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

**§18B-2A-3. Governing boards under chancellor for higher
education.**

1 (a) Effective on the first day of July, two thousand, the
2 governing board or boards are subject to the supervision
3 of the chancellor for higher education pursuant to the
4 provisions of article one-b of this chapter. Rules adopted
5 by the governing boards are subject to approval by the
6 chancellor.

7 (b) The chancellor is responsible for the coordination of
8 policies and purposes of the governing boards and shall
9 provide for and facilitate sufficient interaction among
10 the governing boards and between the governing boards
11 and the state board of education to meet the goals and
12 objectives provided for in the compacts and in section
13 one-a, article one of this chapter.

14 (c) The governing board or boards and the state board
15 of education shall provide any and all information
16 requested by the 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
5 financial, business and education policies and affairs of
6 the state institutions of higher education under its
7 jurisdiction;

8 (b) Develop a master plan for the institutions under its
9 jurisdiction; except the administratively linked commu-
10 nity and technical colleges shall develop their master
11 plans subject to the provisions of section one, article six
12 of this chapter. The ultimate responsibility for develop-
13 ing and updating the master plans at the institutional
14 level resides with the institutional board of governors,
15 but the ultimate responsibility for approving the final
16 version of the institutional master plans, including
17 periodic updates, resides with the commission. Each
18 master plan shall include, but not be limited to the
19 following:

20 (1) A detailed demonstration of how the master plan
21 will be used to meet the goals and objectives of the
22 institutional 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
29 are addressed;

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

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

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

45 (d) Direct the preparation of a budget request for the
46 state institutions of higher education under its jurisdiction,
47 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
52 higher education under its jurisdiction;

53 (f) Review, at least every five years, all academic
54 programs offered at the state institutions of higher
55 education under its jurisdiction. The review shall
56 address the viability, adequacy and necessity of the
57 programs in relation to its institutional master plan, the
58 institutional compact, and the education and workforce
59 needs of its responsibility district. As a part of the
60 review, each governing board shall require the institutions
61 under its jurisdiction to conduct periodic studies of
62 its graduates and their employers to determine placement
63 patterns and the effectiveness of the education
64 experience. Where appropriate, these studies should
65 make use of the studies required of many academic
66 disciplines by their accrediting 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 jurisdic-
70 tion is such that students have the maximum opportunity
71 to complete programs in the time frame normally associ-
72 ated with program completion. Each governing board
73 also is responsible to see that the needs of nontraditional
74 college-age students are appropriately addressed and, to
75 the extent it is possible for the individual governing
76 board to control, to assure core coursework completed at
77 state institutions of higher education under its jurisdic-
78 tion is transferable to any other state institution of
79 higher 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 exclu-
82 sive 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
85 receive a degree from a nationally accredited program
86 and in order to prevent expensive duplication of program
87 accreditation, the chancellor may select and utilize one
88 nationally recognized teacher education program accred-
89 itation standard as the appropriate standard for program
90 evaluation.

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 person-
95 nel matters, including, but not limited to, personnel
96 classification, compensation, and discipline for employ-
97 ees of the institutions under their jurisdiction, subject to
98 the provisions of state and federal law: *Provided*, That
99 the chancellor may promulgate a new uniform rule for
100 the purpose of standardizing, as much as possible, the

101 administration of personnel matters among the institu-
102 tions of higher education;

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
106 aggrieved 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-
109 nine, chapter eighteen of this code shall be the exclusive
110 mechanism for hearing employee grievances and appeals.

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

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

119 (n) Conduct written performance evaluations of each
120 institution's president pursuant to section six, article
121 one-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
124 performance of the institutions of higher education under
125 its jurisdiction during the previous fiscal year as com-
126 pared to stated goals in its master plan and institutional
127 compact; and

128 (p) Enter into contracts or consortium agreements with
129 the public schools, private schools or private industry to
130 provide technical, vocational, college preparatory,
131 remedial and customized training courses at locations
132 either on campuses of the public institution of higher
133 education or at off-campus locations in the institution's

134 responsibility district. To accomplish this goal, the
135 boards are permitted to share resources among the
136 various groups in the community.

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

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

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
166 state funds at the institutions under its jurisdiction that
167 ensures that properly submitted requests for payment be

168 paid on or before due date, but in any event, within
169 fifteen days of receipt in the state auditor's office.

170 (t) The governing boards in consultation with the
171 chancellor and the secretary of the department of admin-
172 istration shall develop, update as necessary and maintain
173 a 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 author-
183 ity to transfer funds from any account specifically
184 appropriated for their use to any corresponding line item
185 in a general revenue account at any agency or institution
186 under their jurisdiction as long as such transferred funds
187 are used for the purposes appropriated. The governing
188 boards also shall have the authority to transfer funds
189 from appropriated special revenue accounts for capital
190 improvements 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.

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 represen-
197 tation of the governing boards, their institutions, em-
198 ployees and officers before any court or administrative
199 body. The counsel may be employed either on a salaried
200 basis or on a reasonable fee basis. In addition, the
201 governing boards may, but are not required to, call upon

202 the attorney general for legal assistance and representa-
203 tion as provided by law.

**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 contin-
4 ued. The joint commission is subject to the jurisdiction
5 of the higher education policy commission established in
6 article one-b of this chapter, hereinafter referred to as
7 the policy commission, and is subject to the supervision
8 of the chancellor and the vice chancellor for community
9 and technical college education and workforce develop-
10 ment of the policy commission.

§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 among the findings that the reality for
4 West Virginia is that its future rests not only on how well
5 its youth are educated, but also on how well it educates
6 its entire population at any age and that the state must
7 take into account the imperative need to serve the
8 educational needs of working-age adults. These findings
9 further note that the state should make the best use of
10 the expertise that private institutions of higher educa-
11 tion, vocational and technical programs and private
12 proprietary schools can offer and recognize the impor-
13 tance of their contributions to the economic, social and
14 cultural well-being of their communities.

15 The Legislature further finds that said section includes
16 goals that focus on the need to better serve both tradi-
17 tional and nontraditional students and adults, among

18 which is the goal that the overall focus of education is on
19 a lifelong process which is to be as seamless as possible
20 at all levels and is to encourage citizens of all ages to
21 increase their knowledge and skills. These goals also
22 emphasize the need for cooperation and collaboration at
23 all levels in education, training and workforce develop-
24 ment to achieve the state's public policy agenda.

25 The Legislature finds that because of its acts to stream-
26 line accountability, make maximum use of existing assets
27 to meet new demands and target new funding on initia-
28 tives designed to enhance and reorient existing capacity,
29 provide incentives for brokering and collaboration, and
30 focus on new demands, many of the responsibilities
31 originally charged to the joint commission are no longer
32 relevant.

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

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

1 (a) The joint commission is comprised of nine persons
2 appointed by the governor, with the advice and consent
3 of the Senate. Seven of the appointees shall represent
4 the interests of the business, labor and employer commu-
5 nities and demonstrate knowledge of the workforce needs
6 of the various areas of the state. No person who is
7 employed by an institution of higher education, and no
8 person who is engaged in providing, or employed by a
9 person or company whose primary function is to provide
10 workforce development services and activities, is eligible

11 to serve on the joint commission. No provider of educa-
12 tional services, workforce development services or
13 related activities may serve on the joint commission. The
14 governor shall appoint three members from each con-
15 gressional district. Not more than four of the members
16 may be from the same political party. The vice cancel-
17 lor for community and technical college education and
18 workforce development of the policy commission and the
19 assistant superintendent for technical and adult educa-
20 tion of the state department of education shall serve as
21 ex officio, nonvoting members of the joint commission.
22 The members shall elect a chair from among the business
23 representatives.

24 (b) Members of the joint commission shall serve for
25 terms of four years, except that of the original appoint-
26 ments, three members shall be appointed for two years
27 and four members shall be appointed for four years. No
28 member may serve more than two consecutive full terms
29 nor may any member be appointed to a term which
30 results in the member serving more than eight consecu-
31 tive years.

32 (c) The joint commission shall meet at least quarterly
33 and may meet more often at the call of the cochaurs. One
34 such meeting of the joint commission shall be a public
35 forum for the discussion of the goals and standards for
36 vocational education in the state. Members of the joint
37 commission shall serve without compensation, but upon
38 proper request, shall be reimbursed for their actual
39 necessary expenses incurred in the performance of their
40 duties as commission members, except that members of
41 the commission who are employees of the state shall be
42 reimbursed by their employing 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
9 high school level that results in, or may result in, the
10 awarding of a two-year associate degree, certificate or
11 other credential from an institution under the jurisdic-
12 tion of the policy commission or other public or private
13 education provider.

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

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

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

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

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

11 (2) Programs and methods to assist in the improvement,
12 modernization and expanded delivery of vocational-

13 technical-occupational and adult basic education programs;

14 (3) The distribution of federal vocational education
15 funding provided under Public Law 98-524, with an
16 emphasis on the distribution of financial assistance
17 among secondary and post-secondary vocational-
18 technical-occupational and adult basic education pro-
19 grams to help meet the public policy agenda;

20 (4) Collaboration, cooperation and interaction among
21 all secondary and post-secondary vocational-technical-
22 occupational and adult basic education programs in the
23 state, including the programs assisted under the federal
24 Vocational Education Act and the Workforce Investment
25 Act, to promote the development of seamless curriculum,
26 and the elimination of duplicative programs;

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

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

37 (b) Analyze and report to the policy commission on the
38 distribution of spending for vocational-technical-occu-
39 pational and adult basic education in the state and on the
40 availability of vocational-technical-occupational and
41 adult basic education activities and services within the
42 state.

43 (c) Promote the delivery of vocational-technical-
44 occupational and adult basic education programs in the

45 state which emphasize the involvement of business and
46 labor organizations.

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

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

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

69 (g) Under the supervision of the chancellor and the vice
70 chancellor for community and technical college educa-
71 tion and workforce development, the joint commission
72 has the following additional powers and duties:

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

76 (2) To interview nominees for appointments of commu-
77 nity and technical college presidents or provosts and

78 make recommendations to the chancellor, or in the case
79 of a provost, to the institutional president;

80 (3) To review and make recommendations to the
81 commission for the approval of the institutional com-
82 pacts for the community and technical colleges;

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

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

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

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

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

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

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

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,
6 who shall not be entitled to vote; one shall be the chair of
7 the joint commission for vocational-technical-occupa-
8 tional education, ex officio, who shall not be entitled to
9 vote; one shall be the chairman of the advisory council of
10 students, ex officio, who shall be entitled to vote; one
11 shall be the chairman of the advisory council of faculty,
12 ex officio, who shall be entitled to vote; and one shall be
13 the chairman of the advisory council of classified em-
14 ployees, ex officio, who shall be entitled to vote. The
15 other ten directors shall be citizens of the state, ap-
16 pointed by the governor, by and with the advice and
17 consent of the Senate. On or after the tenth day of
18 March, one thousand nine hundred ninety-six, the board
19 shall be reconstituted and all terms of members ap-
20 pointed by the governor prior to the tenth day of March,
21 one thousand nine hundred ninety-six, shall expire upon
22 the appointment by the governor of all the directors
23 required to be appointed by this section. The governor
24 shall make appointments required by this section no later
25 than the fifteenth day of March, one thousand nine
26 hundred ninety-six.

27 Each of the directors appointed to the board by the
28 governor shall represent the public interest and shall be

29 especially qualified in the field of higher education by
30 virtue of the person's knowledge, learning, experience or
31 interest in the field. The relative enrollments of bacca-
32 laurate and community and technical students in the
33 state college system shall be considered by the governor
34 when making such appointments and the governor shall
35 use his or her best efforts to achieve a balance among the
36 members who reflect the various interests, goals and
37 concerns reflected by the relative enrollments.

38 Except for the ex officio directors, no person shall be
39 eligible for appointment to membership on the board of
40 directors who is an officer, employee or member of an
41 advisory board of any state college or university, an
42 officer or member of any political party executive
43 committee, the holder of any other public office or public
44 employment under the government of this state or any of
45 its political subdivisions, or an appointee or employee of
46 the board of trustees or board of directors: *Provided,*
47 That if there are no ethical restrictions under state or
48 federal law, a federal employee may serve as a member
49 of the board of directors. Of the ten directors appointed
50 by the governor from the public at large, not more than
51 five thereof shall belong to the same political party and
52 at least three directors of the board shall be appointed
53 from each congressional district.

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

56 (b) The governor shall appoint ten directors as soon
57 after the tenth day of March, one thousand nine hundred
58 ninety-six, as is practicable, and the original terms of all
59 directors shall commence on that date. The terms of the
60 directors appointed by the governor shall be for overlap-
61 ping terms of six years, except, of the original appoint-
62 ments, three shall be appointed to terms of two years,
63 three shall be appointed to terms of four years and four

64 shall be appointed to terms of six years. Each subse-
65 quent appointment which is not for the purpose of filling
66 a vacancy in an unexpired term shall be appointed to a
67 term of six years.

68 The governor shall appoint a director to fill any
69 vacancy among the ten directors appointed by the
70 governor, by and with the advice and consent of the
71 Senate, which director appointed to fill such vacancy
72 shall serve for the unexpired term of the vacating direc-
73 tor. The governor shall fill the vacancy within sixty days
74 of the occurrence of the vacancy.

75 All directors appointed by the governor shall be
76 eligible for reappointment: *Provided*, That a person who
77 serves as a director or trustee during all or any part of
78 two consecutive terms beginning after the first day of
79 March, one thousand nine hundred ninety-six, shall be
80 ineligible to serve as a director for a period of three years
81 immediately following the second of the two consecutive
82 terms.

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

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

96 (d) No director appointed by the governor shall be
97 removed from office by the governor except for official

98 misconduct, incompetence, neglect of duty or gross
99 immorality, and then only in the manner prescribed by
100 law for the removal by the governor of the state elective
101 officers.

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

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

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
4 statewide strategy to prepare students for further post-
5 secondary education, life long learning and development
6 of the workforce necessary to diversity and grow the
7 state's 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
13 of 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;
20 and

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

23 (3) That, despite progress made in developing commu-
24 nity and technical colleges pursuant to Senate Bill No.
25 547, chapter ninety-nine, acts of the Legislature, regular
26 session, one thousand nine hundred ninety-nine, most of
27 these colleges remain subordinated to colleges and
28 universities with four-year and graduate missions.

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

34 (5) That only half the enrollment in community and
35 technical colleges is in institutions independently accred-
36 ited to carry out that mission.

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

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

45 (8) That the community and technical college mission
46 in West Virginia continues to be seen by many as nar-
47 rowly defined and offering primarily associate degree
48 programs and rather than the critical functions of
49 workforce development, developmental education,

50 community outreach and regional economic development
51 as defined in Senate Bill No. 547.

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

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

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

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

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

81 (14) That the implementation of specific structural and
82 procedural provisions of Senate Bill No. 547 was decid-
83 edly mixed.

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

91 (16) That since the enactment of Senate Bill No. 547
92 increasing attention has been given to the related prior-
93 ity of workforce development.

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

97 (18) That the substantive goal of Senate Bill No. 547 to
98 ensure access to community and technical college pro-
99 grams and services remains valid and is even more
100 important today than five years ago.

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

105 (b) *Legislative Intent.* — It is the intent of the Legisla-
106 ture, that the process for achieving independently-
107 accredited community and technical colleges be carried
108 out using the most effective and most efficient method
109 available. In implementing this process the governing
110 boards and institutions of higher education should utilize
111 facilities that already are available. These include, but
112 are not limited to, the facilities of public high schools
113 and vocational education centers. It is further the intent

114 of the Legislature that this article not be implemented in
115 such a manner as to require an extensive building
116 program. Prior to pursuing any capital project, an
117 institution shall follow the guidelines for developing
118 capital projects provided for in subdivision thirteen,
119 subsection (a), section four, article 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
3 education that is well articulated with the public schools
4 and four-year colleges; that makes maximum use of
5 shared facilities, faculty, staff, equipment and other
6 resources; that encourages traditional and nontraditional
7 students and adult learners to pursue a life-time of
8 learning; that serves as an instrument of economic
9 development; and that has the independence and flexibil-
10 ity to respond quickly to 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 juris-
14 diction that have the administrative, programmatic and
15 budgetary control necessary to allow maximum flexibil-
16 ity 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
24 in section three of this article, necessary to insure that
25 each region of West Virginia is served by a community
26 and technical college meeting the needs of the people of
27 the 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 accountabil-
34 ity that the full range of community and technical
35 education programs and services is provided in all areas
36 of the state;

37 (f) To define the full range of programs and services
38 that every community and technical college has the
39 responsibility to provide; and

40 (g) To establish such other policies and procedures
41 necessary to ensure that the needs of West Virginia, its
42 people and its businesses are met for the programs and
43 services that can be provided through a comprehensive
44 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
2 essential 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
10 mission 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 institu-
16 tions;

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

21 (1) Student services, including, but not limited to,
22 advising, academic counseling, financial aid and provi-
23 sion of the first line of academic mentoring and media-
24 tion;

25 (2) Instructional support services;

26 (3) Access to information and library services;

27 (4) Physical space in which courses can be offered;

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

30 (6) Monitoring and assessment; and

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

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

38 (g) An institutional board of governors or an institu-
39 tional board of advisors appointed and serving as re-
40 quired by law;

41 (h) A full-time core faculty, complemented by persons
42 engaged through contract or other arrangements, includ-

43 ing college and university faculty, to teach community
44 college courses and qualified business, industry and
45 labor persons engaged as adjunct faculty in technical
46 areas;

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

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

66 (k) Separately identified state funding allocations for
67 each of the community and technical colleges. The
68 president of the community and technical college has full
69 budgetary authority for the entity, subject to account-
70 ability to its governing board, including authority to
71 retain all tuition and fees generated by the community
72 and technical college for use to carry out its mission.

73 (l) Where independently-accredited community and
74 technical colleges are linked administratively to a
75 sponsoring state college or university in order to ensure

76 efficient use of limited resources, the following condi-
77 tions shall apply:

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

80 (2) All state funding allocations for the community and
81 technical college shall be transferred directly to the
82 community and technical college. The sponsoring
83 institution may charge fees for administrative overhead
84 costs subject to a schedule approved by the commission.

85 (3) Policies shall be formally established to ensure the
86 separation of academic and faculty personnel policies of
87 the community and technical college from those of the
88 sponsoring institution. These policies include, but are
89 not limited to, appointment, promotion, workload and, if
90 appropriate, tenure.

§18B-3C-4. Responsibility districts.

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

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

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

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

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

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

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

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

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

42 (b) It is the intent of the Legislature that, where
43 counties are listed in more than one district, the county
44 shall be the joint responsibility of each community and
45 technical college assigned that county, or shall be divided
46 as determined by the commission. The boundaries of the
47 districts may be modified from time to time by the
48 commission to serve better the needs within the districts.
49 Such modifications are not required to follow county
50 boundaries.

51 (1) *West Virginia State Community and Technical*
52 *College* - Kanawha, Putnam and Clay counties.

53 (2) *West Virginia university institute of technology*
54 *community and technical college* - Fayette, Clay,
55 Kanawha, Raleigh and Nicholas counties.

56 (3) *Marshall university community and technical*
57 *college* - Cabell, Mason, Putnam and Wayne counties.

§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
2 college includes the following programs which may be
3 offered on or off campus, at the work site, in the public
4 schools and at other locations and at times that are
5 convenient for the intended population:

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

11 (2) Transfer education associate of arts and associate of
12 science degree programs for students whose educational
13 goal 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
18 and 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
29 personal 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 governing boards and the
39 commission. 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
43 of programs within the district to assure that the needs
44 of the district for community and technical college
45 programs are met. It is the intent of the Legislature that
46 the program review and approval process for community
47 and technical education be separate and distinct from
48 baccalaureate education and subject to the provisions of
49 section nine of this article. The president and institu-
50 tional board of advisors shall seek assistance from and

51 utilize a district consortium committee in fulfilling this
52 responsibility.

53 (c) Independently-accredited community and technical
54 colleges will serve as higher education centers for their
55 regions by brokering with colleges, universities and other
56 providers, in state and out of state to ensure the coordi-
57 nated access of students, employers, and other clients to
58 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 com-
3 mittee 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
11 the district. The consortium committee shall be chaired
12 by the president or provost, or his or her designee, and
13 shall advise and assist the president or provost with the
14 following:

15 (1) Completing a comprehensive assessment of the
16 district to determine what education and training
17 programs 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
25 meet the documented workforce development needs of
26 the district through individual and cooperative pro-
27 grams, shared facilities, faculty, staff, equipment and
28 other resources and the development and use of distance
29 learning and other educational technologies;

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

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

43 (A) Helps students focus on career objectives;

44 (B) Establishes cooperative programs and student
45 internships with business and industry,

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

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

52 (6) Planning and implementation of integrated profes-
53 sional development activities for secondary and post-

54 secondary faculty, staff and administrators and other
55 consortium partners throughout the district;

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

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

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

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

77 (11) Establishing a single point of contact for employ-
78 ers and potential employers to access education and
79 training 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
2 July, two thousand one, West Virginia shall move from
3 having "component" community and technical colleges

4 to having a statewide network of independently accred-
5 ited community and technical

6 colleges serving every region of the state. This section
7 does not apply to the freestanding community and
8 technical colleges, West Virginia university at
9 Parkersburg, Potomac state college of West Virginia
10 university and West Virginia university institute of
11 technology.

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

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

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

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

32 (c) The following are recommended strategies for
33 moving from the current arrangement of "component"
34 community and technical colleges to the legislatively-
35 mandated statewide network of independently accred-
36 ited community and technical colleges serving every

37 region of the state. The Legislature recognizes that there
38 may be other means to achieve this ultimate objective;
39 however, it is the intent of the Legislature that the move
40 from the current arrangement of "component" commu-
41 nity and technical colleges to the legislatively-mandated
42 statewide network of independently accredited commu-
43 nity and technical colleges serving every region of the
44 state shall be accomplished. The following recommenda-
45 tions are designed to reflect significant variations among
46 regions and the potential impacts on the sponsoring
47 institutions.

48 (1) *Marshall university community and technical*
49 *college, West Virginia state community and technical*
50 *college and West Virginia university institute of technol-*
51 *ogy.* – The status of these institutions shall be determined
52 pursuant to the provisions of article three-f of this
53 chapter.

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

66 (3) *Center for higher education and workforce develop-*
67 *ment at Beckley.* – The president of Bluefield state
68 college and the institutional board of advisors are
69 responsible, according to a plan approved by the com-
70 mission, for the step-by-step implementation of a new
71 independently-accredited community and technical

72 college administratively linked to Bluefield state college,
73 known as the center for higher education and workforce
74 development, which adheres to the essential conditions
75 pursuant to section three of this article. As an
76 independently-accredited community and technical
77 college the center shall also serve as higher education
78 center for its region by brokering with other colleges,
79 universities and other providers, in state and out of state,
80 both public and private, to ensure the coordinated access
81 of students, employers, and other clients to needed
82 programs and services. The new community and techni-
83 cal college shall serve Raleigh, Summers and Fayette
84 counties and be headquartered in Beckley. The commis-
85 sion shall appoint an institutional board of advisors for
86 the center at Beckley which is separate from the institu-
87 tional board of advisors of Bluefield state college but
88 may have some overlap in membership to facilitate
89 coordination. In addition, the president of the center
90 shall appoint a district consortia committee to advise the
91 president on a comprehensive assessment of the needs in
92 the region, on coordinating efforts with regional labor
93 market information systems, and on other areas as
94 provided for in section seven of this article relating to the
95 duties of district consortia committees. The center shall
96 facilitate the planning and development of a unified
97 effort involving multiple providers and facilities includ-
98 ing, but not limited to, Concord college, the college of
99 West Virginia, Marshall university, West Virginia univer-
100 sity, West Virginia university institute of technology, and
101 other entities to meet the documented workforce devel-
102 opment needs in the region: *Provided*, That nothing in
103 this subdivision prohibits or limits any existing, or the
104 continuation of any existing affiliation between the
105 college of West Virginia, West Virginia university
106 institute of technology, and West Virginia university.
107 The center for higher education and workforce develop-
108 ment at Beckley shall also provide the facilities and

109 support services for other public and private institutions
110 delivering courses, programs and services in Beckley.
111 The objective would be to assure students and employers
112 in the area that there would be coordination and efficient
113 use of resources among the separate programs and
114 facilities, existing and planned, in the Beckley area. If,
115 at a future time, the commission believes it appropriate,
116 it may recommend to the Legislature that the Beckley
117 institution be created as a freestanding institution.

118 (4) *Glenville state community and technical college.* –
119 Glenville state community and technical college, includ-
120 ing the centers in Nicholas, Lewis and Roane counties,
121 should retain its relationship as a component of Glenville
122 state college. The president of Glenville state college and
123 the governing board are accountable to the commission
124 for ensuring that the full range of community and
125 technical college services is available throughout the
126 region and that the community and technical college
127 adheres as nearly as possible to the essential conditions
128 pursuant to section three of this article, with the possible
129 exception of independent accreditation.

130 (5) *Fairmont state community and technical college.* –
131 Fairmont state community and technical college should
132 be an independently accredited community and technical
133 college serving Marion, Doddridge, Barbour, Harrison,
134 Monongalia, Preston, Randolph and Taylor counties. The
135 community and technical college is developed on the
136 base of the existing component community and technical
137 college of Fairmont state college. Subject to the provi-
138 sions of section eight of this article, the president and the
139 governing board of Fairmont state college are responsi-
140 ble, according to a plan approved by the commission, for
141 step-by-step implementation of the independently
142 accredited community and technical college which
143 adheres to the essential conditions pursuant to section

144 three of this article. Subject to the provisions of section
145 eight of this article, the community and technical college
146 will remain administratively linked to Fairmont state
147 college. Nothing herein shall be construed to require
148 Fairmont state college to discontinue any associate
149 degree program in areas of particular institutional
150 strength which are closely articulated to their baccalau-
151 reate programs and missions or which are of a high-cost
152 nature and can best be provided in direct coordination
153 with a baccalaureate institution.

154 (6) *Shepherd community and technical college.* -
155 Shepherd community and technical college should
156 become an independently accredited community and
157 technical college. It should serve Jefferson, Berkeley and
158 Morgan counties. The new community and technical
159 college is developed on the base of the existing compo-
160 nent community and technical college of Shepherd
161 college. Subject to the provisions of section eight of this
162 article, the president and the governing board of Shep-
163 herd college are responsible, according to a plan ap-
164 proved by the commission, for step-by-step implementa-
165 tion of the new independently accredited community and
166 technical college which adheres to the essential condi-
167 tions pursuant to section three of this article. Subject to
168 the provisions of section eight of this article, the commu-
169 nity and technical college will remain administratively
170 linked to Shepherd college. Nothing herein shall be
171 construed to require Shepherd college to discontinue any
172 associate degree program in areas of particular institu-
173 tional strength which are closely articulated to their
174 baccalaureate programs and missions or which are of a
175 high-cost nature and can best be provided in direct
176 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
6 programs in order to make the best use of available
7 resources 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
11 flexibility in formatting courses;

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

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

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

27 (B) All community and technical colleges, other than
28 those set forth in paragraph (A) of this subdivision, may
29 employ faculty for an indefinite period without a grant
30 of tenure. The immediate goal is to use this provision as
31 a tool to assist the community and technical colleges in
32 meeting the essential conditions provided for in section
33 three of this article and in gaining independent accredi-

34 tation status. The ultimate goal is to provide the flexibil-
35 ity community and technical colleges need to meet the
36 needs of the state by working toward having no more
37 than twenty percent of the core faculty holding tenure or
38 being tenure-track employees: *Provided*, That tenured
39 faculty employed by community and technical colleges
40 other than freestanding community and technical
41 colleges on the effective date of this section may not be
42 affected by this provision: *Provided, however*, That
43 tenure shall not be denied to a faculty member solely as
44 a result of change in employing institution necessitated
45 by the change to independently-accredited community
46 and technical colleges.

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

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

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

1 (a) During the transition year, beginning the first day
2 of July, two thousand, and ending the thirtieth day of
3 June, two thousand one, the appropriate governing board
4 may 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,
9 of any community and technical college. Funds collected
10 at any such community and technical college may be
11 used only for the benefit of that community and techni-
12 cal 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 pur-
16 poses. Such special fees shall be paid into special funds
17 in the state treasury and used only for the purposes for
18 which collected.

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

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

27 (A) The governing board of the institution, in the case
28 of a freestanding 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
34 cases.

35 (2) The appropriate governing board, in consultation
36 with the joint commission, also may establish special fees
37 for such purposes as, including, but not limited to, health
38 services, student activities, student recreation, athletics

39 or any other extracurricular purposes: *Provided*, That
40 the joint commission shall determine which fees, if any,
41 do not apply to the entire student population and to
42 which students such fees do not apply. Such special fees
43 may be used only for the purposes for which collected.

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

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

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

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

14 (b) The governing boards may accept federal grants
15 and funds from county boards of education, other local

16 governmental bodies, corporations or persons. The
17 governing boards may enter into memoranda of under-
18 standing agreements with such governmental bodies,
19 corporations or persons for the use or acceptance of local
20 facilities and for the acceptance of grants or contribu-
21 tions toward the cost of the acquisition or construction
22 of such facilities. Such local governmental bodies may
23 convey capital improvements, or lease the same without
24 monetary consideration, to the governing boards for the
25 use by the community and technical college and the
26 governing boards may accept such facilities, or the use or
27 lease thereof, and grants or contributions for such
28 purposes from such governmental bodies, the federal
29 government or any corporation or person. In addition,
30 the various education agencies shall establish coopera-
31 tive relationships to utilize existing community and
32 technical colleges and programs, public school vocational
33 centers and other existing facilities to serve the identified
34 needs within the community and technical college
35 district.

36 (c) To facilitate the administration, operation and
37 financing of programs in shared facilities of any institu-
38 tion of public higher education and a county board or
39 boards of education, the affected governing boards and
40 county board or boards of education may appoint a joint
41 administrative board consisting of such membership and
42 possessing such delegated authorities as the respective
43 boards consider necessary and prudent for the operation
44 of such shared facilities. If appointed, such joint admin-
45 istrative board shall consist of five members to be
46 appointed as follows: The county board of education
47 shall appoint two members; the appropriate governing
48 board shall appoint two members; and one shall be an
49 at-large member, who shall chair the joint administrative
50 board, and shall be appointed by mutual agreement of

51 the respective boards. When two or more county boards
52 of education are participating in such shared program,
53 such county board appointments shall be made by
54 mutual agreement of each of the participating county
55 boards. Members shall serve for staggered terms of three
56 years. With respect to initial appointments, one member
57 appointed by the county board or boards of education
58 and one member appointed by the governing board shall
59 serve for one year, one member appointed by the county
60 board or boards of education and one member appointed
61 by the governing board shall serve for two years and the
62 at-large member shall serve for three years. Subsequent
63 appointments shall be for three years. A member may
64 not serve more than two consecutive terms. Members
65 shall be reimbursed for reasonable and necessary ex-
66 penses actually incurred in the performance of their
67 duties as board members from funds allocated to the
68 shared facility, except that members who are employed
69 by a board of education, governing board or state institu-
70 tion of higher education shall be reimbursed by their
71 employer.

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

1 (a) *Intent and Purposes.* --

2 (1) It is the intent of the Legislature to establish
3 community and technical colleges in every region of the
4 state of West Virginia that, as far as possible, meet the
5 essential 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
9 colleges which are components of existing institutions of

10 higher education to community and technical colleges
11 which meet, as far as possible, the essential conditions,
12 it is appropriate to maintain an administrative link
13 between the community and technical colleges and the
14 sponsoring institution.

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

18 (b) The sponsoring institution which is administra-
19 tively linked to a community and technical college shall
20 provide the following services:

21 (1) Personnel management;

22 (2) Record keeping;

23 (3) Payroll;

24 (4) Accounting;

25 (5) Legal services;

26 (6) Registration;

27 (7) Student aid;

28 (8) Student records; and

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

31 (c) Subject to the approval of the appropriate govern-
32 ing board, the president of the sponsoring institution,
33 pursuant to the terms of section six, article one-b of this
34 chapter, shall appoint the presidents of the community
35 and technical college, who shall serve at the will and
36 pleasure of the institutional president. Subject to the
37 provisions of section six, article one-b of this chapter, the

38 appropriate governing board shall appoint the president
39 of the sponsoring institution.

40 (d) The governing board and the president of the
41 sponsoring institution shall be responsible for the step-
42 by-step development of the community and technical
43 college and for compliance with the essential conditions,
44 all as required by this article.

45 (e) The president of the sponsoring institution shall
46 have such responsibilities, powers and duties in the
47 development of the community and technical college and
48 in compliance with the essential conditions, as directed
49 by the governing board or as are necessary for the proper
50 implementation of the provisions of this act.

51 (f) The sponsoring institution may charge fees for
52 administrative overhead costs subject to a schedule
53 approved by the commission.

54 (g) Notwithstanding any other provision of the code to
55 the contrary, the commission shall take necessary steps
56 to ensure that institutional bonded indebtedness is secure
57 and that administratively-linked community and techni-
58 cal colleges assume their fair share of any institutional
59 debt acquired while they were part of the baccalaureate
60 institution.

61 (h) The community and technical college is encouraged
62 to secure academic services from the sponsoring institu-
63 tion when it is in the best interests of the students to be
64 served, the community and technical college and the
65 sponsoring institution. In determining whether or not to
66 secure services from the sponsoring institution, the
67 community and technical college shall consider the
68 following:

69 (1) The cost of the academic services;

70 (2) The quality of the academic services;

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

73 (4) Such other considerations as the community and
74 technical college finds appropriate taking into account
75 the best interests of the students to be served, the com-
76 munity and technical college, and the sponsoring institu-
77 tion: *Provided*, That nothing in this article shall be
78 construed to prohibit any state institution of higher
79 education from purchasing or brokering remedial and/or
80 developmental courses from a community and technical
81 college.

**ARTICLE 3F. COMMUNITY AND TECHNICAL COLLEGE SERVICES IN
THE RESPONSIBILITY AREAS OF MARSHALL UNI-
VERSITY, WEST VIRGINIA STATE COLLEGE AND
WEST VIRGINIA UNIVERSITY INSTITUTE OF TECH-
NOLOGY.**

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

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

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

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

21 (2) That, in order to satisfy the growing needs of the
22 Kanawha valley region for access to quality higher
23 education programs, the delivery of community and
24 technical college serves in the Kanawha valley must meet
25 the goals for comprehensive community and technical
26 college education described in section two, article three-c
27 of this chapter and must meet the essential conditions for
28 a comprehensive community and technical college
29 education as described in section three, article three-c of
30 this chapter.

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

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

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

14 (c) The implementation board shall develop a plan, to
15 be recommended to the policy commission, for the most
16 effective and efficient method to deliver comprehensive
17 community and technical college education to the
18 citizens and employers of the responsibility areas of

19 Marshall university, West Virginia state college and West
20 Virginia university institute of technology. The plan shall
21 include, but not be 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
28 college as an historically black institution of higher
29 education and as an eighteen hundred and ninety land
30 grant institution.

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

34 (d) The implementation board shall be accountable to
35 the policy commission for the implementation of the
36 appropriate system, based upon its plan, to meet the
37 essential conditions for effective community and techni-
38 cal education as provided for in section three, article
39 three-c of this chapter.

40 (e) If, in the opinion of the commission, implementation
41 of the findings can not be accomplished without statu-
42 tory change, then on or before the fifteenth day of
43 January, two thousand one, the commission shall certify
44 to the governor, the president of the senate and the
45 speaker of the house of delegates draft legislation to
46 accomplish the goals of this section and section one-a,
47 article one of this chapter.

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

1 Subject to change by the commission through the
2 process for the establishment of institutional compacts
3 defined in section two, article one-a of this chapter,
4 nothing in this article may be construed to require
5 Marshall university, West Virginia state College or West
6 Virginia Institute of Technology to discontinue any
7 associate degree program in areas of particular institu-
8 tional strength which are closely articulated to their
9 baccalaureate programs and missions or which are of a
10 high cost nature and can best be provided in direct
11 coordination with a baccalaureate 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
4 of the chancellor. Any reference in this code to the senior
5 administrator means the vice chancellor of administra-
6 tion, which senior administrator shall become the vice
7 chancellor of administration and also shall serve as
8 interim chancellor for higher education until a chancellor
9 is employed pursuant to section five, article one-b of this
10 chapter.

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

21 sibilities as considered desirable and appropriate. The
22 vice chancellor for administration shall fix the compen-
23 sation and emoluments of such employees: *Provided*,
24 That those employees whose job duties meet criteria
25 listed in the system of job classifications as stated in
26 article nine of this chapter shall be accorded the job title,
27 compensation and rights established in the article as well
28 as all other rights and privileges accorded classified
29 employees by the 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
37 to 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 accor-
47 dance with established guidelines and in consultation
48 with and under the direction of the chancellor shall
49 administer, oversee or monitor all state and federal
50 student assistance and support programs administered
51 on the state level, including those provided for in chapter
52 eighteen-c of this code.

53 (g) The vice chancellor for administration has a fidu-
54 ciary responsibility to administer the tuition and regis-

55 tration fee capital improvement revenue bond accounts
56 of the governing boards.

57 (h) The vice chancellor for administration shall admin-
58 ister 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 advi-
67 sory board, which shall be representative of higher
68 education and other users of the West Virginia Network
69 for Educational Telecomputing as the chancellor for
70 higher education determines appropriate. It is the
71 responsibility of the computer advisory board to recom-
72 mend to the chancellor policies for a statewide shared
73 computer system.

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

78 (k) Effective on the first day of July, two thousand, the
79 vice chancellor for administration may administer any
80 program or service authorized or required to be per-
81 formed by the board of trustees or the board of directors
82 on the thirtieth day of June, two thousand, and not
83 specifically assigned to another agency. In addition, the
84 vice chancellor for administration may administer any
85 program or service authorized or required to be per-
86 formed by the commission or the chancellor for higher
87 education, but not assigned specifically to the commis-
88 sion or the chancellor. Such program or service may

89 include, but shall not be limited to, telecommunications
90 activities and other programs and services provided for
91 under grants and contracts from federal and other
92 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; of-
fenses 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,
7 Marshall university; and (4) the dean of the school of
8 medicine, 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 transac-
13 tions, showing, among other things, every dead human
14 body coming under its authority, giving name, sex, age,
15 date of death, place from which received, and when and
16 from whom received, which record shall be open at all
17 times to the inspection of the attorney general and any
18 prosecuting attorney in the state.

19 (c) The board shall be responsible for making requisi-
20 tion for, receiving, and making disposition of the dead
21 human bodies for the scientific uses and purposes of
22 reputable education institutions, within the state and
23 elsewhere, having medical, osteopathy, dentistry or
24 nursing schools. The board shall have full power to
25 establish rules for its own government and for the

26 requisition, use, disposition and control of such bodies as
27 may come under its authority by way of gift, pursuant to
28 this section or pursuant to section four, article nineteen,
29 chapter sixteen of this code.

30 (d) All dead human bodies which may come under the
31 charge or control of any mortician, any officer or agent
32 of the department of welfare or of any county commis-
33 sion or municipality, or any superintendent, officer or
34 agent having the supervision of any prison, morgue,
35 hospital or other public institution in this state, and
36 which may be required to be buried at public expense,
37 shall be subject to the requisition of the board as pro-
38 vided in this section. No such body shall be delivered to
39 the board if any person related to the deceased by blood
40 or marriage shall make a statement in writing to that
41 effect, and shall claim such body for burial, or shall make
42 affidavit that the relative is unable to bear the expense
43 of burial and desires that the deceased be buried at
44 public expense. This statement and affidavit may be
45 filed by any such relative with the person having charge
46 and control of the body of the person so claimed, either
47 before or after the death of such person.

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

52 (f) It shall be the duty of any person who has charge or
53 control of any unclaimed body, subject to requisition by
54 the board, to give notice to the board of that fact by
55 telephone or telegraph within twenty-four hours after
56 such body comes under that person's control. Thereafter,
57 such person shall hold the body subject to the order of
58 the board for at least twenty-four hours after the sending
59 of such notice. If the board makes requisition for the
60 body within the twenty-four hour period, it shall be

61 delivered, pursuant to the order of the board, to the
62 board or its authorized agent for transportation to any
63 education institution which the board considers to be in
64 bona fide need of the body and able to adequately
65 control, use and dispose of the body. The board shall
66 make suitable arrangements for the transportation of any
67 body, or part or parts of any body, which may come
68 under its authority to the education institution. All
69 expenses incurred in connection with the preservation,
70 delivery and transportation of any body delivered
71 pursuant to the order of the board shall be paid by the
72 educational institution receiving the body.

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

82 (h) Any person who shall neglect, refuse or fail to
83 perform any duty required by this section relating to the
84 board shall be guilty of a misdemeanor, and, upon
85 conviction thereof, shall be punished by a fine of not
86 more than one hundred dollars or by imprisonment in the
87 county or regional jail for not more than ten days, or by
88 both such fine and imprisonment. Any person who fails
89 to give the required notice that that person has charge of
90 an unclaimed body subject to requisition by the board
91 shall also be personally liable for all burial expenses, if
92 such body was buried at public expense, to the public
93 agency that 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 education policy com-
2 mission are authorized and empowered to enter into
3 contracts and expend funds for programs, services and
4 facilities provided by public and private educational
5 institutions, associations, boards, agencies, consortia,
6 corporations, partnerships, individuals and local, state
7 and federal governmental bodies within and outside of
8 West Virginia in order that maximum higher educational
9 opportunities of high quality may be provided to the
10 citizens of the state in the most economical manner:
11 *Provided*, That in no event may a contract for such
12 services and facilities be entered into unless the higher
13 education policy commission or the governing boards
14 have determined that such services and facilities are
15 necessary and that such services and facilities would be
16 at a savings to the state.

17 Notwithstanding the provisions of this section, nothing
18 herein contained shall supersede the responsibility and
19 respective duties of the commissioner of finance and
20 administration, and the director of the purchasing
21 division of such department for the execution of the
22 contracts entered into under this article and such con-
23 tracts shall be in complete conformity with the provi-
24 sions of articles three and five, chapter five-a of this
25 code.

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

1 (a) The higher education policy commission and each
2 governing board, through the vice chancellor for admin-
3 istration shall purchase or acquire all materials, supplies,
4 equipment and printing required for that governing

5 board or the higher education policy commission, as
6 appropriate, and the state institutions of higher educa-
7 tion under their jurisdiction. The higher education
8 policy commission and the governing boards each shall
9 adopt rules governing and controlling acquisitions and
10 purchases in accordance with the provisions of this
11 section. Such rules shall assure that the governing
12 boards: (1) Do not preclude any person from participat-
13 ing and making sales thereof to the governing board or to
14 the higher education policy commission except as
15 otherwise provided in section five of this article: *Pro-*
16 *vided*, That the providing of consultant services such as
17 strategic planning services will not preclude or inhibit
18 the governing boards or the higher education policy
19 commission from considering any qualified bid or
20 response for delivery of a product or a commodity
21 because of the rendering of those consultant services; (2)
22 shall establish and prescribe specifications, in all proper
23 cases, for materials, supplies, equipment and printing to
24 be purchased; (3) shall adopt and prescribe such purchase
25 order, requisition or other forms as may be required; (4)
26 shall negotiate for and make purchases and acquisitions
27 in such quantities, at such times and under contract, in
28 the open market or through other accepted methods of
29 governmental purchasing as may be practicable in
30 accordance with general law; (5) shall advertise for bids
31 on all purchases exceeding fifteen thousand dollars, to
32 purchase by means of sealed bids and competitive
33 bidding or to effect advantageous purchases through
34 other accepted governmental methods and practices:
35 *Provided, however*, That for printing services, bids shall
36 be advertised by written notification of such bids to any
37 print shop, affiliated with an institution of higher
38 education and operated by classified employees, on all
39 purchases exceeding five thousand dollars; (6) shall post
40 notices of all acquisitions and purchases for which

41 competitive bids are being solicited in the purchasing
42 office of the specified institution involved in the pur-
43 chase, at least two weeks prior to making such purchases
44 and ensure that the notice is available to the public
45 during business hours; (7) shall provide for purchasing
46 in the open market; (8) shall make provision for
47 vendor notification of bid solicitation and emer-
48 gency purchasing; and (9) provide that competitive bids
49 are not required for purchases of one thousand dollars or
50 less.

51 (b) The higher education policy commission or each
52 governing board, through the vice chancellor for admin-
53 istration may issue a check in advance to a company
54 supplying postage meters for postage used by that board,
55 the policy commission and by the state institutions of
56 higher education under their jurisdiction.

57 (c) When a purchase is to be made by bid, any or all
58 bids may be rejected. However, all purchases based on
59 advertised bid requests shall be awarded to the lowest
60 responsible bidder taking into consideration the qualities
61 of the articles to be supplied, their conformity with
62 specifications, their suitability to the requirements of the
63 governing boards, the higher education policy commis-
64 sion and delivery terms: *Provided*, That the preference
65 for resident vendors as provided in section thirty-seven,
66 article three, chapter five-a of this code shall apply to the
67 competitive bids made pursuant to this section.

68 (d) The governing boards and the higher education
69 policy commission shall maintain a purchase file, which
70 shall be a public record and open for public inspection.
71 After the award of the order or contract, the governing
72 boards and the higher education policy commission shall
73 indicate upon the successful bid that it was the success-
74 ful bid, and shall further indicate why bids are rejected
75 and, if the mathematical low vendor is not awarded the

76 order or contract, the reason therefor. No records in the
77 purchase file shall be destroyed without the written
78 consent of the legislative auditor. Those files in which
79 the original documentation has been held for at least one
80 year and in which the original documents have been
81 reproduced and archived on microfilm or other equivalent
82 method of duplication may be destroyed without the
83 written consent of the legislative auditor. All files, no
84 matter the storage method, shall be open for inspection
85 by the legislative auditor upon request.

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

111 (f) All purchases and acquisitions shall be made in
112 consideration and within limits of available appropria-
113 tions and funds and in accordance with applicable
114 provisions of article two, chapter five-a of this code,
115 relating to expenditure schedules and quarterly allot-
116 ments of funds.

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

128 (h) Contracts entered into pursuant to this section shall
129 be signed by the applicable governing board or the
130 higher education policy commission in the name of the
131 state and shall be approved as to form by the attorney
132 general: *Provided*, That a contract in which the total
133 does not exceed five thousand dollars and for which the
134 attorney general has not responded within fifteen days of
135 presentation of the contract, the contract shall be
136 deemed approved: *Provided, however*, That a contractor
137 a change order for that contract which in total does not
138 exceed fifteen thousand dollars and which uses terms
139 and conditions or standardized forms previously ap-
140 proved by the attorney general and does not make
141 substantive changes in the terms and conditions of the
142 contract does not require approval by the attorney
143 general: *Provided further*, That the attorney general
144 shall make a list of those changes which he or she deems
145 to be substantive and the list, and any changes thereto,

146 shall be published in the state register. A contract that
147 exceeds fifteen thousand dollars shall be filed with the
148 state auditor: *And provided further*, That upon request,
149 the governing boards or the higher education policy
150 commission shall make all contracts available for
151 inspection by the state auditor. The governing board or
152 the higher education policy commission, as appropriate
153 shall prescribe the amount of deposit or bond to be
154 submitted with a bid or contract, if any, and the amount
155 of deposit or bond to be given for the faithful perfor-
156 mance of a contract. If the governing board or the higher
157 education policy commission purchases or contracts for
158 materials, supplies, equipment and printing contrary to
159 the provisions of sections four through seven of this
160 article or the rules pursuant thereto, such purchase or
161 contract shall be void and of no effect.

162 (i) Any governing board or the higher education policy
163 commission, as appropriate, may request the director of
164 purchases to make available, from time to time, the
165 facilities and services of that department to the govern-
166 ing boards or the higher education policy commission in
167 the purchase and acquisition of materials, supplies,
168 equipment and printing, and the director of purchases
169 shall cooperate with that governing board or the higher
170 education policy commission, as appropriate, in all such
171 purchases and acquisitions upon such request.

172 (j) Each governing board or the policy commission, as
173 appropriate, shall permit private institutions of higher
174 education to join as purchasers on purchase contracts for
175 materials, supplies and equipment entered into by that
176 governing board or the higher education policy commis-
177 sion. Any private school desiring to join as purchasers on
178 such purchase contracts shall file with that governing
179 board or the higher education policy commission an
180 affidavit signed by the president of the institution of

181 higher education or a designee requesting that it be
182 authorized to join as purchaser on purchase contracts of
183 that governing board or the higher education policy
184 commission, as appropriate, and agreeing that it will be
185 bound by such terms and conditions as that governing
186 board or the higher education policy commission may
187 prescribe, and that it will be responsible for payment
188 directly to the vendor under each purchase contract.

189 (k) Notwithstanding any other provision of this code to
190 the contrary, the governing boards and the higher
191 education policy commission, as appropriate, may make
192 purchases from the federal government or from federal
193 government contracts if the materials, supplies, equip-
194 ment or printing to be purchased is available from the
195 federal government or from a federal contract and
196 purchasing from the federal government or from a
197 federal government contract would be the most finan-
198 cially advantageous manner of making the purchase.

199 (l) An independent performance audit of all purchasing
200 functions and duties which are performed at any institu-
201 tion of higher education shall be performed each fiscal
202 year. The joint committee on government and finance
203 shall conduct the performance audit and the governing
204 boards and the higher education policy commission, as
205 appropriate, shall be responsible for paying the cost of
206 the audit from funds appropriated to the governing
207 boards or the higher education policy commission.

208 (m) The governing boards shall require each institution
209 under their respective jurisdictions to notify and inform
210 every vendor doing business with that institution of the
211 provisions of section fifty-four, article three, chapter
212 five-a of this code, also known as the "Prompt Pay Act of
213 1990".

214 (n) Consultant services, such as strategic planning
215 services, may not preclude or inhibit the governing
216 boards or the higher education policy commission from
217 considering any qualified bid or response for delivery of
218 a product or a commodity because of the rendering of
219 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
2 is established at each of the following state institutions
3 of higher education, excluding centers and branches
4 thereof, an institutional board of advisors: Potomac
5 state college of West Virginia university, West Virginia
6 university at Parkersburg, West Virginia university
7 institute of technology, Marshall university community
8 and technical college; center for higher education and
9 workforce development at Beckley, Fairmont community
10 and technical college and Shepherd community and
11 technical college.

12 (1) For the transition year beginning on the first day of
13 July, two thousand, through the thirtieth day of June,
14 two thousand one, only, the lay members of the institu-
15 tional board of advisors established for each of the
16 regional campuses of West Virginia university are
17 appointed by the president of the respective institution.
18 Effective the first day of July, two thousand one, the lay
19 members of the institutional boards of advisors for the
20 regional campuses of West Virginia university are
21 appointed by the institutional board of governors.

22 (2) The lay members of the institutional board of
23 advisors established for Marshall university community
24 and technical college, center for higher education and

25 workforce development at Beckley, Fairmont community
26 and technical college and Shepherd community and
27 technical college are appointed by the joint commission.

28 (b) The board of advisors consists of fifteen members,
29 including a full-time member of the faculty with the
30 rank of instructor or above duly elected by the faculty; a
31 member of the student body in good academic standing,
32 enrolled for college credit work and duly elected by the
33 student body; a member of the institutional classified
34 staff duly elected by the classified staff; and twelve lay
35 persons appointed pursuant to subsection (a) of this
36 section who have demonstrated a sincere interest in and
37 concern for the welfare of that institution and who are
38 representative of the population of its responsibility
39 district and fields of study. At least eight of the twelve
40 lay persons appointed shall be residents of the state. Of
41 the lay members who are residents of the state, at least
42 two shall be alumni of the institution, and no more than
43 a simple majority may be of the same political party.

44 (c) The student member shall serve for a term of one
45 year beginning upon appointment in July, two thousand,
46 and ending on the thirtieth day of April, two thousand
47 one. Thereafter the term shall begin on the first day of
48 June. The faculty member and the classified staff
49 member shall serve for a term of two years beginning
50 upon appointment in July, two thousand, and ending on
51 the thirtieth day of April, two thousand two. Thereafter
52 the term shall begin on the first day of June; and the
53 twelve lay members shall serve terms of four years each
54 beginning upon appointment in July, two thousand.
55 Thereafter the term shall begin on the first day of June.
56 All members, are eligible to succeed themselves for no
57 more than one additional term. A vacancy in an unex-
58 pired term of a member shall be filled for the remainder
59 of the unexpired term within thirty days of the occur-

60 rence thereof in the same manner as the original appoint-
61 ment or election. Except in the case of a vacancy, all
62 elections shall be held and all appointments shall be
63 made no later than the thirtieth day of April preceding
64 the commencement of the term.

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

72 (e) One of the twelve lay members shall be elected as
73 chairperson by the board of advisors in June of each
74 year: *Provided*, That the chairperson elected in two
75 thousand, shall be elected in July: *Provided, however*,
76 That no member may serve as chairperson for more than
77 two consecutive years.

78 (f) The president of the institution shall make available
79 resources of the institution for conducting the business of
80 the board of advisors. The members of the board of
81 advisors shall be reimbursed for all reasonable and
82 necessary expenses actually incurred in the performance
83 of their official duties under this section upon presenta-
84 tion of an itemized sworn statement thereof. All expenses
85 incurred by the boards of advisors and the institutions
86 under this section shall be paid from funds allocated to
87 the institutions for that purpose.

88 (g) The board of advisors shall review, prior to the
89 submission by the president to its governing board, all
90 proposals of the institution in the areas of mission,
91 academic programs, budget, capital facilities and such
92 other matters as requested by the president of the
93 institution or its governing board or otherwise assigned

94 to it by law. The board of advisors shall comment on
95 each such proposal in writing, with such recommenda-
96 tions for concurrence therein or revision or rejection
97 thereof as it considers proper. The written comments
98 and recommendations shall accompany the proposal to
99 the governing board and the governing board shall
100 include the comments and recommendations in its
101 consideration of and action on the proposal. The govern-
102 ing board shall promptly acknowledge receipt of the
103 comments and recommendations and shall notify the
104 board of advisors in writing of any action taken thereon.

105 (h) The board of advisors shall review, prior to their
106 implementation by the president, all proposals regarding
107 institution-wide personnel policies. The board of advi-
108 sors may comment on the proposals in writing.

109 (i) The board of advisors shall provide advice and
110 assistance to the president in establishing closer connec-
111 tions between higher education and business, labor,
112 government, community and economic development
113 organizations to give students greater opportunities to
114 experience the world of work, such as business and
115 community service internships, apprenticeships and
116 cooperative programs; to communicate better and serve
117 the current workforce and workforce development needs
118 of their service area, including the needs of nontradi-
119 tional students for college-level skills upgrading and
120 retraining and the needs of employers for specific
121 programs of limited duration; and to assess the perfor-
122 mance of the institution's graduates and assist in job
123 placement.

124 (j) Upon the occurrence of a vacancy in the office of
125 president of the institution, the board of advisors shall
126 serve as a search and screening committee for candidates
127 to fill the vacancy under guidelines established by the
128 commission pursuant to the provisions of subsection (d),

129 section eight, article one-b of this chapter. When serving
130 as a search and screening committee, the board of
131 advisors and its governing board are each authorized to
132 appoint up to three additional persons to serve on the
133 committee as long as the search and screening process is
134 in effect. The three additional appointees of the board of
135 advisors shall be faculty members of the institution.
136 Only for the purposes of the search and screening pro-
137 cess, the additional members shall possess the same
138 powers and rights as the regular members of the board of
139 advisors, including reimbursement for all reasonable and
140 necessary expenses actually incurred. Following the
141 search and screening process, the committee shall submit
142 the names of at least three candidates to the governing
143 board for consideration and appointment. If the govern-
144 ing board rejects all candidates submitted, the committee
145 shall submit the names of at least three additional
146 candidates, and this process shall be repeated until the
147 governing board appoints one of the candidates submit-
148 ted. The governing board shall provide all necessary
149 staff assistance to the board of advisors in its role as a
150 search and screening committee.

151 (k) The boards of advisors shall develop a master plan
152 for each administratively linked community and techni-
153 cal college. The ultimate responsibility for developing
154 and updating the master plans at the institutional level
155 resides with the institutional board of advisors, but the
156 ultimate responsibility for approving the final version of
157 the institutional master plans, including periodic up-
158 dates, resides with the commission. The plan shall
159 include, but not be limited to, the following:

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

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

170 (3) Documentation of the involvement of the commis-
171 sion, institutional constituency groups, clientele of the
172 institution, and the general public in the development of
173 all segments of the institutional master plan.

174 The plan shall be established for periods of not less
175 than three nor more than six years and shall be revised
176 periodically as necessary, including recommendations on
177 the addition or deletion of degree programs as, in the
178 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.**

1 (a) For the transition year beginning on the first day of
2 July, two thousand, through the thirtieth day of June,
3 two thousand one, only, there is established at the
4 following state institutions of higher education, exclu d-
5 ing centers and branches thereof, an institutional board
6 of advisors: Bluefield state college, Concord college,
7 eastern West Virginia community and technical college,
8 Fairmont state college, Glenville state college, Marshall
9 university, Shepherd college, southern West Virginia
10 community and technical college, West Liberty state
11 college, West Virginia northern community and technical
12 college, the West Virginia school of osteopathic medicine,
13 West Virginia state college and West Virginia university.

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

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

20 (A) A full-time member of the faculty with the rank of
21 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
24 elected 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
28 and with the advice and consent of the Senate: *Provided*,
29 That for the institutional boards of advisors at Marshall
30 university and West Virginia university, the governor
31 shall appoint twelve members, by and with the advice
32 and consent of the Senate: *Provided, however*, That, of
33 the appointed lay members, the governor shall appoint
34 one superintendent of a county board of education from
35 the area served by the institution: *Provided further*, That
36 in making the initial appointments only, the governor
37 shall endeavor to make all appointments from a pool of
38 those persons who, on the thirtieth day of June, two
39 thousand, are members of the board of trustees and the
40 board of directors.

41 (2) Of the nine members appointed by the governor, no
42 more than five may be of the same political party:
43 *Provided*, That for the appointed members of the institu-
44 tional boards of advisors of Marshall university and West
45 Virginia university, no more than seven may be of the
46 same 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 advi-

49 sors of Marshall university and West Virginia university,
50 at least eight of the members shall be residents of the
51 state. All members shall serve for a term of one year. A
52 vacancy in an unexpired term of a member shall be filled
53 for the unexpired term within thirty days of the occur-
54 rence of the vacancy in the same manner as the original
55 appointment or election. Except in the case of a vacancy,
56 all elections shall be held and all appointments shall be
57 made no later than the thirtieth day of June preceding
58 the commencement of the term: *Provided* further, That
59 election of officers for the term beginning in July, two
60 thousand, shall be made in July. Each board of advisors
61 shall elect one of its appointed lay members to be chair-
62 person.

63 (3) Each board of advisors shall hold a regular meeting
64 at least quarterly, commencing in July, two thousand.
65 Additional meetings may be held upon the call of the
66 chairperson or upon the written request of at least four
67 members: *Provided*, That for the institutional boards of
68 advisors of Marshall university and West Virginia
69 university, additional meetings may be held upon the call
70 of the chairperson or upon the written request of at least
71 five members. A majority of the members constitutes a
72 quorum for conducting the business of the board of
73 advisors.

74 (4) The president of the institution shall make available
75 resources of the institution for conducting the business of
76 the board of advisors. The members of the board of
77 advisors shall serve without compensation, but shall be
78 reimbursed for all reasonable and necessary expenses
79 actually incurred in the performance of their official
80 duties under this section upon presentation of an item-
81 ized sworn statement thereof. All expenses incurred by
82 the board of advisors and the institution under this

83 section shall be paid from funds allocated to the institu-
84 tion for that purpose.

85 (5) The board of advisors shall review, prior to the
86 submission by the president to its governing board, all
87 proposals of the institution in the areas of mission,
88 academic programs, budget, capital facilities and such
89 other matters as requested by the president of the
90 institution or its governing board or otherwise assigned
91 to it by law. The board of advisors shall comment on
92 each such proposal in writing, with such recommenda-
93 tions for concurrence therein or revision or rejection
94 thereof as it considers proper. The written comments
95 and recommendations shall accompany the proposal to
96 the governing board and the governing board shall
97 include the comments and recommendations in its
98 consideration of and action on the proposal. The govern-
99 ing board shall promptly acknowledge receipt of the
100 comments and recommendations and shall notify the
101 board of advisors in writing of any action taken thereon.

102 (6) The board of advisors shall review, prior to their
103 implementation by the president, all proposals regarding
104 institution-wide personnel policies. The board of advi-
105 sors may comment on the proposals in writing.

106 (7) The board of advisors shall provide advice and
107 assistance to the president in establishing closer connec-
108 tions between higher education and business, labor,
109 government, community and economic development
110 organizations to give students greater opportunities to
111 experience the world of work, such as business and
112 community service internships, apprenticeships and
113 cooperative programs; to communicate better and serve
114 the current workforce and workforce development needs
115 of their service area, including the needs of nontradi-
116 tional students for college-level skills upgrading and
117 retraining and the needs of employers for specific

118 programs of limited duration; and to assess the perfor-
119 mance of the institution's graduates and assist in job
120 placement.

121 (8) Upon the occurrence of a vacancy in the office of
122 president of the institution, the board of advisors serves
123 as a search and screening committee for candidates to fill
124 the vacancy under guidelines established by its governing
125 board. When serving as a search and screening commit-
126 tee, the board of advisors and its governing board are
127 each authorized to appoint up to three additional persons
128 to serve on the committee as long as the search and
129 screening process is in effect. The three additional
130 appointees of the board of advisors shall be faculty
131 members of the institution. Only for the purposes of the
132 search and screening process, the additional members
133 shall possess the same powers and rights as the regular
134 members of the board of advisors, including reimburse-
135 ment for all reasonable and necessary expenses actually
136 incurred. Following the search and screening process,
137 the committee shall submit the names of at least three
138 candidates to the governing board for consideration and
139 appointment. If the governing board rejects all candi-
140 dates submitted, the committee shall submit the names
141 of at least three additional candidates and this process
142 shall be repeated until the governing board appoints one
143 of the candidates submitted. The governing board shall
144 provide all necessary staff assistance to the board of
145 advisors in its role as a search and screening committee.

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

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

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

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

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

6 (b) During the month of April of each odd-numbered
7 year, beginning in the year two thousand one, each
8 president or other administrative head of a state institu-
9 tion of higher education, including, but not limited to,
10 Potomac state college of West Virginia university, West
11 Virginia university at Parkersburg, West Virginia univer-
12 sity institute of technology, Robert C. Byrd health
13 sciences Charleston division of West Virginia university
14 and the Marshall university graduate college, at the
15 direction of the council and in accordance with proce-
16 dures established by the council, shall convene a meeting
17 or otherwise institute a balloting process to elect one
18 faculty to serve on the institutional board of governors or
19 the institutional board of advisors, as applicable. Terms
20 of the members of the council shall be for two years and
21 shall begin on the first day of July of each odd-numbered
22 year. Members of the council shall be eligible to succeed
23 themselves. Each person so elected shall be a member of
24 the statewide advisory council of faculty.

25 (c) The council shall meet at least once each quarter.
26 One of the quarterly meetings shall be during the month
27 of July, at which meeting the council shall elect a chair-
28 person: *Provided*, That the chair shall serve no more than
29 two consecutive terms as chair. No member may vote by
30 proxy at the election. In the event of a tie in the last vote

31 taken for such election, a member authorized by the
32 council shall select the chairperson by lot from the names
33 of those persons tied. Immediately following the election
34 of a chairperson, the council shall elect, in the manner
35 prescribed by this section for the election of a chairper-
36 son, a member of the council to preside over meetings of
37 the council in the chairperson's absence. Should the
38 chairperson vacate the position, the council shall meet
39 and elect a new chairperson to fill the unexpired term
40 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 faculty members 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 faculty
48 members or the commission may have an interest.

49 (f) Members of the council shall serve without compen-
50 sation, but shall be entitled to reimbursement for actual
51 and necessary expenses incurred in the performance of
52 their official duties from funds allocated to the state
53 institution 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 faculty member of a state institution of higher
57 education represented on the council.

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

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

6 (b) During the month of April of each year, beginning
7 in the year two thousand one, each student government
8 organization at each state institution of higher educa-
9 tion, including, but not limited to, Potomac state college
10 of West Virginia university, West Virginia university at
11 Parkersburg, West Virginia university institute of
12 technology, Robert C. Byrd health sciences Charleston
13 division of West Virginia university and the Marshall
14 university graduate college, at the direction of the
15 council and in accordance with procedures established
16 by the council, shall elect a student, who may be the
17 elected head or president of the organization, to serve on
18 the institutional board of governors or the institutional
19 board of advisors, as applicable. Terms of the members
20 of the council shall be for one year and shall begin on the
21 first day of July of each year. Members of the council
22 shall be eligible to succeed themselves. Each person so
23 elected shall be a member of the statewide advisory
24 council of students.

25 (c) The council shall meet at least once each quarter.
26 One of the quarterly meetings shall be during the month
27 of July, at which meeting the council shall elect a chair-
28 person. No member may vote by proxy at the election.
29 In the event of a tie in the last vote taken for such
30 election, a member authorized by the council shall select
31 the chairperson by lot from the names of those persons
32 tied. Immediately following the election of a chairper-
33 son, the council shall elect, in the manner prescribed by
34 this section for the election of a chairperson, a member
35 of the council to preside over meetings of the council in
36 the chairperson's absence. Should the chairperson
37 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 student members may have an interest.

44 (e) 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 student
47 members or the commission may have an interest.

48 (f) Members of the council shall serve without compen-
49 sation, but shall be entitled to reimbursement for actual
50 and necessary expenses incurred in the performance of
51 their official duties from funds allocated to the state
52 institution 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 student of a state institution of higher education
56 represented on the council.

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

1 (a) Effective the first day of July, two thousand, there
2 is hereby established the state advisory council of
3 classified employees. For the purposes of this section,
4 the state advisory council of classified employees shall be
5 referred 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
8 president or other administrative head of a state institu-
9 tion of higher education, including, but not limited to,
10 Potomac state college of West Virginia university, West
11 Virginia university at Parkersburg, West Virginia univer-
12 sity institute of technology, Robert C. Byrd health
13 sciences Charleston division of West Virginia university
14 and the Marshall university graduate college, at the
15 direction of the council and in accordance with proce-

16 dures established by the council, shall convene a meeting
17 or otherwise institute a balloting process to elect one
18 classified employee to serve on the institutional board of
19 governors or the institutional board of advisors. Terms
20 of the members of each council shall be for two years and
21 shall begin on the first day of July of each odd-numbered
22 year and members of the council shall be eligible to
23 succeed themselves. Each person so elected shall be a
24 member of the statewide advisory council of classified
25 employees.

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

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

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

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

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

ARTICLE 7. PERSONNEL GENERALLY.

**§18B-7-1. Seniority for full-time classified personnel; senior-
ity to be observed in reducing work force; pre-
ferred 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
3 nine of this chapter except that the provisions of this
4 section shall apply only to classified employees whose
5 employment, if continued, accumulates to a minimum
6 total of one thousand forty hours during a calendar year
7 and extends over at least nine months of a calendar year:
8 *Provided*, That this section also applies to any classified
9 employee who is involuntarily transferred to a position
10 in nonclassified status for which he or she did not apply:
11 *Provided, however*, That any classified employee invol-
12 untarily transferred to a position in nonclassified status
13 may only exercise the rights set out in this section for
14 positions equivalent to or lower than the last job class
15 the employee held.

16 (b) All decisions by the appropriate governing board,
17 the education policy commission or its agents at state
18 institutions of higher education concerning reductions in
19 work force of full-time classified personnel, whether by
20 temporary furlough or permanent termination, shall be

21 made in accordance with this section. For layoffs by
22 classification for reason of lack of funds or work, or
23 abolition of position or material changes in duties or
24 organization and for recall of employees laid off, consid-
25 eration shall be given to an employee's seniority as
26 measured by permanent employment in the service of the
27 state system of higher education. In the event that the
28 institution wishes to lay off a more senior employee, the
29 institution shall demonstrate that the senior employee
30 cannot perform any other job duties held by less senior
31 employees of that institution in the same job class or any
32 other equivalent or lower job class for which the senior
33 employee is qualified: *Provided*, That if an employee
34 refuses to accept a position in a lower job class, the
35 employee shall retain all rights of recall provided in this
36 section. If two or more employees accumulate identical
37 seniority, the priority shall be determined by a random
38 selection system established by the employees and
39 approved by the institution.

40 (c) Any employee laid off during a furlough or reduc-
41 tion in work force shall be placed upon a preferred recall
42 list and shall be recalled to employment by the institu-
43 tion on the basis of seniority. An employee's listing with
44 an institution shall remain active for a period of one
45 calendar year from the date of termination or furlough or
46 from the date of the most recent renewal. If an employee
47 fails to renew the listing with the institution, the em-
48 ployee's name may be removed from the list. An em-
49 ployee placed upon the preferred list shall be recalled to
50 any position opening by the institution within the
51 classifications in which the employee had previously
52 been employed or to any lateral position for which the
53 employee is qualified. An employee on the preferred
54 recall list shall not forfeit the right to recall by the
55 institution if compelling reasons require the employee to
56 refuse an offer of reemployment by the institution.

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

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

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

ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND CLASSIFICATION SYSTEM.

§18B-9-2. Definitions.

1 As used in this article:

2 (a) "Classified employee or employee" means any
3 regular full-time or regular part-time employee of a
4 governing board or the commission, including all em-
5 ployees of the West Virginia network for educational
6 telecomputing and employees at the higher education
7 central office of the policy commission, who hold a
8 position that is assigned a particular job title and pay
9 grade in accordance with the personnel classification
10 system established by this section or governing board
11 policy and shall include all employees of the West
12 Virginia network for educational telecomputing;

13 (b) "Nonclassified employee" means an individual who
14 is responsible for policy formation at the department or
15 institutional level, or reports directly to the president, or
16 is in a position considered critical to the institution by
17 the president pursuant to policies adopted by the govern-
18 ing board: *Provided*, That the percentage of personnel
19 placed in the category of "nonclassified" at any given
20 institution shall not exceed ten percent of the total
21 number of employees of that institution who are eligible
22 for membership in any state retirement system of the
23 state of West Virginia or other retirement plan autho-
24 rized by the state: *Provided, however*, That an additional
25 ten percent of the total number of employees of that
26 institution as defined in this subsection may be placed in
27 the category of "nonclassified" if they are in a position

28 considered critical to the institution by the president.
29 Final approval of such placement shall be with the
30 appropriate governing board;

31 (c) "Job description" means the specific listing of
32 duties and responsibilities as determined by the appro-
33 priate governing board and associated with a particular
34 job title;

35 (d) "Job title" means the name of the position or job as
36 defined by the appropriate governing board;

37 (e) "Merit increases and salary adjustments" means the
38 amount of additional salary increase allowed on a merit
39 basis or to rectify salary inequities or accommodate
40 competitive market conditions in accordance with rules
41 established by the appropriate governing board;

42 (f) "Pay grade" means the number assigned by the
43 appropriate governing board to a particular job title and
44 refers to the vertical column heading of the salary
45 schedule established in section three of this article;

46 (g) "Personnel classification system" means the process
47 of job categorization adopted by the appropriate govern-
48 ing board by which job title, job description, pay grade
49 and placement on the salary schedule are determined;

50 (h) "Salary" means the amount of compensation paid
51 through the state treasury per annum to a classified
52 employee;

53 (i) "Schedule" or "salary schedule" means the grid of
54 annual salary figures established in section three of this
55 article; and

56 (j) "Years of experience" means the number of years a
57 person has been an employee of the state of West Vir-
58 ginia and refers to the horizontal column heading of the
59 salary schedule established in section three of this

60 article. For the purpose of placement on the salary
61 schedule pursuant to said section, employment for nine
62 months or more shall equal one year of experience, but
63 no classified employee may accrue more than one year of
64 experience during any given fiscal year. Employment for
65 less than full time or less than nine months during any
66 fiscal year shall be prorated. For the purpose of deter-
67 mining the amount of annual salary increase pursuant to
68 subsection (b), section five of this article, employment for
69 less than twelve months during any fiscal year shall be
70 prorated. In accordance with rules established by the
71 appropriate governing board, a classified employee may
72 be granted additional years of experience not to exceed
73 the actual number of years of prior, relevant work or
74 experience at accredited institutions of higher education
75 other than state institutions of higher education.

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTI-
TUTIONS 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
2 fees for each school term for the different classes or
3 categories of students enrolling at each state institution
4 of higher education under its jurisdiction and may
5 include among such fees any one or more of the follow-
6 ing: (1) Health service fees; (2) Infirmary fees; (3) Stu-
7 dent activities, recreational, athletic and extracurricular
8 fees, which fees may be used to finance a students'

9 attorney to perform legal services for students in civil
10 matters at such institutions: *Provided*, That such legal
11 services shall be limited to only those types of cases,
12 programs or services approved by the administrative
13 head of such institution where such legal services are to
14 be performed; and (4) Graduate center fees and branch
15 college fees, or either, if the establishment and operations

16 of graduate centers or branch colleges are otherwise
17 authorized by law. All fees collected at any graduate
18 center or at any branch college shall be paid into special
19 funds and shall be used solely for the maintenance and
20 operation of the graduate center or branch college at
21 which they were collected: *Provided, however*, That the
22 governing boards shall use the median of the average
23 tuition and required fees at similarly classified institu-
24 tions in member states of the southern regional education
25 board as a goal in establishing tuition and required fee
26 levels for residents at state institutions of higher educa-
27 tion under their jurisdiction: *Provided further*, That the
28 governing boards shall use the actual instructional cost
29 as the same shall be determined in accordance with
30 board rule, in establishing nonresident undergraduate
31 fees, with the goal of having tuition and fees cover the
32 actual cost by fiscal year one thousand nine hundred
33 ninety-six: *And provided further*, That effective the first
34 day of July, two thousand one, tuition and fees for
35 nonresident, undergraduate students shall, at a mini-
36 mum, cover actual instructional costs: *And provided*
37 *further*, That students enrolled in undergraduate courses
38 offered at off-campus locations shall pay an off-campus
39 instruction fee and shall not pay the athletic fee and the
40 student activity fee. The off-campus instruction fee shall
41 be used solely for the support of off-campus courses
42 offered by the institution. Off-campus locations for each
43 institution shall be defined by the appropriate governing
44 board. The schedule of all fees, and any changes therein,
45 shall be entered in the minutes of the meeting of the
46 appropriate governing board, and the board shall file
47 with the legislative auditor a certified copy of such
48 schedule and changes.

49 (b) In addition to the fees mentioned in the preceding
50 paragraph, each governing board may impose and collect
51 a student union building fee. All such building fees

52 collected at an institution shall be paid into a special
53 student union building fund for such institution, which
54 is hereby created in the state treasury, and shall be used
55 only for the construction, operation and maintenance of
56 a student union building or a combination student union
57 and dining hall building or for the payment of the
58 principal of and interest on any bond issued to finance
59 part or all of the construction of a student union building
60 or a combination student union and dining hall building
61 or the renovation of an existing structure for use as a
62 student union building or a combination student union
63 and dining hall building, all as more fully provided in
64 section ten of this article. Any moneys in such funds not
65 needed immediately for such purposes may be invested
66 in any such bonds or other securities as are now or
67 hereafter authorized as proper investments for state
68 funds.

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

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

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

89 (1) The governing boards shall permit fee payments to
90 be made in up to three installments over the course of the
91 academic term: *Provided*, That all fees must be paid prior
92 to the awarding of course credit at the end of the aca-
93 demic term.

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

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

109 (e) On or before the first day of July, two thousand one,
110 the chancellor for higher education shall review policy
111 series twenty-two of the governing boards, related to
112 assessment, payment and refund of fees and determine
113 whether a new rule should be adopted regarding the
114 refund of any fees upon the voluntary or involuntary
115 withdrawal from classes of any student. The rules shall
116 comply with all applicable state and federal laws and
117 shall be uniformly applied throughout the system.

118 (f) In addition to the fees mentioned in the preceding
119 subsections, each governing board may impose, collect

120 and distribute a fee to be used to finance a nonprofit,
121 student-controlled public interest research group:
122 *Provided*, That the students at such institution demon-
123 strate support for the increased fee in a manner and
124 method established by that institution's elected student
125 government: *Provided, however*, That such fees shall not
126 be used to finance litigation against the institution.

127 (g) Any proposed fee increase which would become
128 effective during the transition year beginning on the first
129 day of July, two thousand, and ending on the thirtieth
130 day of June, two thousand one, and which has been
131 approved by the governing boards, shall then be submit-
132 ted by the governing boards to the chancellor for higher
133 education for approval. Such approval shall be granted
134 only upon the certification that such institution request-
135 ing a fee increase is in compliance with the strategic
136 plans required to be submitted, pursuant to section one-
137 b, article one of this chapter. Notice, in the form of a
138 report, shall be provided by the chancellor to the legisla-
139 tive oversight commission on education accountability
140 describing such fee increases and showing how such
141 increases compare with the average tuition and fees
142 charged at comparable peer institutions in member states
143 of the southern regional education board. Effective the
144 first day of July, two thousand one, tuition and fees rates
145 shall be determined in accordance with subsection (h),
146 subsection (i) and subsection (j) of this section.

147 (h) Effective the first day of July, two thousand one,
148 institutions shall retain tuition and fee revenues not
149 pledged for bonded indebtedness or other purposes in
150 accordance with a revised tuition policy adopted by the
151 respective governing boards and approved by the com-
152 mission. The revised tuition policy shall:

153 (1) Provide a basis for establishing nonresident tuition
154 and fees;

155 (2) Allow institutions to charge different tuition and
156 fees for different programs; and

157 (3) Establish methodology, where applicable, to ensure
158 that, within the appropriate time period under the
159 compact, community and technical college tuition rates
160 for community and technical college students in all
161 independently-accredited community and technical
162 colleges will be commensurate with the tuition and fees
163 charged by their peer institutions.

164 (i) No penalty shall be imposed by the commission
165 upon any institution based upon the number of nonresi-
166 dents who attend the institution unless the commission
167 determines that admission of nonresidents to any institu-
168 tion or program of study within the institution is imped-
169 ing unreasonably the ability of the resident students to
170 attend the institution or participate in the programs of
171 the institution. The institutions shall report annually to
172 the commission on the numbers of out-of-state residents
173 and such other enrollment information as the commis-
174 sion may request.

175 (j) No governing board may increase tuition and fees
176 more than four percent nor increase tuition and fees to
177 more than one hundred percent of the tuition and fees of
178 peer institutions, as determined by the commission,
179 without the approval of the commission.

§18B-10-2. Higher education resource fee.

1 In addition to the fees specifically provided for in
2 section one of this article, all students enrolled for credit
3 at a state institution of higher education shall pay a
4 higher education resource fee. The commission shall fix
5 the fee rates for the various institutions and classes of
6 students under its jurisdiction and may from time to time
7 change these rates. The amount of the fee charged at
8 each institution shall be prorated for part-time students.

9 The fee imposed by this section is in addition to the
10 maximum fees allowed to be collected under the provi-
11 sion of section one of this article and is not limited
12 thereby. Refunds of such fee may be made in the same
13 manner as any other fee collected at state institutions of
14 higher education.

15 Ninety percent of the total fees collected at each
16 institution pursuant to this section shall be deposited in
17 a special fund in the state treasury for the institution at
18 which the fees are collected and may be used by the
19 institution for libraries and library supplies, including
20 books, periodicals, subscriptions and audiovisual materi-
21 als, instructional equipment and materials; and for the
22 improvement in quality and scope of student services.
23 Up to ten percent of the fee collections shall be deposited
24 in a special fund and expended or allocated by the policy
25 commission to meet general operating expenses of the
26 policy commission or to fund state-wide programs:
27 *Provided, That* the board shall, to the maximum extent
28 practicable, offset the impact, if any, on financially
29 needy students of any potential fee increases under this
30 section by allocating an appropriate amount of such fee
31 revenue to the state scholarship program to be expended
32 in accordance with the provisions of article five, chapter
33 eighteen-c of this code.

34 The policy commission shall, on or before the first day
35 of July of each year, provide the legislative auditor with
36 a report of the projected fee collections for the board and
37 each of its institutions and the expenditures proposed for
38 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
3 hereby directed to provide for the collection of an
4 additional registration fee from all students enrolled in
5 any state institution of higher education under its
6 jurisdiction in the amounts hereinafter provided.

7 For full-time students at each state institution of
8 higher education, the additional registration fee shall be
9 fifty dollars per semester. The commission has authority
10 to increase such additional registration fee at institutions
11 of higher education under its jurisdiction for students
12 who are nonresidents of this state. For all part-time
13 students and for all summer school students, the commis-
14 sion shall impose and collect such fee in proportion to,
15 but not 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 provi-
18 sion 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
24 paid all proceeds of the additional registration fees
25 collected from students at all state institutions of higher
26 education pursuant to this section to be expended by the
27 commission for the payment of the principal of or
28 interest on any revenue bonds issued by the board of
29 regents or the previous governing boards for which such
30 registration fees were pledged prior to the enactment of
31 this section.

32 (c) The commission may make expenditures from any
33 of the special capital improvements funds established in
34 this section to finance, in whole or in part, together with

35 any federal, state or other grants or contributions, any
36 one or more of the following projects: (1) The acquisition
37 of land or any rights or interest therein; (2) the construc-
38 tion or acquisition of new buildings; (3) the renovation or
39 construction of additions to existing buildings; (4) the
40 acquisition of furnishings and equipment for any such
41 buildings; and (5) the construction or acquisition of any
42 other capital improvements or capital educational
43 facilities at such state institutions of higher education,
44 including any roads, utilities or other properties, real or
45 personal, or for other purposes necessary, appurtenant or
46 incidental to the construction, acquisition, financing and
47 placing in operation of such buildings, capital improve-
48 ments or capital educational facilities.

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

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

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

97 The commission may enter into trust agreements with
98 banks or trust companies, within or without the state,
99 and in such trust agreements or the resolutions authoriz-
100 ing the issuance of such bonds may enter into valid and
101 legally binding covenants with the holders of such
102 revenue bonds as to the custody, safeguarding and
103 disposition of the proceeds of such revenue bonds, the
104 moneys in such special funds, sinking funds, reserve

105 funds, or any other moneys or funds; as to the rank and
106 priority, if any, of different issues of revenue bonds by
107 the commission under the provisions of this section; as to
108 the maintenance or revision of the amounts of such
109 additional registration fees, and the terms and condi-
110 tions, if any, under which such additional registration
111 fees may be reduced; and as to any other matters or
112 provisions which are deemed necessary and advisable by
113 the commission in the best interests of the state and to
114 enhance the marketability of such revenue bonds.

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

123 Such revenue bonds shall be and constitute negotiable
124 instruments under the Uniform Commercial Code of this
125 state; shall, together with the interest thereon, be exempt
126 from all taxation by the state of West Virginia, or by any
127 county, school district, municipality or political subdivi-
128 sion thereof; and such revenue bonds may not be deemed
129 to be obligations or debts of the state, and the credit or
130 taxing power of the state may not be pledged therefor,
131 but such revenue bonds shall be payable only from the
132 revenue pledged therefor as provided in this section.

133 Additional revenue bonds may be issued by the educa-
134 tion policy commission pursuant to this section and
135 financed by additional revenues or funds dedicated from
136 other sources. It is the intent of the Legislature to
137 authorize over a five year period from the effective date
138 of this section additional sources of revenue and funds to
139 effect such funding for capital improvement.

140 Funding of system-wide and campus-specific revenue
141 bonds under any other section of this code is hereby
142 continued and authorized pursuant to the terms of this
143 section. Revenues of any state institution of higher
144 education pledged to the repayment of any bonds issued
145 pursuant to this code shall remain the responsibility of
146 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
5 area fields by addressing the quality and regional
6 accessibility of pre-service and in-service programs at
7 both the baccalaureate and graduate degree levels;

8 (2) Need to address teacher salaries;

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

11 (4) Need to determine the most effective method of
12 staff 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
17 programs to prepare teachers for the technology de-
18 mands of 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
28 to be appointed by the governor; five members to be
29 appointed by the state board of education; five members
30 to be appointed by the governing boards; one member to
31 be selected by the West Virginia professional teachers
32 standards commission from among their membership;
33 one member representing private institutions of higher
34 education selected by the West Virginia association of
35 independent colleges, inc.; and the secretary of education
36 and the arts or a designee. Of the eight members to be
37 appointed by the governor, two shall be representatives
38 of statewide teacher organizations and of the six mem-
39 bers to be appointed by the state board of education, at
40 least three shall be classroom teachers and at least one
41 shall be selected from among the membership of the state
42 board of education.

43 (c) Appointments to the task force shall be made so
44 that members may begin their work no later than the
45 first day 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, addition-
50 ally, in each quarter thereafter until the work of the task
51 force is completed.

52 (e) The task force shall complete its work and make a
53 final report to the legislative oversight commission on
54 education accountability and the commission no later

55 than the first day of November, two thousand one. The
56 final report shall contain findings of fact, recommenda-
57 tions, and strategies for implementing recommended
58 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
3 include, 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
12 fifteen years, or, if data for a full fifteen years is not
13 available, for the longest time period possible; the
14 number of students served; and the number of those
15 students who have remained in the state.

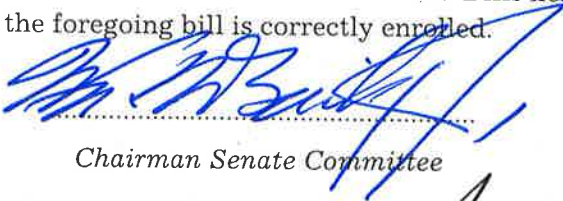
16 (b) The task force shall be chaired by the chancellor for
17 higher education or a designee and shall be comprised of
18 fourteen members selected as follows: Six members
19 selected by the governing boards; two members repre-
20 senting private institutions of higher education selected
21 by the West Virginia association of independent colleges,
22 inc.; four members selected by the state board of educa-
23 tion; the state treasurer or a designee; and the secretary
24 of education and the arts or a designee.

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

28 (d) The task force shall make an initial progress report
29 to the legislative oversight commission on education
30 accountability and the commission by the first day of
31 December, two thousand, and shall report quarterly
32 thereafter until 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
36 than the first day of October, two thousand one. The
37 final report shall contain findings of fact, recommenda-
38 tions and strategies for implementing recommended
39 changes.

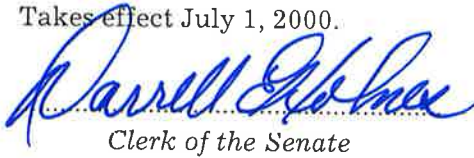
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee


Chairman House Committee

Originating in the Senate.

Takes effect July 1, 2000.

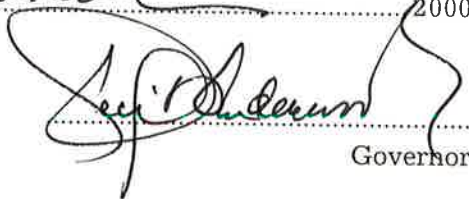

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within... *disapproved* ...this the *17th*
Day of *March* 2000


Governor

PRESENTED TO THE

GOVERNOR

Date

3/15/10

Time

3:15 pm