WEST VIRGINIA LEGISLATURE
Regular Session, 2005

ENROLLED

Committee Substitute for
SENATE BILL NO. 603

(By Senators Tomblin, Mr. President, and Speno,)

PASSED April 9, 2005

In Effect July 1, 2005
AN ACT to repeal §18B-1-7 and §18B-1-9 of the Code of West Virginia, 1931, as amended; to repeal §18B-2-1, §18B-2-2 and §18B-2-3 of said code; to repeal §18B-3-5 and §18B-3-7 of said code; to repeal §18B-5-2d of said code; to amend and reenact §5-6-4a of said code; to amend and reenact §5G-1-2 of said code; to amend said code by adding thereto a new section, designated §12-1-12b; to amend and reenact §12-3-5, §12-3-6, §12-3-7 and §12-3-8 of said code; to amend and reenact §18-2-23a of said code; to amend said code by adding thereto a new section, designated §18-2-24; to amend said code by adding thereto a new section, designated §18A-3-11; to amend and reenact §18A-3A-1 and §18A-3A-2b of said code; to amend said code by adding thereto a new section, designated §18A-3A-6; to amend and reenact §18B-1-3 and §18B-1-6 of said code; to amend and reenact §18B-1A-2 and §18B-1A-6 of said code; to amend and reenact §18B-1B-4,
§18B-1B-5 and §18B-1B-6 of said code; to amend said code by adding thereto a new section, designated §18B-1B-13; to amend and reenact §18B-2A-3 and §18B-2A-4 of said code; to amend said code by adding thereto a new section, designated §18B-2A-7; to amend said code by adding thereto a new section, designated §18B-3-1, §18B-3-2 and §18B-3-3 of said code; to amend said code by adding thereto a new section, designated §18B-3-4; to amend and reenact §18B-4-5, §18B-4-5a, §18B-4-6 and §18B-4-7 of said code; to amend and reenact §18B-5-3, §18B-5-4, §18B-5-5, §18B-5-6, §18B-5-7 and §18B-5-8 of said code; to amend said code by adding thereto a new section, designated §18B-5-9 of said code; to amend said code by adding thereto a new section, designated §18B-5-10; to amend and reenact §18B-10-1, §18B-10-5 and §18B-10-6 of said code; to amend said code by adding thereto a new section, designated §18B-10-6a; to amend said code by adding thereto a new section, designated §18B-11-7; and to amend and reenact §18B-14-11 of said code, all relating to public and higher education generally, authorizing and requiring certain electronic requisitions; exempting certain institutions from providing certain documentation with requisitions; requiring certain institutions to submit certain documentation to Joint Committee on Government and Finance; expanding certain professional development provisions; establishing a structure to enhance collaboration between certain state and regional entities in providing professional development; requiring certain state and regional entities to ensure coordination and collaboration in professional development efforts and designating certain priorities for professional development; limiting the circumstances for procuring out-of-state services regarding certain professional development issues; reconstituting the Center for Professional Development Board and modifying its membership, duties and certain required employee provisions; creating position of Chief Executive Officer; requiring certain professional development studies and reports; creating the position of Coordinator of the Principals Academy; prohibiting the required attendance of certain employees at certain professional development programs under certain circumstances until date certain; transferring
powers, authorities, responsibilities and duties between certain entities; definitions; requiring transfer of real property under certain circumstances from Higher Education Policy Commission to certain institutions; clarifying requirements for promulgation of higher education rules; requiring certain institutions to promulgate certain rules; establishing certain requirements for rule adoption, validation, enforcement and reporting; limiting certain authorities when rules not adopted; clarifying legislative intent relating to mission of certain institutions; limiting Policy Commission jurisdiction, power, responsibility and authority regarding certain institutions; modifying Policy Commission duties; modifying salary limit of Chancellor for Higher Education; specifying limitation of certain entities on exercising certain authorities and fulfilling certain responsibilities; modifying responsibility for assigning institutions' geographic areas of responsibility; modifying participation requirements and authorization for certain state institutions of higher education to offer graduate programs under certain circumstances and expanding the authorized institutions to offer such programs; modifying certain academic program approval provisions; transferring to certain institutions authority regarding certain capital project management and arrangements; preserving the jurisdiction and authority of certain higher education entities to manage technology; clarifying authority of Policy Commission to assess certain fees; specifying when discharging certain duties requires consultation among various higher education entities; transferring to certain institutions authority to approve tuition and fee increases and set standards for conferring degrees; exempting certain institutions from Policy Commission approval requirements for executing certain documents, instruments, purchases and procurements; requiring disease awareness initiatives; requiring study and report of recommendations relating to higher education personnel issues; establishing scope of personnel study and charges for implementation; requiring employee participation; modifying requirements and authorities regarding delegation of powers by certain higher education entities; providing for disability insurance for
employees; providing flexibility measures for certain state institutions of higher education and providing for future application of flexibility measures to additional state institutions of higher education; modifying governance by the Council For Community and Technical College Education; expanding and modifying the powers and duties of research, doctoral-granting public universities and their governing boards; providing legislative findings, purpose and intent for such expansion and modification; expanding authority for certain institutions and establishing parameters and procedures for donating certain surplus computers and related items; limiting application to certain institutions of certain surplus item disposal authority; defining the relationship between the Policy Commission and certain governing boards and between the West Virginia Council for Community and Technical College Education and certain governing boards; establishing and defining the duties of certain governing boards to address state priorities and the goals for post-secondary education established by the Legislature; defining state priorities; requiring annual report of progress; expanding penalty options and jurisdiction of certain parking and vehicle operating violations for certain institutions; specifying certain acceptable qualifications for employment as campus police officer at certain institutions; expanding authority of certain campus police officers; expanding responsibility of certain institutions to investigate certain crimes; exempting certain institutions from requirements to participate in certain cooperative purchasing and operating arrangements; modifying format and documentation requirements for acceptance of certain documents by State Auditor; expanding permissible uses for purchase card; transferring to State Auditor certain duties regarding purchase cards; transferring to State Auditor authority to approve certain purchase card payments designated to exceed the purchase amount limits and to set the amount by which such payments may exceed the limits; modifying for certain institutions certain document submission requirements for travel expense reimbursement; specifying responsibility of certain institutions for ensuring fiscal integrity of
operations; establishing requirements for implementing best business and management practices for certain institutions, including certain required reports; limiting and clarifying certain document approval authority of the Attorney General; authorizing state medical and health professionals schools to participate in self-insurance retention programs pursuant to certain conditions; authorizing state Board of Risk and Insurance Management to enter into agreements with state medical and health professionals schools to develop and implement self-insurance retention programs; requiring plan review by state Insurance Commissioner prior to implementing self-insurance retention programs; authorizing Insurance Commissioner and state Board of Risk and Insurance Management to promulgate emergency rules; expanding discretion of certain institutions to offer undergraduate- and graduate-level fee waivers, eliminating certain waiver award restrictions and requiring rule governing waivers; requiring certain institutions to establish a nonprofit Regional Brownfield Assistance Center; defining Assistance Center service regions; establishing Assistance Center powers and duties; providing temporary authorization to engage in alternative investment options for certain moneys of certain state institutions of higher education and including a set expiration date for such authorization; creating Governor's Commission on Graduate Study in Science, Technology, Engineering and Mathematics; establishing membership; assigning charge to Commission; providing legislative findings and requiring report to Legislative Oversight Commission on Education Accountability; deleting, repealing and updating certain obsolete provisions; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §18B-1-7 and §18B-1-9 of the Code of West Virginia, 1931, as amended, be repealed; that sections §18B-2-1, §18B-2-2 and §18B-2-3 of said code be repealed; that §18B-3-5 and §18B-3-7 of said code be repealed; that §18B-5-2d of said code be repealed; that §5-6-4a of said code be amended and reenacted; that §5G-1-2 of said code be amended and reenacted; that said
code be amended by adding thereto a new section, designated §12-1-12b; that §12-3-5, §12-3-6, §12-3-7 and §12-3-8 of said code be amended and reenacted; that §18-2-23a of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-2-24; that said code be amended by adding thereto a new section, designated §18A-3-11; that §18A-3A-1 and §18A-3A-2b of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18A-3A-6; that §18B-1-3 and §18B-1-6 of said code be amended and reenacted; that §18B-1A-2 and §18B-1A-6 of said code be amended and reenacted; that §18B-1B-4, §18B-1B-5 and §18B-1B-6 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1B-13; that §18B-2A-3 and §18B-2A-4 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-2A-7; that said code be amended by adding thereto a new section, designated §18B-2B-9; that §18B-3-1, §18B-3-2 and §18B-3-3 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-3-4; that §18B-4-5, §18B-4-5a, §18B-4-6 and §18B-4-7 of said code be amended and reenacted; that §18B-5-3, §18B-5-4, §18B-5-7 and §18B-5-9 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-5-10; that §18B-10-1, §18B-10-5 and §18B-10-6 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-10-6a; that said code be amended by adding thereto a new section, designated §18B-11-7; and that §18B-14-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 6. STATE BUILDINGS.
§5-6-4a. Review of real property contracts and agreements; master plan for office space.

(a) The Secretary of Administration shall provide to the Joint Committee on Government and Finance a copy of a contract or agreement for real property exceeding one million dollars and a report setting forth a detailed summary of the terms of the contract or agreement, including the name of the owner of the property and the agent involved in the sale, at least thirty days prior to any sale, exchange, transfer, purchase, lease purchase, lease or rental of real property, any refundings of lease purchases, leases or rental agreements, any construction of new buildings and any other acquisition or lease of buildings, office space or grounds by any state agency, including the Higher Education Policy Commission, but excepting the transactions of the state institutions of higher education known as Marshall University and West Virginia University and the Division of Highways for state road purposes pursuant to article two-a, chapter seventeen of this code: Provided, That a contract or agreement for the lease purchase, lease or rental of real property by any state agency, where the costs of real property acquisition and improvements are to be financed, in whole or in part, with bond proceeds, may contain a preliminary schedule of rents and leases for purposes of review by the committee.

(b) For renewals of contracts or agreements required to be reported by the provisions of this section, the Secretary of Administration shall provide a report setting forth a detailed summary of the terms of the contract or agreement, including the name of the owner of the property.

(c) Within thirty days after receipt of the contract, agreement or report, the committee shall meet and review the contract, agreement or report.

(d) On or before the first day of July, two thousand six, the Secretary of Administration shall conduct an inventory of available office space and office space needs and shall
develop and present a master plan for the utilization of office space for state agencies to the Joint Committee on Government and Finance.

(e) The governing boards of the state institutions of higher education known as Marshall University and West Virginia University shall provide to the Joint Committee on Government and Finance a copy of any contract or agreement for real property exceeding one million dollars and shall make available to the Joint Committee on Government and Finance upon request a summary of the terms of the contract or agreement, including the name of the owner of the property and the agent involved in the sale.

CHAPTER 5G. PROCUREMENT OF ARCHITECT-ENGINEER SERVICES BY STATE AND ITS SUBDIVISIONS.

ARTICLE 1. PROCUREMENT OF ARCHITECT-ENGINEER SERVICES.

§5G-1-2. Definitions.

As used in this section:

(a) The term “agency” means all state departments, agencies, authorities, quasipublic corporations and all political subdivisions, including cities, counties, boards of education and public service districts, except, for the purposes of this section, the term “agency” does not include the state institutions of higher education known as Marshall University and West Virginia University.

(b) The term “architectural and engineering services” includes those professional services of an architectural or engineering nature as well as incidental services that members of those professions and those in their employ may logically or justifiably perform.

(c) The term “director of purchasing” means any individual assigned by any agency to procure the services of architects and engineers.
The term "firm" or "professional firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the professions of architecture and engineering.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1. STATE DEPOSITORIES.

§12-1-12b. Pilot program for investments by Marshall University and West Virginia University.

(a) Notwithstanding any provision of this article to the contrary, the governing boards of Marshall University and West Virginia University each may invest certain funds with its respective nonprofit foundation that has been established to receive contributions exclusively for that university and which exists on the first day of January, two thousand five. Any such investment is subject to the limitations of this section.

(b) A governing board, through its chief financial officer may enter into agreements, approved as to form by the State Treasurer, for the investment by its foundation of certain funds subject to their administration. Any interest or earnings on the moneys invested is retained by the investing university.

(c) Moneys of a university that may be invested with its foundation pursuant to this section are those subject to the administrative control of the university that are collected under an act of the Legislature for specific purposes and do not include any funds made available to the university from the state general revenue fund or the funds established in sections eighteen or eighteen-a, article twenty-two, chapter twenty-nine of this code. Moneys permitted to be invested under this section may be aggregated in an investment fund for investment purposes.

(d) Of the moneys authorized for investment by this section, Marshall University and West Virginia University
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27 each, respectively, may have invested with its foundation
28 at any time not more than the greater of:

29 (1) Eighteen million dollars for Marshall University and
30 twenty-five million dollars for West Virginia University;
31 or
32 (2) Sixty-five percent of its unrestricted net assets as
33 presented in the statement of net assets for the fiscal year
34 end audited financial reports.

35 (e) Investments by foundations that are authorized under
36 this section shall be made in accordance with and subject
37 to the provisions of the Uniform Prudent Investor Act
38 codified as article six-c, chapter forty-four of this code.
39 As part of its fiduciary responsibilities, each governing
40 board shall establish investment policies in accordance
41 with the Uniform Prudent Investor Act for those moneys
42 invested with its foundation. The governing board shall
43 review, establish and modify, if necessary, the investment
44 objectives as incorporated in its investment policies so as
45 to provide for the financial security of the moneys invested
46 with its foundation. The governing boards shall give
47 consideration to the following:

48 (1) Preservation of capital;
49 (2) Diversification;
50 (3) Risk tolerance;
51 (4) Rate of return;
52 (5) Stability;
53 (6) Turnover;
54 (7) Liquidity; and
55 (8) Reasonable cost of fees.

56 (f) A governing board shall report annually by the thirty-
57 first day of December, to the Governor and to the Joint
Committee on Government and Finance on the performance of investments managed by its foundation pursuant to this section.

(g) The authority of a governing board to invest moneys with its foundation pursuant to this section expires on the first day of July, two thousand ten.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-5. When requisition to Auditor sufficient authority for issuing warrant.

(a) When an appropriation has been made by law, subject to the order or payable on the requisition of a particular officer, board or person, the order or written or electronic requisition is sufficient authority to the Auditor to issue a warrant for the same or any party thereof.

(b) The Auditor:

(1) Shall accept an electronic requisition from Marshall University and West Virginia University;

(2) May accept an electronic requisition from any entity other than Marshall University or West Virginia University at his or her discretion; and

(3) May not issue a warrant for an amount that exceeds the appropriation or for an expired appropriation.

§12-3-6. Requisitions on behalf of state boards and institutions.

(a) An appropriation made to or for any state board or institution shall be drawn from the Treasury upon the requisition of an appropriate officer thereof to the Auditor at such times and in such amounts as is necessary for the purposes for which the appropriation is made. The Auditor shall pay the amount named in the requisition at such times and in such installments as are necessary for the purposes for which the appropriation is made.
(b) Except as provided in subsection (c) of this section, a requisition for appropriation for new buildings and substantial betterments shall be accompanied by the architect's estimate that the amount named in the requisition is needed for immediate use.

(c) The provisions of subsection (b) of this section do not apply to a requisition from:

(1) An institution from which the Auditor is required to accept an electronic requisition. Such an institution is not required to submit the documentation required in subsection (b) of this section, but shall maintain the documentation for inspection at the Auditor's request; and

(2) The Commissioner of Corrections.

(d) The Auditor may issue a warrant to pay money out of the State Treasury only if the money is needed for the present use.

§12-3-7. Payment of compensation and expenses of members of state boards and commissions; embezzlement.

(a) Unless otherwise provided by law, a member of any state board or commission:

(1) Receives four dollars per day for each day necessarily employed as such, including time spent traveling to and returning from the meeting location;

(2) Receives the actual and necessary expenses incurred in the discharge of his or her duties; and

(3) Does not receive mileage reimbursement.

(b) Prior to receiving compensation or expense reimbursement:

(1) The member prepares in duplicate an itemized statement specifying the number of days spent and the expenses incurred;
(2) The member certifies the accuracy of the itemized statement;

(3) The member delivers the original to the secretary or clerk of the board or commission for preservation in its office; and

(4) The secretary or clerk immediately forwards the duplicate to the Auditor.

(c) If any member willfully makes a greater charge of services or expenses than truth justified, he or she is guilty of embezzlement and punished accordingly.

(d) The governing board of Marshall University and West Virginia University each satisfies the requirements of subsection (b) of this section by maintaining the member's original itemized, certified statement and submitting an electronic requisition to the Auditor.

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

A requisition made upon the Auditor for any money appropriated for a state correctional facility; the West Virginia School for the Deaf and Blind; state mental health facilities; state hospitals; corrections facilities; Marshall University; West Virginia University; any other public institution for education, charity or correction; or institutions under the jurisdiction of the Higher Education Policy Commission or the West Virginia Council for Community and Technical College Education shall be accompanied by a written or electronic statement of a financial officer of the institution, showing the amount of money in his or her hands to the credit of the institution, or otherwise in its control, on the day the requisition is forwarded for payment.
§18-2-23a. Annual professional staff development goals established by State Board; coordination of professional development programs; program development, approval and evaluation.

(a) Legislative intent. – The intent of this section is:

1. To provide for the coordination of professional development programs by the State Board;

2. To promote high-quality instructional delivery and management practices for a thorough and efficient system of schools; and

3. To ensure that the expertise and experience of state institutions of higher education with teacher preparation programs are included in developing and implementing professional development programs.

(b) Goals. – The State Board annually shall establish goals for professional staff development in the public schools of the state. As a first priority, the State Board shall require adequate and appropriate professional staff development to ensure high quality teaching that will enable students to achieve the content standards established for the required curriculum in the public schools.

The State Board shall submit the goals to the State Department of Education, the Center for Professional Development, the regional educational service agencies, the Higher Education Policy Commission and the Legislative Oversight Commission on Education Accountability on or before the fifteenth day of January each year.

The goals shall include measures by which the effectiveness of the professional staff development programs will be evaluated. The professional staff development goals shall include separate goals for teachers, principals and paraprofessional service personnel and may include separate goals for classroom aides and others in the public schools.
In establishing the goals, the State Board shall review reports that may indicate a need for professional staff development including, but not limited to, the report of the Center for Professional Development created in article three-a, chapter eighteen-a of this code, student test scores on the statewide student assessment program, the measures of student and school performance for accreditation purposes, school and school district report cards and its plans for the use of funds in the strategic staff development fund pursuant to section thirty-two, article two, chapter eighteen of this code.

The Center for Professional Development shall design a proposed professional staff development program plan to achieve the goals of the State Board and shall submit the proposed plan to the State Board for approval as soon as possible following receipt of the State Board goals each year. In developing and implementing this plan, the Center first shall rely upon the available expertise and experience of state institutions of higher education before procuring advice, technical assistance or consulting services from sources outside the state.

The proposed plan shall include a strategy for evaluating the effectiveness of the professional staff development programs delivered under the plan and a cost estimate. The State Board shall review the proposed plan and return it to the Center for Professional Development noting whether the proposed plan is approved or is not approved, in whole or in part. If a proposed plan is not approved in whole, the State Board shall note its objections to the proposed plan or to the parts of the proposed plan not approved and may suggest improvements or specific modifications, additions or deletions to address more fully the goals or eliminate duplication. If the proposed plan is not wholly approved, the Center for Professional Development shall revise the plan to satisfy the objections of the State Board. State Board approval is required prior to implementation of the professional staff development plan.
(d) The State Board approval of the proposed professional staff development plan shall establish a Master Plan for Professional Staff Development which shall be submitted by the State Board to the affected agencies and to the Legislative Oversight Commission on Education Accountability. The Master Plan shall include the State Board-approved plans for professional staff development by the State Department of Education, the Center for Professional Development, the state institutions of higher education and the regional educational service agencies to meet the professional staff development goals of the State Board. The Master Plan also shall include a plan for evaluating the effectiveness of the professional staff development delivered through the programs and a cost estimate.

The Master Plan shall serve as a guide for the delivery of coordinated professional staff development programs by the State Department of Education, the Center for Professional Development, the state institutions of higher education and the regional educational service agencies beginning on the first day of June in the year in which the Master Plan was approved through the thirtieth day of May in the following year. This section does not prohibit changes in the Master Plan, subject to State Board approval, to address staff development needs identified after the Master Plan was approved.

§18-2-24. Collaboration of state institutions of higher education having a teacher preparation program with the Center for Professional Development and the regional education service agencies.

(a) For the purposes of this section, "teacher preparation institution" means a state institution of higher education with a teacher preparation program.

(b) The intent of this section is to establish a structure to enhance collaboration between the teacher preparation institutions, the Center for Professional Development and
the regional education service agencies in providing professional development.

(c) The Legislature finds that:

(1) There is insufficient collaboration of the teacher preparation institutions with the Center for Professional Development and each of the regional education service agencies;

(2) More collaboration would prevent duplication of services and result in higher quality professional development;

(3) Creating a structure and assigning responsibility would promote more effective collaboration;

(4) The state's research and doctoral degree-granting public institutions of higher education, West Virginia University and Marshall University, have the most capacity to be important sources of research and expertise on professional development;

(5) West Virginia University and Marshall University are the only institutions in the state that offer course work leading to a doctoral degree in education administration;

(6) As the largest state institutions of higher education, West Virginia University and Marshall University have more capacity than any other institution in the state to handle the additional responsibilities assigned in this section;

(7) The coordination by West Virginia University and Marshall University of the efforts of other teacher preparation institutions to collaborate with the Center for Professional Development and each of the regional education service agencies will provide points of accountability for the collaboration efforts of the other institutions; and
(8) The State Board's authority over the regional education service agencies can be used to motivate the agencies to collaborate with the teacher preparation institutions in providing professional development and will serve as a point of accountability for the collaboration efforts of the agencies.

(d) West Virginia University and Marshall University shall collaborate with the Center for Professional Development in performing the Center's duties. This collaboration shall include at least the following:

(1) Including the teacher preparation institutions in the proposed professional staff development program plan required to be submitted to the State Board by section twenty-three-a of this article;

(2) Providing any available research-based expertise that would be helpful in the design of the proposed professional staff development program plan;

(3) Providing any available research-based expertise that would be helpful in the implementation of professional development programs; and

(4) Arranging for other state institutions of higher education having a teacher preparation program to assist the Center when that assistance would be helpful.

(e) All teacher preparation institutions shall collaborate with the regional education service agency of the service area in which the institution is located at least to:

(1) Prevent unnecessary duplication of services;

(2) Assist in the implementation of the professional development programs of the regional education service agency; and

(3) Assist the regional education service agency in obtaining any available grants for professional develop-
ment or to apply for any available grant with the agency collaboratively.

(f) Since no teacher preparation institution exists in the service area of Regional Education Service Agency IV, Marshall University shall collaborate with that Agency for the purposes set forth in subdivision (e) of this section.

(g) In addition to the collaboration required by subsections (e) and (f) of this section of all teacher preparation institutions, West Virginia University and Marshall University shall:

(1) Coordinate the collaboration of each of the other teacher preparation institutions in their designated coordination area with the appropriate regional education service agency. This coordination at least includes ensuring that each of the other institutions are collaborating with the appropriate regional education service agency;

(2) Collaborate with each of the other teacher preparation institutions in their designated coordination area. This collaboration at least includes providing assistance to the other institutions in providing professional development and in their collaboration with the appropriate regional education service agency.

(h) The designated coordination area of West Virginia University includes the service areas of Regional Education Service Agencies V, VI, VII and VIII. The designated coordination area of Marshall University includes the service areas of Regional Education Service Agencies I, II, III and IV.

(i) The State Board shall ensure that each of the regional education service agencies is collaborating with the teacher preparation institution or institutions in its service area for the purposes set forth in subsection (e) of this section. Since Regional Education Service Agency IV does not have a teacher preparation institution in its service
area, the State Board shall ensure that it is collaborating
with Marshall University for the purposes set forth in
subsection (e) of this section.

(j) Before a regional education service agency, except for
Regional Education Service Agency IV, obtains profes-
sional development related services or expertise from any
teacher preparation institution outside of that agency's
service area, the agency shall inform the Center for
Professional Development Board. Before Regional Educa-
tion Service Agency IV obtains professional development
related services or expertise from any teacher preparation
institution other than Marshall University, the agency
shall inform the Center Board.

(k) The collaboration and coordination requirements of
this section include collaborating and coordinating to
provide professional development for at least teachers,
principals and paraprofessionals.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL
DEVELOPMENT.

§18A-3-11. Study of professional development standards and
best practices.

The Legislative Oversight Commission on Education
Accountability shall cause a study to be conducted to
determine and to recommend standards and best practices
for professional development that are focused on advanc-
ing student achievement. The study and a final report of
recommendations shall be completed prior to the first day
of September, two thousand five. The Commission shall
submit the final report to the Joint Committee on Govern-
ment and Finance. The Commission shall determine if
resources to assist in the completion of the study are
available from sources other than public funds and shall
report such to the Joint Committee.
ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

§18A-3A-1. Center for Professional Development; intent and mission; Principals Academy curriculum and expenses; authorization to charge fees.

(a) Teaching is a profession that directly correlates to the social and economic well-being of a society and its citizens. Superior teaching is essential to a well-educated and productive populace. Strong academic leadership provided by principals and administrators skilled in modern management principles is also essential. The intent of this article is to recognize the value of professional involvement by experienced educators, principals and administrators in building and maintaining a superior force of professional educators and to establish avenues for applying this involvement.

(b) The general mission of the Center is to advance the quality of teaching and management in the schools of West Virginia through: (1) The implementation primarily of statewide training, professional staff development, including professional staff development for at least teachers, principals and paraprofessionals, and technical assistance programs and practices as recommended by the State Board to assure the highest quality of teaching and management; and (2) the provision of technical and other assistance and support to regional and local education agencies in identifying and providing high-quality professional staff development, including professional staff development for at least teachers, principals and paraprofessionals, and training programs and implementing best practices to meet their locally identified needs. The Center also may implement local programs if the State Board, in its Master Plan for Professional Staff Development established pursuant to section twenty-three-a, article two, chapter eighteen of this code, determines that there is a specific local need for the programs. Additionally, the Center shall perform other duties assigned to it by law.
Nothing in this article shall be construed to require any specific level of funding by the Legislature.

(c) The Center for Professional Development Board is reconstituted and all terms of members elected or appointed prior to the effective date of this section are expired. The Center Board shall consist of thirteen persons as follows:

(1) The Secretary of Education and the Arts, ex officio, and the State Superintendent, ex officio, each of whom is:

(A) Entitled to vote; and

(B) A Cochair of the Board.

(2) Two members of the State Board, elected by the State Board;

(3) One person employed by West Virginia University and one person employed by Marshall University, both of whom are:

(A) Appointed by the President of the employing institution;

(B) Faculty in the teacher education section of the employing institution; and

(C) Knowledgeable in matters relevant to the issues addressed by the Center;

(4) One Regional Education Service Agency Executive Director, elected by all of the Regional Education Service Agency Executive Directors;

(5) Three experienced educators, of whom one is a working classroom teacher, one is a school principal and one is a county administrator. All such educators are:

(A) Appointed by the Governor by and with the advice and consent of the Senate;
(B) Experienced educators who have achieved recognition for their superior knowledge, ability and performance in teaching or management, as applicable; and

(C) Knowledgeable in matters relevant to the issues addressed by the Center; and

(6) Three citizens of the state who are:

(A) Knowledgeable in matters relevant to the issues addressed by the Center, including, but not limited to, professional development and management principles; and

(B) Appointed by the Governor by and with the advice and consent of the Senate.

(C) Not more than two such members may be residents within the same congressional district.

(d) Each appointment and election is for a two-year term. Such members may serve no more than two consecutive two-year terms.

(1) The State Board shall elect another member to fill the unexpired term of any person who vacates State Board membership.

(2) The Regional Education Service Agency Executive Directors shall elect an executive director to fill the unexpired term of any executive director who ceases to be employed in that capacity.

(3) Of the initial members appointed by the Governor, three are appointed for one-year terms and three are appointed for two-year terms. Each successive appointment by the Governor is for a two-year term. The Governor shall appoint a new member to fill the unexpired term of any vacancy in the appointed membership.

(4) The President of West Virginia University and Marshall University each appoints an employee to fill the unexpired term of any member who ceases to be employed by that institution.
(e) The Center for Professional Development Board shall meet at least quarterly and the appointed members shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties from funds appropriated or otherwise made available for those purposes upon submission of an itemized statement therefor.

(f) The position of Executive Director is abolished. The Governor shall appoint, by and with the advice and consent of the Senate, a Chief Executive Officer with knowledge and experience in professional development and management principles. Any reference in this code to the Executive Director of the Center for Professional Development means the Chief Executive Officer. From appropriations to the Center for Professional Development, the Center Board sets the salary of the Chief Executive Officer. The Center Board, upon the recommendation of the Chief Executive Officer, may employ other staff necessary to carry out the mission and duties of the Center. The Chief Executive Officer serves at the will and pleasure of the Governor. Annually, the Center Board shall evaluate the Chief Executive Officer, and shall report the results to the Governor. The duties of the Chief Executive Officer include:

1. Managing the daily operations of the Center;
2. Ensuring the implementation of the Center’s mission;
3. Ensuring collaboration of the Center with other professional development providers;
4. Requesting from the Governor and the Legislature any resources or statutory changes that would help in enhancing the collaboration of all professional development providers in the state, in advancing the quality of professional development through any other means or both;
(5) Serving as the chair of the Principals Standards Advisory Council created in section two-c, article three of this chapter and convening regular meetings of this Council to effectuate its purposes; and

(6) Other duties as assigned by the Governor or the Center Board.

(g) When practicable, personnel employed by state higher education agencies and state, regional and county public education agencies shall be made available to the Center to assist in the operation of projects of limited duration, subject to the provisions of section twenty-four, article two, chapter eighteen of this code.

(h) The Center shall assist in the delivery of programs and activities pursuant to this article to meet statewide, and if needed as determined by the goals and Master Plan for Professional Staff Development established by the State Board pursuant to section twenty-three-a, article two, chapter eighteen of this code, the local professional development needs of paraprofessionals, teachers, principals and administrators and may contract with existing agencies or agencies created after the effective date of this section or others to provide training programs in the most efficient manner. Existing programs currently based in agencies of the state shall be continued in the agency of their origin unless the Center establishes a compelling need to transfer or cancel the existing program. The Center shall recommend to the Governor the transfer of funds to the providing agency, if needed, to provide programs approved by the Center.

(i) The Center for Professional Development shall implement training and professional development programs for the Principals Academy based upon the minimum qualities, proficiencies and skills necessary for principals in accordance with the standards established by the State Board pursuant to the terms of section two-c, article three of this chapter.
(j) In accordance with section two-c, article three of this chapter, the Center shall be responsible for paying reasonable and necessary expenses for persons attending the Principals Academy. Provided, That nothing in this section shall be construed to require any specific level of funding by the Legislature.

(k) Persons attending the professional development offerings of the Center and other courses and services offered by the Center for Professional Development, except the Principals Academy shall be assessed fees which shall be less than the full cost of attendance. There is hereby created in the State Treasury a special revenue account known as the “Center for Professional Development Fund”. All moneys collected by the Center shall be deposited in the fund for expenditure by the Center Board for the purposes specified in this section. Moneys remaining in the fund at the end of the fiscal year are subject to reappropriation by the Legislature.

(l) The Center Board shall make collaboration with the State Board in providing professional development services in the following areas a priority:

(1) Services to those public schools selected by the State Superintendent pursuant to section three-g, article two-e, chapter eighteen of this code; and

(2) Services in any specific subject matter area that the State Board, the Legislature or both, determine is justified due to a need to increase student achievement in that area.


(a) There is hereby established within the Center for Professional Development the “Principals Academy”. Training through the Principals Academy shall include at least the following:

(1) Training designed to build within principals the minimum qualities, proficiencies and skills that will be
required of all principals pursuant to the rules of the State Board;

(2) Specialized training and professional development programs for all principals; and

(3) Specialized training and professional development programs for the following principals:

(A) Newly appointed principals;

(B) Principals whose schools have been designated as seriously impaired, which programs shall commence as soon as practicable following the designation;

(C) Principals subject to improvement plans; and

(D) Principals of schools with significantly different grade level configurations.

(b) The Legislature finds that the quality of the principal of a school is one of the most important factors in determining the academic achievement of students and that well-trained, highly qualified principals should be a priority for the state.

(b) The Legislature further finds that while the Principals Academy has been effective in training quality leaders for the state’s public schools, the training provided is such a significant factor in determining their success that a new position is needed to coordinate and focus primarily on the Principals Academy to increase further the quality of the training.

(c) Therefore, from appropriations to the Center for Professional Development, the Center Board shall employ and fix the compensation of the Coordinator of the Principals Academy. The Coordinator serves at the will and pleasure of the Center Board. It is the duty of the Coordinator, subject to direction and oversight by the Center and the Chief Executive Officer, to lead the Principals Academy, to focus primarily on the Principals Acad-
eny and to make a continuous effort to enhance further
the quality of the training and professional development
programs of the Academy. The Center Board, the Chief
Executive Officer, or both, may assign duties to the
coordinator other than those that relate to the Principals
Academy so long as the Coordinator is able to focus
primarily on the Principals Academy.
§18A-3A-6. Attendance outside the employment term.

1 (a) A professional educator may not be required to
2 attend the principals academy or any other program
3 offered through the Center for Professional Development
4 outside his or her employment term. A professional
5 educator may attend the academy or other program
6 outside his or her employment term by mutual agreement
7 between the Center, the educator, and his or her employer.

8 (b) The provisions of this section expire on the first day
9 of July, two thousand six.

CHAPTER 18B. HIGHER EDUCATION.
ARTICLE 1. GOVERNANCE.
§18B-1-3. Transfer of powers, duties, property, obligations, etc.

1 (a) All powers, duties and authorities transferred to the
2 Board of Regents pursuant to former provisions of chapter
3 eighteen of this code and transferred to the Board of
4 Trustees and Board of Directors which were created as the
governing boards pursuant to the former provisions of this
6 chapter and all powers, duties and authorities of the Board
7 of Trustees and Board of Directors, to the extent they are
8 in effect on the seventeenth day of June, two thousand, are
9 hereby transferred to the Interim Governing Board created
10 in article one-c of this chapter and shall be exercised and
11 performed by the Interim Governing Board until the first
day of July, two thousand one, as such powers, duties and
13 authorities may apply to the institutions under its jurisdi-
15 tion.
Title to all property previously transferred to or vested in the Board of Trustees and the Board of Directors and property vested in either of the Boards separately, formerly existing under the provisions of this chapter, are hereby transferred to the Interim Governing Board created in article one-c of this chapter until the first day of July, two thousand one. Property transferred to or vested in the Board of Trustees and Board of Directors shall include:

(1) All property vested in the Board of Governors of West Virginia University and transferred to and vested in the West Virginia Board of Regents;

(2) All property acquired in the name of the State Board of Control or the West Virginia Board of Education and used by or for the state colleges and universities and transferred to and vested in the West Virginia Board of Regents;

(3) All property acquired in the name of the State Commission on Higher Education and transferred to and vested in the West Virginia Board of Regents;

(4) All property acquired in the name of the Board of Regents and transferred to and vested in the respective Board of Trustees and Board of Directors.

Each valid agreement and obligation previously transferred to or vested in the Board of Trustees and Board of Directors formerly existing under the provisions of this chapter is hereby transferred to the Interim Governing Board until the first day of July, two thousand one, as those agreements and obligations may apply to the institutions under its jurisdiction. Valid agreements and obligations transferred to the Board of Trustees and Board of Directors shall include:

(1) Each valid agreement and obligation of the Board of Governors of West Virginia University transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;
(2) Each valid agreement and obligation of the State Board of Education with respect to the state colleges and universities transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;

(3) Each valid agreement and obligation of the State Commission on Higher Education transferred to and deemed the agreement and obligation of the West Virginia Board of Regents; and

(4) Each valid agreement and obligation of the Board of Regents transferred to and deemed the agreement and obligation of the respective Board of Trustees and Board of Directors.

(d) All orders, resolutions and rules adopted or promulgated by the respective Board of Trustees and Board of Directors and in effect immediately prior to the first day of July, two thousand, are hereby transferred to the Interim Governing Board until the first day of July, two thousand one, and shall continue in effect and shall be deemed the orders, resolutions and rules of the Interim Governing Board until rescinded, revised, altered or amended by the Commission or the governing boards in the manner and to the extent authorized and permitted by law. Such orders, resolutions and rules shall include:

(1) Those adopted or promulgated by the Board of Governors of West Virginia University and in effect immediately prior to the first day of July, one thousand nine hundred sixty-nine, unless and until rescinded, revised, altered or amended by the Board of Regents in the manner and to the extent authorized and permitted by law;

(2) Those respecting state colleges and universities adopted or promulgated by the West Virginia Board of Education and in effect immediately prior to the first day of July, one thousand nine hundred sixty-nine, unless and until rescinded, revised, altered or amended by the Board
of Regents in the manner and to the extent authorized and permitted by law;

(3) Those adopted or promulgated by the State Commission on Higher Education and in effect immediately prior to the first day of July, one thousand nine hundred sixty-nine, unless and until rescinded, revised, altered or amended by the Board of Regents in the manner and to the extent authorized and permitted by law; and

(4) Those adopted or promulgated by the Board of Regents prior to the first day of July, one thousand nine hundred eighty-nine, unless and until rescinded, revised, altered or amended by the respective Board of Trustees or Board of Directors in the manner and to the extent authorized and permitted by law.

(e) Title to all real property transferred to or vested in the Interim Governing Board pursuant to this section of the code is hereby transferred to the Commission effective the first day of July, two thousand one. The board of governors for each institution may request that the Commission transfer title to the board of governors of any real property specifically identifiable with that institution or the Commission may initiate the transfer. Any such request must be made within two years of the effective date of this section and be accompanied by an adequate legal description of the property. In the case of real property that is specifically identifiable with Marshall University or West Virginia University, the Commission shall transfer title to all real property, except real property that is used jointly by institutions or for statewide programs under the jurisdiction of the Commission or the Council, to the Board of Governors of Marshall University or West Virginia University, as appropriate, upon receipt of a request from the appropriate governing board accompanied by an adequate legal description of the property.

The title to any real property that is jointly utilized by institutions or for statewide programs under the jurisdic-
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121 tion of the Commission or the Council shall be retained by
122 the Commission.
123
124 (f) Ownership of or title to any other property, materials,
125 equipment or supplies obtained or purchased by the
126 Interim Governing Board or the previous governing boards
127 on behalf of an institution is hereby transferred to the
128 board of governors of that institution effective the first
129 day of July, two thousand one.
130
131 (g) Each valid agreement and obligation previously
132 transferred or vested in the Interim Governing Board and
133 which was undertaken or agreed to on behalf of an institu-
134 tion or institutions is hereby transferred to the board of
135 governors of the institution or institutions for whose
136 benefit the agreement was entered into or the obligation
137 undertaken effective the first day of July, two thousand
138 one.
139
140 (1) The obligations contained in revenue bonds issued by
141 the previous governing boards under the provisions of
142 section eight, article ten of this chapter and article
143 twelve b, chapter eighteen of this code are hereby trans-
144 ferred to the Commission and each institution shall
145 transfer to the Commission those funds the Commission
146 determines are necessary to pay that institution's share of
147 bonded indebtedness.
148
149 (2) The obligations contained in revenue bonds issued on
150 behalf of a state institution of higher education pursuant
151 to any other section of this code is hereby transferred to
152 the board of governors of the institution on whose behalf
153 the bonds were issued.
154
155 (h) All orders, resolutions, policies and rules:
156
157 (1) Adopted or promulgated by the respective Board of
158 Trustees, Board of Directors or Interim Governing Board
159 and in effect immediately prior to the first day of July, two
160 thousand one, are hereby transferred to the Commission
161 effective the first day of July, two thousand one, and
continue in effect until rescinded, revised, altered, amended or transferred to the governing boards by the Commission as provided in this section and in section six of this article.

(2) Adopted or promulgated by the Commission relating solely to community and technical colleges or community and technical college education, or rules which the Council finds necessary for the exercise of its lawful powers and duties pursuant to the provisions of this chapter, may be adopted by the Council and continue in effect until rescinded, revised, altered, amended or transferred to the governing boards under the jurisdiction of the Council pursuant to section six of this article. Nothing in this section requires the initial rules of the Commission that are adopted by the Council to be promulgated again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless such rules are rescinded, revised, altered or amended.

(3) Adopted or promulgated by the Commission relating to multiple types of public institutions of higher education or community and technical college education as well as baccalaureate and post-baccalaureate education are transferred to the Council in part as follows:

(A) That portion of the rule relating solely to community and technical colleges or community and technical college education is transferred to the Council and continues in effect until rescinded, revised, altered, amended or transferred to the governing boards by the Council as provided in this section and in section six of this article;

(B) That portion of the rule relating to institutions or education other than community and technical colleges is retained by the Commission and continues in effect until rescinded, revised, altered, amended or transferred to the governing boards by the Commission as provided in this section and in section six of this article.
(i) The Commission may, in its sole discretion, transfer any rule, other than a legislative rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the Commission pursuant to section six of this article.

The Council may, in its sole discretion, transfer any rule, other than a legislative rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the Council pursuant to section six of this article.

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

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

§18B-1-6. Rulemaking.

(a) The Commission is hereby empowered to promulgate, adopt, amend or repeal rules, in accordance with the provisions of article three-a, chapter twenty-nine-a of this
code, subject to the provisions of section three of this article.

(b) The Council is hereby empowered to promulgate, adopt, amend or repeal rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code and subject to the provisions of section three of this article. This grant of rule-making power extends only to those areas over which the Council has been granted specific authority and jurisdiction by law.

(c) As it relates to the authority granted to governing boards of state institutions of higher education to promulgate, adopt, amend or repeal any rule under the provisions of this code:

(1) "Rule" means any regulation, guideline, directive, standard, statement of policy or interpretation of general application which has institutionwide effect or which affects the rights, privileges or interests of employees, students or citizens. Any regulation, guideline, directive, standard, statement of policy or interpretation of general application that meets this definition is a rule for the purposes of this section.

(2) Regulations, guidelines or policies established for individual units, divisions, departments or schools of the institution, which deal solely with the internal management or responsibilities of a single unit, division, department or school or with academic curricular policies that do not constitute a mission change for the institution, are excluded from this subsection, except for the requirements relating to posting.

(3) The Commission and Council each shall promulgate a rule to guide the development and approval of rules made by their respective governing boards, including the governing boards of Marshall University and West Virginia University. The rules promulgated by the Commission and Council shall include, but are not limited to, the
following provisions which shall be included in the rule on
rules adopted by each governing board of a state institu-
tion of higher education:

(A) A procedure to ensure that public notice is given and
that the right of interested parties to have a fair and
adequate opportunity to respond is protected, including
providing for a thirty-day public comment period prior to
final adoption of a rule;

(B) Designation of a single location where all proposed
and approved rules, guidelines and other policy statements
are posted and can be accessed by the public; and

(C) A procedure to maximize Internet access to all
proposed and approved rules, guidelines and other policy
statements to the extent technically and financially
feasible.

(d) Nothing in this section requires that any rule reclass-
sified or transferred by the Commission or the Council
under this section be promulgated again under the proce-
dures set out in article three-a, chapter twenty-nine-a of
this code unless the rule is amended or modified.

(e) The Commission and Council each shall file with the
Legislative Oversight Commission on Education Account-
ability any rule it proposes to promulgate, adopt, amend or
repeal under the authority of this article.

(f) The governing boards of Marshall University and
West Virginia University, respectively, shall promulgate
and adopt any rule which they are required to adopt by
this chapter or chapter eighteen-c of this code no later
than the first day of July, two thousand six. On and after
this date:

(1) Any rule of either governing board which meets the
definition set out in subsection (c) of this section and
which has not been promulgated and adopted by formal
vote of the appropriate governing board is void and may
not be enforced;

(2) Any authority granted by this code which inherently
requires the governing board to promulgate and adopt a
rule is void until the governing board complies with the
provisions of this section.

(g) Within thirty days of the adoption of a rule, including
repeal or amendment of an existing rule, the governing
boards of Marshall University and West Virginia Univer-
sity, respectively, shall furnish to the Commission or the
Council, as appropriate, a copy of each rule which has
been formally adopted;

(h) Not later than the first day of October, two thousand
two, and annually thereafter, each governing board of a
state institution of higher education shall file with the
Commission or the Council, as appropriate, a list of all
institutional rules that were in effect for that institution
on the first day of July of that year, including the most
recent date on which each rule was considered and
adopted, amended or repealed by the governing board.
For all rules adopted, amended or repealed after the
effective date of this section, the list shall include a
statement by the chair of the governing board certifying
that the governing board has complied with the provisions
of this section when each listed rule was adopted.

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

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

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

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

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

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

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

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

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

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

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

(2) The ultimate responsibility for developing and adopting the final version of the state college and university institutional compacts resides with the Commission and the ultimate responsibility for developing and adopting the final version of the community and technical college institutional compacts resides with the Council;

(3) Each institution shall submit its compact to the Commission or Council annually by the fifteenth day of November;

(4) The Commission and Council shall review each compact of the institutions under their respective jurisdictions and either adopt the compact or return it with specific comments for change or improvement. The Commission and Council, as appropriate, shall continue this process as long as each considers advisable;

(5) By the first day of May annually, if the institutional compact of any institution as presented by that institution is not adopted by the Commission or Council, then the Commission or Council is empowered and directed to develop and adopt the institutional compact for the
76 institution and the institution is bound by the compact so
77 adopted; and
78
79 (6) As far as practicable, the Commission and Council
80 each shall establish uniform processes and forms for the
81 development and submission of the institutional compacts
82 by the institutions under their respective jurisdictions. As
83 a part of this function, the Commission and Council shall
84 organize the statements of legislative intent and goals
85 contained in section one-a, article one of this chapter in a
86 manner that facilitates the purposes of this subdivision
87 and the purposes of this section.
88
89 (d) Assignment of geographic areas of responsibility. –
90
91 (1) The Commission shall assign geographic areas of
92 responsibility to the state institutions of higher education
93 under its jurisdiction, except for the state institutions of
94 higher education known as Marshall University and West
95 Virginia University. For institutions other than the state
96 institutions of higher education known as Marshall
97 University and West Virginia University, the geographic
98 areas of responsibility are made a part of their institutional compacts to ensure that all areas of the state are
99 provided necessary programs and services to achieve the
100 public policy agenda.
101
102 (2) Pursuant to the provisions of section four, article
103 three-c of this chapter, the Council shall assign geographic
104 areas of responsibility to the state institutions of higher
105 education under its jurisdiction, including the administratively linked institution known as Marshall Community
106 and Technical College, the administratively linked institution known as the Community and Technical College at
107 West Virginia University Institute of Technology and the
108 regional campus known as West Virginia University at
109 Parkersburg.
110
111 (3) The geographic areas of responsibility for the state
112 institutions of higher education known as Marshall
University and West Virginia University are assigned by the Legislature.

(4) The benchmarks established in the institutional compacts shall include measures of programs and services by geographic area throughout the assigned geographic area of responsibility.

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

(1) They shall be as objective as possible;

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

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

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

(f) The Commission and Council each shall establish by legislative rule indicators which measure the degree to which the goals and objectives set forth in section one-a, article one of this chapter are being addressed and met by the institutions under their respective jurisdictions. The benchmarks established in subsection (e) of this section shall be measured by the indicators.

(1) The rules pertaining to benchmarks and indicators in effect for the Commission and the Council on the effective date of this section remain in effect for the institutions under their respective jurisdictions.

(2) The legislative rules shall set forth at the least the following as pertains to all state institutions of higher education:

(A) The indicators used to measure the degree to which the goals and objectives are being met;
(B) Uniform definitions for the various data elements to be used in establishing the indicators;

(C) Guidelines for the collection and reporting of data; and

(D) Sufficient detail within the benchmarks and indicators to:

(i) Provide measurable evidence that the pursuits of the institution are targeting the educational needs of the citizens of the state and the components of the compacts and master plans;

(ii) Delineate the goals and benchmarks for an institution so that the Commission, or Council can precisely measure the degree to which progress is being made toward achieving the goals for post-secondary education provided in section one-a, article one of this chapter; and

(iii) Distinctly identify specific goals within the master plan or compact of an institution that are not being met or toward which sufficient progress is not being made.

(3) In addition to any other requirement, the legislative rule established by the Council shall set forth at the least the following as pertains to community and technical college education:

(A) Benchmarks and indicators which are targeted to identify:

(i) The degree to which progress is being made by institutions toward meeting the goals for post-secondary education and the essential conditions provided in section three, article three-c of this chapter;

(ii) Information and data necessary to be considered by the Council in making the determination required by section three, article two-c of this chapter;

(iii) The degree to which progress is being made in the areas considered by the Council for the purpose of making
the determination required by section three, article two-c of this chapter; and

(B) Sufficient detail within the benchmarks and indicators to provide clear evidence to support an objective determination by the Council that an institution's progress toward achieving the goals for post-secondary education and the essential conditions is so deficient that implementation of the provisions of section four, article two-c of this chapter is warranted and necessary.

(g) The Commission or the Council, as appropriate, shall approve the master plans developed by the boards of governors and the institutional boards of advisors pursuant to section four, article two-a of this chapter or section one, article six of this chapter, as appropriate.

§18B-1A-6. Graduate education.

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

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

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

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

(3) There is a particular need for increased access to graduate programs linked directly to the revitalization of the regional economies of the state; and
(4) There is a particular need for improved quality and accessibility of preservice and in-service programs for teachers in subject matter fields.

(c) In order to meet the need for graduate education, the Commission is responsible for accomplishing the following:

(1) Ensuring that West Virginia University and Marshall University assist in the expansion of access to master's degree programs throughout West Virginia. These institutions shall place a strong emphasis on collaboration with the baccalaureate colleges and community and technical colleges in each region when funds are available;

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

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

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

(5) Determining the graduate program needs of each region.

(d) Bluefield State College, Concord University, Fairmont State University, Glenville State College, Shepherd University, West Liberty State College and West Virginia State University shall meet the need for graduate education in their regions pursuant to this subsection and subsection (c) of this section.

(1) If an institution's proposal to offer a Master's degree receives the approval of the Commission, that Master's degree may be offered solely by the institution.
(2) If an institution does not receive the approval of the Commission for a proposal to offer a Master's degree, that institution may broker or collaborate with another higher education institution to develop a revised proposal for offering that brokered or collaborative Master's degree.

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

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

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

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

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

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

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

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

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

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

(j) In addition to the approval required by the Commission, authorization for any institution to offer a master's degree program under the provisions of this section is
ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

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

(a) The primary responsibility of the Commission is to develop, establish and implement policy that will achieve the goals and objectives found in section one-a, article one of this chapter. The Commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for community and technical college education and the powers and duties assigned to the governing boards of Marshall University and West Virginia University, respectively. To that end, the Commission has the following powers and duties relating to the institutions under its jurisdiction:

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

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

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;
(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance;

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

(D) Incorporate the plan for strategic funding to strengthen capacity for support of community and technical college education established by the West Virginia Council for Community and Technical College Education pursuant to the provisions of section six, article two-b of this chapter;

(3) In collaboration with the Council, create a policy leadership structure capable of the following actions:

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

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

(C) Holding the higher education institutions and the higher education systems as a whole accountable for accomplishing their missions and implementing the provisions of the compacts;
(4) Develop and adopt each institutional compact;

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

(6) Serve as the accountability point to:

(A) The Governor for implementation of the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(7) Jointly with the Council, promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;

(8) Establish and implement a peer group for each institution as described in section three, article one-a of this chapter;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional achievement towards state policy priorities and institutional missions pursuant to section two, article one-a of this chapter;

(10) Annually report to the Legislature and to the Legislative Oversight Commission on Education Accountability during the January interim meetings on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates. The report shall address at least the following:

(A) The performance of its system of higher education during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the higher education
(B) An analysis of enrollment data collected pursuant to section one, article ten of this chapter and recommendations for any changes necessary to assure access to high-quality, high-demand education programs for West Virginia residents;

(C) The priorities established for capital investment needs pursuant to subdivision (11) of this subsection and the justification for such priority;

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

(11) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. It is the responsibility of the Commission to assure a fair distribution of funds for capital projects between the Commission and the Council. To that end the Commission shall take the following steps:

(A) Receive the list of priorities developed by the Council for capital investment for the institutions under the Council’s jurisdiction pursuant to subsection (b), section six, article two-b of this chapter;

(B) Place the ranked list of projects on the agenda for action within sixty days of the date on which the list was received;

(C) Select a minimum of three projects from the list submitted by the Council to be included on the ranked list established by the Commission. At least one of the three projects selected must come from the top two priorities established by the Council.
(12) Maintain guidelines for institutions to follow concerning extensive capital project management except the governing boards of Marshall University and West Virginia University are not subject to the provisions of this subdivision as it relates to the state institutions of higher education known as Marshall University and West Virginia University. The guidelines shall provide a process for developing capital projects, including, but not limited to, the notification by an institution to the Commission of any proposed capital project which has the potential to exceed one million dollars in cost. Such a project may not be pursued by an institution without the approval of the Commission. An institution may not participate directly or indirectly with any public or private entity in any capital project which has the potential to exceed one million dollars in cost;

(13) Acquire legal services as are considered necessary, including representation of the Commission, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the Commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

(14) Employ a Chancellor for Higher Education pursuant to section five of this article;

(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the Commission and the Council, in accordance with the provisions of article four of this chapter;

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

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

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

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

(20) Approve and implement a uniform standard jointly
with the Council to determine which students shall be
placed in remedial or developmental courses. The stan-
dard shall be aligned with college admission tests and
assessment tools used in West Virginia and shall be
applied uniformly by the governing boards throughout the
public higher education system. The chancellors shall
develop a clear, concise explanation of the standard which
they shall communicate to the State Board of Education
and the State Superintendent of schools;

(21) Review and approve or disapprove capital projects
as described in subdivision (11) of this subsection;

(22) Jointly with the Council, develop and implement an
oversight plan to manage systemwide technology such as
the following:
(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the Council, Commission and state institutions of higher educations are not subject to the jurisdiction of the Chief Technology Officer for any purpose.

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

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

(25) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;
(26) Establish and implement policies and programs, in cooperation with the Council and the institutions of higher education, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet-based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

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

(28) Develop, establish and implement a rule for higher education governing boards and institutions to follow when considering capital projects. The guidelines shall assure that the governing boards and institutions do not approve or promote capital projects involving private sector businesses which would have the effect of reducing property taxes on existing properties or avoiding, in whole or in part, the full amount of taxes which would be due on newly developed or future properties;

(29) Consider and submit to the appropriate agencies of the executive and legislative branches of state government a budget that reflects recommended appropriations from the Commission and the institutions under its jurisdiction. The Commission shall submit as part of its budget proposal the separate recommended appropriations it received from the Council, both for the Council and the institutions
under the Council's jurisdiction. The Commission annually shall submit the proposed institutional allocations based on each institution's progress toward meeting the goals of its institutional compact;

(30) The Commission has the authority to assess institutions under its jurisdiction, including the state institutions of higher education known as Marshall University and West Virginia University, for the payment of expenses of the Commission or for the funding of statewide higher education services, obligations or initiatives related to the goals set forth for the provision of public higher education in the state;

(31) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to institutions of higher education for qualifying noncapital expenditures incurred in the provision of services to students with physical, learning or severe sensory disabilities;

(32) Make appointments to boards and commissions where this code requires appointments from the State College System Board of Directors or the University of West Virginia System Board of Trustees which were abolished effective the thirtieth day of June, two thousand, except in those cases where the required appointment has a specific and direct connection to the provision of community and technical college education, the appointment shall be made by the Council. Notwithstanding any provisions of this code to the contrary, the Commission or the Council may appoint one of its own members or any other citizen of the state as its designee. The Commission and Council shall appoint the total number of persons in the aggregate required to be appointed by these previous governing boards;

(33) Pursuant to the provisions of article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules as necessary or expedient to
fulfill the purposes of this chapter. The Commission and the Council shall promulgate a uniform joint legislative rule for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

(34) Determine when a joint rule among the governing boards of the institutions under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards of all the institutions under its jurisdiction, promulgate the joint rule;

(35) In consultation with the governing boards of Marshall University and West Virginia University, implement a policy jointly with the Council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(36) Promulgate a joint rule with the Council establishing tuition and fee policy for all institutions of higher education, other than state institutions of higher education known as Marshall University and West Virginia University which are subject to the provisions of section one, article ten of this chapter. The rule shall include, but is not limited to, the following:

(A) Comparisons with peer institutions;

(B) Differences among institutional missions;

(C) Strategies for promoting student access;

(D) Consideration of charges to out-of-state students; and

(E) Such other policies as the Commission and Council consider appropriate; and

(37) Implement general disease awareness initiatives to educate parents and students, particularly dormitory
residents, about meningococcal meningitis; the potentially
life-threatening dangers of contracting the infection;
behaviors and activities that can increase risks; measures
that can be taken to prevent contact or infection; and
potential benefits of vaccination. The Commission shall
encourage institutions that provide medical care to
students to provide access to the vaccine for those who
wish to receive it.

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

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

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

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

(4) Academic program review and approval for institu-
tions under its jurisdiction, including the use of institu-
tional missions as a template to judge the appropriateness
of both new and existing programs and the authority to
implement needed changes. The Commission’s authority
to review and approve academic programs for either the
state institution of higher education known as Marshall
University or West Virginia University is limited to
programs that are proposed to be offered at a new location
not presently served by that institution;

(5) Distribution of funds appropriated to the Commis-
sion, including incentive and performance-based funding;
(6) Administration of state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of any rules necessary to administer those programs;

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

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

(9) Jointly with the Council, developing, establishing and implementing policies for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state pursuant to the findings and policy recommendations required by section eleven of this article;

(10) Development, implementation and oversight of statewide and region-wide projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funding from any source; and

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

(c) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties as may be assigned to it by law, the Commission has such other powers and duties as may be necessary or expedient to accomplish the purposes of this article.
(d) The Commission is authorized to withdraw specific powers of any governing board of an institution under its jurisdiction for a period not to exceed two years, if the Commission makes a determination that:

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

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

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

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

§18B-1B-5. Employment of Chancellor for Higher Education; office; powers and duties generally; employment of Vice Chancellors.

(a) The Commission, created pursuant to section one of this article, shall employ a Chancellor for Higher Education who is the Chief Executive Officer of the Commission and who serves at its will and pleasure.

(b) The Commission shall set the qualifications for the position of Chancellor and shall conduct a thorough nationwide search for qualified candidates. A qualified candidate is one who meets at least the following criteria:

(1) Possesses an excellent academic and administrative background;

(2) Demonstrates strong communication skills;
(3) Has significant experience and an established national reputation as a professional in the field of higher education;

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

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

(c) The Commission shall conduct written performance evaluations of the Chancellor annually and may offer the Chancellor a contract not to exceed three years. At the end of each contract period, the Commission shall review the evaluations and make a determination by vote of its members on continuing employment and compensation level.

(d) When filling a vacancy in the position of Chancellor, the Commission shall enter into an initial employment contract for one year with the candidate selected. At the end of the initial contract period, and each contract period thereafter, the Commission shall review the evaluations and make a determination by vote of its members on continuing employment and compensation level for the Chancellor.

(e) The Commission sets the Chancellor's salary. The salary may not exceed by more than twenty percent the average annual salary of chief executive officers of state systems of higher education in the states that comprise the membership of the Southern Regional Education Board.

(f) The Commission may employ a Vice Chancellor for Health Sciences who serves at the will and pleasure of the Commission. The Vice Chancellor for Health Sciences shall coordinate the West Virginia University School of Medicine, the Marshall University School of Medicine and the West Virginia School of Osteopathic Medicine and also shall provide assistance to the governing boards on matters related to medical education and health sciences.
The Vice Chancellor for Health Sciences shall perform all duties assigned by the Chancellor, the Commission and state law. In the case of a vacancy in the office of Vice Chancellor of Health Sciences, the duties assigned to this Office by law are the responsibility of the Chancellor or a designee.

(g) The Commission shall employ a Vice Chancellor for Administration pursuant to section two, article four of this chapter.

(h) The Commission may employ a Vice Chancellor for State Colleges who serves at the will and pleasure of the Commission. It is the duty and responsibility of the Vice Chancellor for State Colleges to:

(1) Provide assistance to the Commission, the Chancellor and the state colleges on matters related to or of interest and concern to these institutions;

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

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

(4) Perform all duties assigned by the Chancellor, the Commission and state law.

In addition, the Vice Chancellor for State Colleges has the responsibility and the duty to provide staff assistance to the institutional presidents and governing boards to the extent practicable.

(i) On behalf of the Commission, the Chancellor may enter into agreements with any state agency or political subdivision of the state, any state higher education institution or any other person or entity to enlist staff
assistance to implement the powers and duties assigned by
the Commission or by state law.

(j) The Chancellor is responsible for the daily operations
of the Commission and has the following responsibilities
relating to the Commission and the institutions under its
jurisdiction:

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

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

(3) To prepare and submit to the Commission for its
approval the proposed budget of the Commission including
the offices of the Chancellor and the Vice Chancellors;

(4) To assist the governing boards in developing rules,
subject to the provisions of section six, article one of this
chapter. Nothing in this chapter requires the rules of the
governing boards to be filed pursuant to the rule-making
procedures provided in article three-a, chapter
twenty-nine-a of this code. The Commission and the
Council, either separately or jointly as appropriate, are
responsible for ensuring that any policy which is required
to be uniform across the institutions is applied in a
uniform manner;

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

(k) The Chancellor shall be reimbursed for all actual and
necessary expenses incurred in the performance of all
assigned duties and responsibilities.

(l) The Chancellor, with the Commission, advises the
Legislature on matters of higher education in West
Virginia. The Chancellor shall work closely with the
Legislative Oversight Commission on Education Account-
ability and with the elected leadership of the state to ensure that they are fully informed about higher education issues and that the Commission fully understands the goals for higher education that the Legislature has established by law.

(m) The Chancellor may design and develop for consideration by the Commission new statewide or regional initiatives in accordance with the goals set forth in section one-a, article one of this chapter and the public policy agenda articulated by the Commission. In those instances where the initiatives to be proposed have a direct and specific impact or connection to community and technical college education as well as to baccalaureate and graduate education, the Chancellor for Higher Education and the Chancellor for Community and Technical College Education shall design and develop the initiatives jointly for consideration by the Commission and the Council.

(n) The Chancellor shall work closely with members of the State Board of Education and with the State Superintendent of Schools to assure that the following goals are met:

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

(2) Appropriate coordination of missions and programs.

To further the goals of cooperation and coordination between the Commission and the State Board of Education, the Chancellor serves as an ex officio, nonvoting member of the State Board of Education.

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

(a) Appointment of institutional presidents. — Appointment of presidents of the state institutions of higher education shall be made as follows:

(1) Subject to the approval of the Commission, the governing board of the institution appoints a president for
Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Liberty State College, West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University.

(2) Subject to the approval of the Council and to the provisions of article three-c of this chapter, the Governing Board of West Virginia University appoints the President of the regional campus known as West Virginia University at Parkersburg. When selecting candidates for consideration to fill the office of president, the Governing Board shall use the search and screening process provided in section one, article six of this chapter.

Subject to the approval of the Commission, the Governing Board of West Virginia University appoints the President of the regional campus known as West Virginia University Institute of Technology. The president of each regional campus serves at the will and pleasure of the appointing governing board.

(3) Subject to the approval of the Council, the governing board of the community and technical college appoints a president for Eastern West Virginia Community and Technical College, Southern West Virginia Community and Technical College and West Virginia Northern Community and Technical College.

(4) Subject to the approval of the Council, the governing board of the sponsoring institution appoints a president for each administratively linked community and technical college which shares a physical campus location with the sponsoring institution, including Fairmont State Community and Technical College, Marshall Community and Technical College, the Community and Technical College at West Virginia University Institute of Technology and West Virginia State Community and Technical College.
(5) Subject to the approval of the Council, the governing board of the community and technical college appoints a president for each administratively linked community and technical college which does not share a physical campus location with the sponsoring institution, including New River Community and Technical College and the Community and Technical College of Shepherd.

(b) Other appointments. — The institutional president appoints a provost to be the administrative head of the Potomac campus of West Virginia University.

(c) Evaluation of presidents. — The appointing governing board shall conduct written performance evaluations of each institution’s president, including the presidents of administratively linked community and technical colleges. Evaluations shall be done in every fourth year of employment as president, recognizing unique characteristics of the institution and utilizing institutional personnel, institutional boards of advisors as appropriate, staff of the appropriate governing board and persons knowledgeable in higher education matters who are not otherwise employed by a governing board. A part of the evaluation shall be a determination of the success of the institution in meeting the requirements of its institutional compact.

§18B-1B-13. Study of issues affecting employees in public higher education.

(a) In consultation with the Council, the governing boards, the State Advisory Council of Faculty established pursuant to section two, article six of this chapter and the State Advisory Council of Classified Employees established pursuant to section five, article six of this chapter, the Commission shall conduct a study relating to issues affecting employees in public higher education.

(b) The study includes, but is not limited to, the following:
(1) Reviewing statutes, rules, guidelines, interpretations and other statements of policy;

(2) Surveying the capacity, professional training and practices of human resources staff by institution, including the number of staff employed in each institutional human resources office, their job titles and responsibilities;

(3) Evaluating the strengths and weaknesses of the statewide classification and compensation system and examining alternatives;

(4) Reviewing job titles and responsibilities to determine if certain families of jobs should be classified or nonclassified;

(5) Evaluating and recommending best practices and methods to establish salary rates for faculty, classified employees, nonclassified employees and administrators, including:

(A) Developing measurable indicators of "merit" and "performance" if these terms are to be used in a system for determining benefits;

(B) Developing reliable instruments of performance evaluation for all classes of employees; and

(C) Exploring the feasibility of authorizing employee bonuses under a merit or performance-based system;

(6) Determining the most effective and efficient method to train administrators who perform employee evaluations and assuring that they use these instruments appropriately;

(7) Exploring justifications for maintaining or removing the internal preference for hiring, promoting and transferring classified employees pursuant to article seven of this chapter;

(8) Developing recommendations for a fair and rational policy covering reductions in force;
(9) Identifying unnecessary state-level paperwork requirements related to personnel and recommending methods to eliminate them while maintaining strict fiscal accountability;

(10) Evaluating the strengths and weaknesses of statewide tenure and promotion policies for faculty and examining alternatives;

(11) Evaluating the feasibility of implementing differential salary rates based on cost of living or other relevant factors;

(12) Determining whether employees whose salaries are derived from funds other than state appropriations should be subject to the provisions of article seven of this chapter and how such employees should be treated in any policy on reductions in force; and

(13) Determining the true costs or benefits as well as the advantages and disadvantages that may accrue as a result of decisions to outsource certain institutional functions. In order to perform a cost/benefit analysis, the Commission must first develop an accurate database of institutional practices including the number of positions being outsourced or filled by temporary employees and the true amount of cost savings, if any.

(c) The Commission shall report to the Legislative Oversight Commission on Education Accountability by the first day of October, two thousand five, and every six months thereafter on the progress of the study.

(d) The Commission shall complete its work and report its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate the recommendations, to the Legislative Oversight Commission on Education Accountability by the first day of December, two thousand eight.
In making its recommendations, the Commission shall take into account the impact of proposed changes on employees and the communities in which state institutions of higher education are located; and

(2) The Commission shall include documentation to support any conclusion or recommendation included as a part of their findings and shall attach estimates of cost or savings to each recommendation, if that recommendation has a fiscal impact on any public agency or institution.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.


(a) The governing boards are subject to the supervision of the Commission or the Council, as appropriate, except for the governing boards of Marshall University and West Virginia University as it relates to the state institutions of higher education known as Marshall University and West Virginia University. The Chancellor for Higher Education and the Chancellor for Community and Technical College Education, under the supervision of their respective boards, are responsible for the coordination of policies and purposes of the governing boards and shall provide for and facilitate sufficient interaction among the governing boards and between the governing boards and the State Board of Education to meet the goals and objectives provided in the compacts and in section one-a, article one of this chapter.

(b) The governing boards and the State Board of Education shall provide any and all information requested by the Commission or the Council in an appropriate format and in a timely manner.


Each governing board separately has the following powers and duties:
(a) Determine, control, supervise and manage the financial, business and education policies and affairs of the state institutions of higher education under its jurisdiction;

(b) Develop a master plan for the institutions under its jurisdiction, except the administratively linked community and technical colleges which retain an institutional board of advisors shall develop their master plans subject to the provisions of section one, article six of this chapter.

(1) The ultimate responsibility for developing and updating the master plans at the institutional level resides with the board of governors, or board of advisors, as applicable, but the ultimate responsibility for approving the final version of the institutional master plans, including periodic updates, resides with the Commission or Council, as appropriate.

(2) Each master plan shall include, but not be limited to, the following:

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

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

(C) Documentation of the involvement of the Commission or Council, as appropriate, institutional constituency groups, clientele of the institution and the general public in the development of all segments of the institutional master plan.
(3) The plan shall be established for periods of not less than three nor more than six years and shall be revised periodically as necessary, including the addition or deletion of degree programs as, in the discretion of the appropriate governing board, may be necessary;

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

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

(e) Consider, revise and submit to the Commission or Council, as appropriate, a budget request on behalf of the institutions under its jurisdiction;

(f) Review, at least every five years, all academic programs offered at the institutions under its jurisdiction. The review shall address the viability, adequacy and necessity of the programs in relation to its institutional master plan, the institutional compact and the education and workforce needs of its responsibility district. As a part of the review, each governing board shall require the institutions under its jurisdiction to conduct periodic studies of its graduates and their employers to determine placement patterns and the effectiveness of the education experience. Where appropriate, these studies should coincide with the studies required of many academic disciplines by their accrediting bodies;

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

(h) Subject to the provisions of article one-b of this chapter, the appropriate governing board has the exclusive authority to approve the teacher education programs offered in the institution under its control. In order to permit graduates of teacher education programs to receive a degree from a nationally accredited program and in order to prevent expensive duplication of program accreditation, the Commission may select and utilize one nationally recognized teacher education program accreditation standard as the appropriate standard for program evaluation;

(i) Utilize faculty, students and classified employees in institutional level planning and decisionmaking when those groups are affected;

(j) Subject to the provisions of federal law and pursuant to the provisions of article nine of this chapter and to rules adopted by the Commission and the Council, administer a system for the management of personnel matters, including, but not limited to, personnel classification, compensation and discipline for employees at the institutions under their jurisdiction;

(k) Administer a system for hearing employee grievances and appeals. Notwithstanding any other provision of this code to the contrary, the procedure established in article six-a, chapter twenty-nine of this code is the exclusive mechanism for hearing prospective employee grievances and appeals. In construing the application of said article to grievances of higher education employees, the following apply:
(1) "Chief administrator" means the president of a state institution of higher education as to those employees employed by the institution and the appropriate chancellor as to those employees employed by the Commission or Council;

(2) The State Division of Personnel may not be a party to nor have any authority regarding a grievance initiated by a higher education employee; and

(3) The provisions of this section supersede and replace the grievance procedure set out in article twenty-nine, chapter eighteen of this code for any grievance initiated by a higher education employee after the first day of July, two thousand one;

(m) Appoint a president for the institutions under its jurisdiction subject to the provisions of section six, article one-b of this chapter;

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

(o) Employ all faculty and staff at the institution under its jurisdiction. Such employees operate under the supervision of the president, but are employees of the governing board;

(p) Submit to the Commission or Council, as appropriate, no later than the first day of November of each year an annual report of the performance of the institution under its jurisdiction during the previous fiscal year as compared to stated goals in its master plan and institutional compact;

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

(r) Provide and transfer funding and property to certain corporations pursuant to section ten, article twelve of this chapter;

(s) Delegate, with prescribed standards and limitations, the part of its power and control over the business affairs of the institution to the president in any case where it considers the delegation necessary and prudent in order to enable the institution to function in a proper and expeditious manner and to meet the requirements of its institutional compact. If a governing board elects to delegate any of its power and control under the provisions of this subsection, it shall enter such delegation in the minutes of the meeting when the decision was made and shall notify the Commission or Council, as appropriate. Any such delegation of power and control may be rescinded by the appropriate governing board, the Commission or Council, as appropriate, at any time, in whole or in part, except that the Commission may not revoke delegations of authority made by the governing boards of Marshall University or West Virginia University as they relate to the state institutions of higher education known as Marshall University and West Virginia University;

(t) Unless changed by the Commission or the Council, as appropriate, the governing boards shall continue to abide by existing rules setting forth standards for acceptance of advanced placement credit for their respective institutions. Individual departments at institutions of higher education may, upon approval of the institutional faculty senate, require higher scores on the advanced placement test than scores designated by the appropriate governing board.
when the credit is to be used toward meeting a requirement of the core curriculum for a major in that department;

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

(v) The governing boards in consultation with the appropriate chancellor and the Secretary of the Department of Administration shall develop, update as necessary and maintain a plan to administer a consistent method of conducting personnel transactions, including, but not limited to, hiring, dismissal, promotions and transfers at the institutions under their jurisdiction. Each such personnel transaction shall be accompanied by the appropriate standardized system or forms which will be submitted to the respective governing board and the Department of Finance and Administration;

(w) Transfer of funds.

(1) Notwithstanding any other provision of this code to the contrary, the governing boards may transfer funds from any account specifically appropriated for their use to any corresponding line item in a general revenue account at any agency or institution under their jurisdiction as long as such transferred funds are used for the purposes appropriated.

(2) The governing boards may transfer funds from appropriated special revenue accounts for capital improvements under their jurisdiction to special revenue accounts at agencies or institutions under their jurisdiction.
tion as long as such transferred funds are used for the
purposes appropriated.

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

(y) Each governing board which has under its jurisdic-
tion an administratively linked community and technical
college or a regional campus offering community and
technical college education programs shall create within
the administrative structure of its governing board a
subcommittee for community and technical college
education. The subcommittee shall have at least four
members, one of whom is the chairperson of the board of
advisors of the community and technical college or, in the
case of the Governing Board of West Virginia University,
both the member representing the community and techni-
cal college and the member representing the regional
campus; and

(z) A governing board may contract and pay for disabil-
ity insurance for a class or classes of employees at a state
institution of higher education under its jurisdiction.


(a) A state institution of higher education is granted the
powers, duties and authorities previously granted to the
state institutions of higher education known as Marshall
University and West Virginia University, subject to the
following:
(1) The institutional operating budgets of all institutions to which this section applies have achieved a level of funding comparable with, but not less than ninety percent of, their respective peers, as established pursuant to section three, article one-a of this chapter;

(2) The Commission approves granting the powers, duties and authorities to that institution; and

(3) The powers, duties and authorities may not be granted to any institution prior to the first day of July, two thousand twelve.

(b) The powers, duties and authorities granted pursuant to this section are those provided in:

(1) Section four-a, article six, chapter five of this code;

(2) Section two, article one, chapter five-g of this code;

(3) Section twelve-b, article one, chapter twelve of this code;

(4) Sections five, six, seven and eight, article three, chapter twelve of this code;

(5) Sections three and six, article one of this chapter;

(6) Section two, article one-a of this chapter;

(7) Section four, article one-b of this chapter;

(8) Sections three and four of this article;

(9) Sections two and three, article three of this chapter;

(10) Sections five, five-a, six and seven, article four of this chapter;

(11) Sections three, four, seven and nine, article five of this chapter; and

(12) Sections one and six-a, article ten of this chapter.
(c) This section does not apply to any community and technical college.

ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION.

§18B-2B-9. Permits required for correspondence, business, occupational and trade schools; surety bonds and fees; issuance, renewal and revocation of permit; reports; rules; penalty and enforcement.

(a) The following words when used in this section have the meaning hereinafter ascribed to them unless the context clearly indicates a different meaning:

(1) "Proprietary schools that award specialized associate degrees" means institutions of higher education; and

(2) "Specialized associate degrees" means degrees awarded by such institutions pursuant to a program of not fewer than two academic years.

(b) Nothing in this section qualifies proprietary schools for additional state moneys not otherwise qualified under other provisions of this code.

(c) It is unlawful for any person representing a correspondence, business, occupational or trade school inside or outside this state, as these are defined by the Council by rule promulgated in accordance with article three-a, chapter twenty-nine-a of this code, to solicit, sell or offer to sell courses of instruction to any resident of this state for consideration or remuneration unless the school first applies for a permit, or obtains a permit, from the Council in the manner and on the terms herein prescribed, except this section does not apply to private organizations which offer only tax return preparation courses. The rule previously promulgated by the State College System Board of Directors and transferred to the Council by section six, article two-b, chapter eighteen-b of this code remains in effect until rescinded or amended by the Council.
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(1) All private training or educational institutions, schools or academies or other organizations shall apply for a permit from the Council on forms provided by the Council.

(2) Each initial application shall be accompanied by a nonrefundable fee of two thousand dollars. The Council also may assess an additional fee based on any additional expense required to evaluate the application.

(3) The Council shall make a determination on the initial permit application within ninety days after receipt of the application and fee.

(4) An applicant for an initial permit shall show proof at the time of filing an application that adequate facilities are available and ready for occupancy and that all instructional equipment, books and supplies and personnel are in place and ready for operation. A representative of the Council shall make an on-site visit to the facilities of all new applicants to confirm their readiness for operation prior to issuance of the initial permit if the facilities are located in West Virginia.

(5) A school is considered to be established under the provisions of this article on the date it first begins to operate lawfully. An established school is not required to reapply for a permit as a result of changes in governance; administration; ownership; or form of operation.

(6) After the first permit year, an annual fee of five hundred dollars is imposed on each school for each campus it operates in this state.

(d) Each application shall be accompanied by a surety bond in the penal sum of thirty-five thousand dollars for any school which has its physical facilities located in this state and which has operated in this state for at least ten years:
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(1) If the school has changed ownership within the last ten years by transfer of ownership control to a person who is a spouse, parent, sibling, child or grandchild of the previous owner, the surety bond shall continue in the penal sum of thirty-five thousand dollars.

(2) Any school which has operated in West Virginia for fewer than ten years, excluding those schools which have changed ownership within the last ten years as provided in subdivision (1) of this section, and any school located in another state which applies for a permit hereunder, shall provide a surety bond of fifty thousand dollars.

(3) Any school may be required to increase its bond to one hundred fifty thousand dollars if either of the following conditions apply:

(A) The school's accreditation is terminated for cause; or

(B) The school's institutional eligibility under the Higher Education Act of 1965, as amended, has been terminated for cause. Expiration, nonrenewal or voluntary relinquishment of accreditation or institutional eligibility under the Higher Education Act, or failure to meet the requirements of one or more programs under the Act, are not considered to be a termination for cause.

(4) Any school may be required to increase its bond to an amount not to exceed four hundred thousand dollars if, in accordance with the standards of the American Institute of Certified Public Accountants, the school's audited financial statements are qualified because the school's continued financial viability as an ongoing concern is in doubt and the Council determines an increased bond is reasonably necessary to protect the financial obligations legally due the students then enrolled at the institution.

(A) A school may be required to maintain the increased bonding requirements described above until all students attending classes at the date of termination either graduate or withdraw.
(B) The bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used in procuring the student's enrollment, failure of the school to meet contractual obligations, or failure of the school to meet the requirements of this section.

(C) The bond shall be given by the school itself as a blanket bond covering all of its representatives.

(D) The surety on a bond may cancel the same upon giving thirty days' notice in writing to the principal on the bond and to the state Council and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(e) A permit shall be valid for one year corresponding to the effective date of the bond and may be renewed upon application, accompanied by the required fee and the surety bond as herein required. All fees collected for the issuance or renewal of a permit shall be deposited in the State Treasury to the credit of the Council.

(f) The Council may refuse a permit to any school if the Council finds that the school engages in practices which are inconsistent with this section or with rules issued pursuant thereto.

(g) A permit issued hereunder may be suspended or revoked by the Council for fraud or misrepresentation in soliciting or enrolling students, for failure of the school to fulfill its contract with one or more students who are residents of West Virginia or for violation of or failure to comply with any provision of this section or with any regulation of the Council pertinent thereto.

(1) Before taking any action to suspend or revoke a school's permit, the Council shall give the school fifteen days' notice and convene a hearing, if a hearing is requested by the school.
(2) Prior to the Council taking any adverse action, including refusal, suspension or revocation of a permit, the Council shall give the school reasonable opportunity to take corrective measures.

(3) Any refusal, suspension or revocation of a permit, or any other adverse action against a school, shall comply with all constitutional provisions, including due process, relating to the protection of property rights.

(h) All correspondence, business, occupational or trade schools which have been issued a permit shall make annual reports to the Council on forms furnished by the Council and shall provide such appropriate information as the Council reasonably may require. All correspondence, business, occupational or trade schools which have been issued a permit shall furnish to the Council a list of its official representatives. Each school shall be issued a certificate of identification by the Council for each of its official representatives.

(i) The issuance of a permit pursuant to this section does not constitute approval or accreditation of any course or school. No school, nor any representative of a school, may make any representation stating, asserting or implying that a permit issued pursuant to this section constitutes approval or accreditation by the State of West Virginia, Council or any other department or agency of the state.

(j) The Council is hereby authorized to adopt rules and conduct on-site reviews to evaluate academic standards maintained by schools for the awarding of certificates, diplomas, associate degrees and specialized associate degrees.

(1) These standards may include curriculum, personnel, facilities, materials and equipment.

(2) For accredited correspondence, business, occupational and trade schools under permit on the first day of July, one thousand nine hundred seventy-nine, which have
their physical facilities located in this state and which are accredited by the appropriate nationally recognized accrediting agency or association approved by the United States Department of Education, the accrediting agency's standards, procedures and criteria are accepted as meeting applicable laws, standards and rules of the Council.

(3) Institutions which are institutionally accredited by accrediting agencies recognized by the United States Department of Education to establish academic standards for post-secondary education may offer post-secondary educational programs leading to certificates, diplomas and associate degrees and may award certificates, diplomas and associate degrees to graduates who successfully complete required programs in accordance with the academic standards required by such accrediting agency.

(4) If a review undertaken by the Council indicates there may be deficiencies in the academic standards the institution maintains in its educational programs and if such deficiencies are of such a material nature that they jeopardize continued accreditation, the Council shall notify the institution. If the Council and the institution are unable to agree on the deficiencies or the steps necessary to correct the deficiencies, the Council shall consult with the institution's accrediting agency regarding an academically appropriate resolution which may include a joint on-site review by the Council and the accrediting agency.

(5) The Council also may review the academic standards of unaccredited institutions and may require such institutions to maintain recognized academic standards that are reasonably appropriate to the nature of the institution and the training offered.

(k) The Council may authorize an investigation of written student complaints alleging a violation of this section, Council rules or accreditation standards and may
take appropriate action based on the findings of such an investigation.

(l) All evaluations or investigations of correspondence, business, occupational and trade schools and actions resulting from such evaluations or investigations shall be made in accordance with rules promulgated by the Council pursuant to article three-a, chapter twenty-nine-a of this code.

(m) In regard to private, proprietary educational institutions operating under this section of the code, accredited by a national or regional accrediting agency or association recognized by the United States Department of Education and which provide training at a campus located in this state:

(1) Any rule or standard which is authorized by this or any section of the code or other law and which is now in effect or promulgated hereafter by the Council (or other agency with jurisdiction) shall be clearly, specifically and expressly authorized by narrowly construed enabling law and shall be unenforceable and without legal effect unless authorized by an Act of the Legislature under the provisions of article three-a, chapter twenty-nine-a of this code.

(2) Notwithstanding any other provision of this section or other law to the contrary, the institution's accrediting agency standards, procedures and criteria shall be accepted as the standards and rules of the Council (or other agency with jurisdiction) and as meeting other law or legal requirements relating to the operation of proprietary institutions which such Council or other agency has the legal authority to enforce under any section of the code or other law. Nothing in this section denies students the use of remedies that would otherwise be available under state or federal consumer laws or federal law relating to federal college financial assistance programs.
(3) Accredited institutions operating hereunder are hereby recognized as postsecondary. Academic progress is measured and reported in credit hours and all reports/documents are filed on a credit-hour basis unless the institution notifies the Council that it utilizes clock hours as its unit of measurement.

(n) A representative of any school who solicits, sells or offers to sell courses of instruction to any resident of this state for consideration or remuneration unless the school first applies for a permit, or obtains a permit, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars per day per violation, or imprisoned in jail not more than sixty days, or both fined and imprisoned. No correspondence, business, occupational or trade school shall maintain an action in any court of this state to recover for services rendered pursuant to a contract solicited by the school if the school did not hold a valid permit at the time the contract was signed by any of the parties thereto. The Attorney General or any county prosecuting attorney, at the request of the Council or upon his or her own motion, may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of the provisions of this section relating to permits, bonds and sureties.

(o) In regard to institutions operating under this section, all substantive standards and procedural requirements established by the Council (or the West Virginia state program review entity or other agency with jurisdiction over institutions operating hereunder) shall meet all substantive and procedural standards of due process relating to the protection of an individual citizen's property rights as provided under the United States Constitution and shall follow the substantive standards and procedural requirements established by or under authority of this section.

ARTICLE 3. ADDITIONAL POWERS AND DUTIES OF RESEARCH, DOCTORAL GRANTING PUBLIC UNIVERSITIES.
§18B-3-1. Legislative findings, purpose; intent; definition.

(a) The Legislature finds that an effective and efficient system of doctoral-level education is vital to providing for the economic well-being of the citizens of West Virginia and for accomplishing established state goals and objectives. As the only research and doctoral-granting public universities in the state, Marshall University and West Virginia University are major assets to the citizens of West Virginia and must be an integral part of any plan to strengthen and expand the economy.

(b) The Legislature further finds that these two institutions must compete in both a national and global environment that is rapidly changing, while they continue to provide high quality education that is both affordable and accessible and remain accountable to the people of West Virginia for the most efficient and effective use of scarce resources.

(c) The Legislature further finds that Marshall University and West Virginia University, under the direction of their respective governing boards, have sufficient staff and internal expertise to manage operational governance of their institutions in an efficient and accountable manner and can best fulfill their public missions when their governing boards are given flexibility and autonomy sufficient to meet state goals established in this article and in section one-a, article one of this chapter.

(d) Therefore, the purposes of this article include, but are not limited to, the following:

1. Enhancing the competitive position of Marshall University and West Virginia University in the current environment for research and development;

2. Providing the governing boards of these institutions with operational flexibility and autonomy, including tools to promote economic development in West Virginia;
(3) Encouraging the development of research expertise in areas directly beneficial to the state; and

(4) Focusing the attention and resources of the governing boards on state goals and priorities to enhance the competitive position of the state and the economic, social and cultural well-being of its citizens.

(e) The following terms wherever used or referred to in this chapter have the following meaning, unless a different meaning plainly appears from the context:

(1) "State institution of higher education known as Marshall University" means the doctoral-granting research institution and does not include Marshall Community and Technical College; and

(2) "State institution of higher education known as West Virginia University" means the doctoral-granting research institution and does not include any of the following:

(A) The regional campus known as West Virginia University Institute of Technology;

(B) The administratively linked institution known as the Community and Technical College at West Virginia University Institute of Technology; and

(C) The regional campus known as West Virginia University at Parkersburg.

(f) The governing boards of Marshall University and West Virginia University each have the power and the obligation to perform functions, tasks and duties as prescribed by law and to exercise their authority and carry out their responsibilities in a manner that is consistent with and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the Higher Education Policy Commission.
(g) While the governing boards of Marshall University and West Virginia University, respectively, may choose to delegate powers and duties to the presidents of the state institutions of higher education known as Marshall University and West Virginia University pursuant to subsection (s), section four, article two-a of this chapter, ultimately, it is they who are accountable to the Legislature, the Governor and the citizens of West Virginia for meeting the established state goals set forth in this article and section one-a, article one of this chapter. Therefore, it is the intent of the Legislature that grants of operational flexibility and autonomy be made directly to the governing boards and are not grants of operational flexibility and autonomy to the presidents of these institutions.

§18B-3-2. Computer and computer equipment donation program.

Notwithstanding any other provision of this code to the contrary, the governing boards are authorized to create a program to donate surplus computers and computer-related equipment to education facilities, nonprofit organizations, juvenile detention centers, municipal and county public safety offices and other public, charitable or educational enterprises or organizations in this state.

(a) Only equipment which otherwise would be transferred to the Surplus Property Unit of the Purchasing Division may be donated;

(b) The governing boards shall keep records and accounts that clearly identify the equipment donated, the age of the equipment, the reasons for declaring it obsolete and the name of the education facility, nonprofit organization, juvenile detention center, municipal or county public safety office or other public, charitable or educational enterprise or organization to which the equipment was donated;

(c) Each governing board shall promulgate a rule in accordance with the provisions of section six, article one
of this chapter to implement the donation program. The rules shall specify the procedures to be used for record keeping and shall provide for fair and impartial selection of equipment recipients.

§18B-3-3. Relationship of governing boards to the Commission and the Council.

(a) Relationship between the Commission and the governing boards.

1. The Commission functions as a state-level coordinating board exercising its powers and duties in relation to the governing boards of Marshall University and West Virginia University only as specifically prescribed by law;

2. The primary responsibility of the Commission is to work collaboratively with the governing boards to research, develop and propose policy that will achieve the established goals and objectives set forth in this chapter and chapter eighteen-c of this code; and

3. The Commission has specific responsibilities which include, but are not limited to, the following:

   (A) Advocating for public higher education at the state level; and

   (B) Collecting and analyzing data, researching, developing recommendations, and advising the Legislature and the Governor on broad policy initiatives, use of incentive funding, national and regional trends in higher education and issues of resource allocation involving multiple governing boards.

(b) Relationship between the Council and the governing boards.

1. The Council maintains all powers and duties assigned to it by law or policy relating to the administratively linked institution known as Marshall Community and Technical College, the administratively linked institution...
known as the Community and Technical College at West Virginia University Institute of Technology and the regional campus known as West Virginia University at Parkersburg;

(2) In addition to recognizing the authority assigned by law to the Council, it is the responsibility of the governing boards of Marshall University and West Virginia University to exercise their authority and carry out their responsibilities in a manner that is consistent with and complementary to the powers and duties assigned by law or policy to the community and technical colleges or to the Council;

(3) It is further the responsibility of the governing boards to abide by the rules duly promulgated by the Council relating to the community and technical colleges, to strengthen the community and technical college mission of these institutions, to aid them in meeting the essential conditions set forth in section three, article three-c of this chapter and to promote them to students, parents and the community as independently accredited institutions in their own right.

(c) The governing boards shall work collaboratively with the Commission, the Council and their staff to provide any and all information requested by the Commission or the Council in an appropriate format and in a timely manner.

§18B-3-4. Duty of governing boards to address state priorities.

(a) The expertise of faculty and graduate students at the state institutions of higher education known as Marshall University and West Virginia University is important to every citizen of this state. It is the responsibility of the governing boards to channel this expertise into research and analysis that will yield measurable benefits to the citizens of West Virginia. Therefore, in addition to the goals for post-secondary education established in section one-a, article one of this chapter, and goals established
elsewhere in this code, it is the responsibility of the
governing boards in collaboration to concentrate attention
and resources on certain specific state priorities that have
a direct, positive impact on the economic, social and
cultural well being of the people of West Virginia. These
priorities include, but are not limited to, the following:

(1) Developing Regional Brownfield Assistance Centers
pursuant to section seven, article eleven of this chapter;

(2) Performing professional development-related
research and coordinating the delivery of professional
development to educators in the public schools of the state
pursuant to the provisions of article two, chapter eighteen
of this code;

(3) Building subject matter expertise in public school
finance, including mastery of the theories and concepts
used in developing formulas to provide state-level finan-
cial support to public education; and

(4) Researching and proposing cost-efficient methods to
the Legislature for governing boards other than Marshall
University and West Virginia University to dispose of
obsolete computers and computer-related equipment.

(b) The Legislature may, but is not required to, make
additional appropriations for the benefit of the state
institutions of higher education known as Marshall
University and West Virginia University to assist them in
fulfilling the purposes set forth in subsection (a) of this
section.

(c) In addition to the priorities established in subsection
(a) of this section, each governing board separately shall
focus resources and attention on improving their gradu-
ation rates for full-time undergraduate students as a
specific institutional priority. The graduation rate is
measured as a percentage of the undergraduate students
who obtain a degree within six years of the date of enroll-
The governing boards shall develop and implement plans to reach the following goals:

1. Marshall University shall attain a graduation rate for full-time undergraduate students of forty percent by the first day of July, two thousand eight, and shall attain a graduation rate for full-time undergraduate students of forty-five percent by the first day of July, two thousand ten.

2. West Virginia University shall attain a graduation rate for full-time undergraduate students of sixty percent by the first day of July, two thousand eight, and shall attain a graduation rate for full-time undergraduate students of sixty-three percent by the first day of July, two thousand ten.

3. The Commission shall monitor and report by the first day of December, two thousand five, and annually thereafter, to the Legislative Oversight Commission on Education Accountability on the progress of the governing boards toward meeting the goals set forth in subdivisions (1) and (2) of this subsection.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5. Campus police officers; appointment; qualifications; authority; compensation and removal.

(a) The governing boards may appoint bona fide residents of this state to serve as campus police officers upon any premises owned or leased by the State of West Virginia and under the jurisdiction of the governing boards, subject to the conditions and restrictions established in this section.

(1) A person who previously was qualified for employment as a law-enforcement officer for a state agency or political subdivision of the state is considered certified for appointment as a campus police officer at the state institutions of higher education under the jurisdiction of
the governing boards of Marshall University and West Virginia University.

(2) Before performing duties as a campus police officer in any county, a person shall qualify as required of county police officers by:

(A) Taking and filing an oath of office as required by article one, chapter six of this code; and

(B) Posting an official bond as required by article two, chapter six of this code.

(b) A campus police officer may carry a gun and any other dangerous weapon while on duty if the officer fulfills the certification requirement for law enforcement officers under section five, article twenty-nine, chapter thirty of this code or meets the requirements of subsection (a) of this section.

(c) It is the duty of a campus police officer to preserve law and order:

(1) On the premises under the jurisdiction of the governing board; and

(2) On any street, road or thoroughfare, except controlled access and open country highways, immediately adjacent to or passing through premises, to which the officer is assigned by the president of the state institution of higher education.

(A) For the purpose of this subdivision, the campus police officer is a law-enforcement officer pursuant to the provisions of section one, article twenty-nine, chapter thirty of this code.

(B) The officer has and may exercise all the powers and authority of a law-enforcement officer as to offenses committed within the area assigned;
(C) The officer is subject to all the requirements and responsibilities of a law-enforcement officer;

(D) Authority assigned pursuant to this subdivision does not supersede in any way the authority or duty of other law-enforcement officers to preserve law and order on such premises.

(E) Campus police officers may assist a local law-enforcement agency on public highways. The assistance may be provided to control traffic in and around premises owned by the state when:

(i) Traffic is generated as a result of athletic or other activities conducted or sponsored by a state institution of higher education; and

(ii) The assistance has been requested by the local law-enforcement agency.

(F) Campus police officers may assist a local law-enforcement agency in any location under the agency’s jurisdiction at the request of the agency.

(d) The salary of a campus police officer is paid by the appropriate governing board. Each state institution may furnish each campus police officer with a firearm and an official uniform to be worn while on duty. The institution shall furnish and require each officer while on duty to wear a shield with an appropriate inscription and to carry credentials certifying to the person’s identity and authority as a campus police officer.

(e) A governing board may at its pleasure revoke the authority of any campus police officer and such officers serve at the will and pleasure of the governing board. The president of the state institution shall report the termination of employment of a campus police officer by filing a notice to that effect in the office of the clerk of each county in which the campus police officer’s oath of office was filed.
§18B-4-5a. Crimes committed on campus of institutions of higher education.

(a) The president or a designee of each state institution of higher education shall on a regular and timely basis provide information to the public concerning alleged crimes occurring on the institution's property which have been reported to a campus police officer or any other officer of the institution.

(1) A crime is considered reported when:

(A) A campus police officer or other officer of the institution determines that the report is credible;

(B) The report is submitted in writing and attested to by the victim on forms at the institution for such purpose; or

(C) The institution is notified by a law-enforcement agency of the reporting of a crime alleged to have occurred on the institution's property.

(2) Such reports are referred within twenty-four hours to the appropriate law-enforcement agencies, as defined in section one, article twenty-nine, chapter thirty of this code, for further investigation.

(b) For the state institutions of higher education under the jurisdiction of the Governing Board of Marshall University and for the state institution of higher education known as West Virginia University only, the campus police shall investigate a crime within their respective jurisdictions for up to thirty days if the county prosecuting attorney does not reassign the case to another agency sooner.

(c) The information required to be made available to the public regarding the crime report shall be available within ten days of the report. The information shall include the nature of the criminal offense, the date of the offense, the general location of the offense (such as a designation of a
specific building or area of the campus) and the time of
day when the offense occurred.

(1) This subsection does not require the release of any
information which may disclose the identity of the victim.

(2) The institution shall withhold the information
required to be made available to the public for a longer
period upon certification of investigative need that the
information be withheld from the public.

(A) The certification shall be filed by an officer of one of
the investigating law-enforcement agencies with the
president of the institution or the designee to whom the
duties required by this section have been delegated.

(B) The required information may not be withheld after
an arrest has been made in connection with the crime
report.

(d) For purposes of this section, "crime" is defined as
those offenses required to be reported under the federal
Crime Awareness and Campus Security Act of 1990, as
amended. "Crime" includes murder, rape, robbery,
aggravated assault, burglary, motor vehicle theft and
arrests for liquor, drug or weapons laws violations.

(e) The Council and Commission shall provide crime
reporting forms to institutions under their respective
jurisdictions and promulgate a rule pursuant to the
provisions of article three-a, chapter twenty-nine-a of this
code as necessary to implement this section.

§18B-4-6. Acquisition, operation and regulation of parking
areas and facilities at state institutions of higher
education; regulation of parking, speed and flow
of traffic on campus roads and driveways; civil
and criminal penalties; disposition of revenue.

(a) The governing boards are hereby authorized to
construct, maintain and operate automobile parking
facilities or areas upon any premises owned or leased at
any state institution of higher education under their
jurisdiction for use by students, faculty, staff and visitors.
The governing boards may charge fees for use of the
parking facilities or areas under their control. All moneys
collected for the use of the parking facilities or areas shall
be paid to the credit of the state institution of higher
education at which the fees were charged into a special
fund in the State Treasury. The moneys in the fund are
used first to pay the cost of maintaining and operating the
parking facilities or areas.

Any excess not needed for this purpose may be used for
the acquisition of property by lease or purchase and the
construction thereon of additional parking facilities or
areas. Any money in the fund not needed immediately for
the acquisition, construction, maintenance or operation of
the parking facilities or areas may be temporarily invested
by the governing boards with the West Virginia Investment
Management Board to the credit of the institution by
which the fees were charged.

(b) Notwithstanding any other motor vehicle or traffic
law or regulation to the contrary, a governing board may
regulate and control at any state institution under its
jurisdiction the speed, flow and parking of vehicles on
campus roads, driveways and parking facilities or areas.

(1) Rules for this purpose shall be promulgated by the
governing boards in the manner prescribed in section six,
article one of this chapter; and

(2) When so promulgated, the rules have the force and
effect of law.

(3) The governing board shall post in a conspicuous
location in each parking facility or area, a summary of the
rules governing the use of the facility or area including,
but not limited to, the availability of temporary parking
permits and where these permits may be obtained and the penalties which may be imposed for violations of the rules.

(4) The governing board shall post in a conspicuous location along each campus road and driveway notice signs pertaining to the speed of vehicles, spaces available for parking, directional flow of traffic and penalties which may be imposed for violations of the rules.

(c) Any person parking or operating a vehicle in violation of the rules shall be issued a citation:

(1) Describing the offense charged;

(2) Ordering an appearance:

(A) Within ten days, excluding Saturdays, Sundays and holidays observed by the state institution, before a designated official of the institution;

(B) Before a magistrate located in the county if the person cited fails to appear within the ten days; or

(C) Before the judge of the municipal court, if the state institution is located within a municipality having such an official, and the person cited fails to appear within the ten days.

(d) The designated official of the state institution has exclusive jurisdiction of the offense during the ten-day period until the citations are forwarded to a magistrate.

For the state institutions of higher education under the jurisdiction of the Governing Board of Marshall University and for the state institution of higher education known as West Virginia University only, the designated official of the institution has exclusive jurisdiction of the offense for thirty days following the violation. After thirty days the official forwards the citation to a magistrate. Any person so cited may plead no contest to the offense and, by so pleading, is subject to a civil penalty to be determined uniformly by the designated official and commensurate with the severity of the offense. For the state institutions
71 under the jurisdiction of the Governing Board of Marshall
72 University and for the state institution of higher education
73 known as West Virginia University only, the amount
74 imposed may not exceed twenty dollars. For all other
75 institutions the amount may not exceed ten dollars, for
76 each offense as partial reimbursement to the state institu-
77 tion of higher education for the cost of regulating traffic
78 and parking. In the case of the state institutions under the
79 jurisdiction of the Governing Board of Marshall University
80 and in the case of the state institution of higher education
81 known as West Virginia University only, the designated
82 official shall determine the penalty uniformly, commensu-
83 rate with the severity of the offense, and may apply
84 academic restrictions in lieu of requiring a student to
85 appear in court and receive penalties otherwise provided
86 in this section. Moneys derived from civil penalties
87 imposed herein shall be deposited in the special fund in the
88 state treasury created by this section and credited to the
89 state institution to which the penalty was paid.
90 (e) Upon expiration of the ten-day or thirty-day period,
91 as applicable, or upon a pleading of not guilty before the
92 designated official of the state institution within the
93 applicable period, the magistrate or judge of the municipal
94 court has jurisdiction of the offense. Any person cited
95 under the provisions of this section, upon a finding of
96 guilty by the magistrate or municipal judge, is subject to
97 a fine for each offense by the state institutions under the
98 jurisdiction of the Governing Board of Marshall University
99 and for the state institution of higher education known as
100 West Virginia University only, of up to forty dollars, and
101 at all other state institutions not less than ten dollars nor
102 more than twenty dollars, the amount to be commensurate
103 with the severity of the offense.
104 (f) Each designated official of a state institution presid-
105 ing over a case under the provisions of this section shall
106 keep a record of every citation which alleges a violation of
107 such provisions, or the rules promulgated in accordance
therewith, and shall keep a record of every official action in reference thereto including, but not limited to, a record of every plea of no contest, conviction or acquittal, of the offense charged, and the amount of the fine or civil penalty resulting from each citation.

(g) Whenever a vehicle is parked on any state institution campus road, driveway or parking facility or area in a manner which violates posted rules and substantially impedes the flow of traffic or endangers the health and safety, the institution may, in addition to the issuing of a citation and subsequent procedures set forth herein, remove the vehicle, by towing or otherwise, to an area owned by the institution or areas designated for this purpose. The vehicle, having been towed to the designated area or areas, may be rendered immovable by use of locking wheel blocks or other device not damaging to the vehicle. The state institution of higher education shall maintain any vehicle so towed in the same condition as it was immediately prior to being towed, but shall not be liable for any damage to a vehicle towed to, or kept in, a designated area pursuant to the provisions of this section. The state institution of higher education shall pay for the cost of removing the vehicle and shall have a right to reimbursement from the owner for this cost and for the reasonable cost of keeping the vehicle in the designated area. Until payment of these costs, the state institution of higher education may retain possession of the vehicle and the institution shall have a lien on the vehicle for the amount due. The state institution of higher education may enforce this lien in the manner provided in section fourteen, article eleven, chapter thirty-eight of this code for the enforcement of other liens. For the state institutions of higher education under the jurisdiction of the Governing Board of Marshall University and for the state institution of higher education known as West Virginia University only, the provisions of this subsection also apply when a vehicle is subject to three or more unpaid citations.
If, at any time, Marshall Community and Technical College ceases to share a physical campus location with Marshall University, it may not be included as an institution under the jurisdiction of the governing board of Marshall University for the purposes of subsections (a), (d), (e) and (g) of this section.

§18B-4-7. Accreditation of institutions of higher education; standards for degrees.

The Council shall make rules for the accreditation of community and technical colleges in this state and shall determine the minimum standards for conferring degrees. The Commission shall make rules for the accreditation of colleges and universities in this state, except the governing boards of Marshall University and West Virginia University shall make rules for the state institutions of higher education known as Marshall University and West Virginia University, and shall determine the minimum standards for conferring degrees. The governing boards of Marshall University and West Virginia University shall promulgate rules pursuant to the provisions of section six, article one of this chapter for the accreditation of the state institutions of higher education known as Marshall University and West Virginia University. An institution of higher education may not confer any degree on any basis of work or merit below the minimum standards prescribed by the Council, Commission or the governing boards. Nothing in this section infringes upon the rights, including rights to award degrees, granted to any institution by charter given according to law, or by actions of the Council or Commission or their predecessors, prior to the effective date of this section. With the approval of the Commission, governing boards of institutions which currently offer substantial undergraduate course offerings and a master's degree in a discipline are authorized to grant baccalaureate degrees in that discipline.

Except as otherwise provided in this section, a charter or other instrument containing the right to confer degrees of
higher education status may not be granted by the State of
West Virginia to any institution, association or organiza-
tion within the state, nor may any such degree be awarded,
until the condition of conferring the degree has first been
approved in writing by the Council, Commission or
appropriate governing board.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

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

The governing boards, the Commission and the Council
are authorized and empowered to enter into contracts and
expend funds for programs, services and facilities pro-
vided by public and private education institutions, associ-
ations, boards, agencies, consortia, corporations, partner-
ships, individuals and local, state and federal governmen-
tal bodies within and outside of West Virginia in order
that maximum higher education opportunities of high
quality may be provided to the citizens of the state in the
most economical manner. In no event may a contract for
such services and facilities be entered into unless the
Commission, the Council or the governing boards have
determined that such services and facilities are necessary
and would be at a savings to the state.

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

(a) The Council, Commission and each governing board,
through the Vice Chancellor for Administration, shall
purchase or acquire all materials, supplies, equipment,
services and printing required for that governing board or
the Council or Commission, as appropriate, and the state
institutions of higher education under their jurisdiction,
except the governing boards of Marshall University and
West Virginia University, respectively, are subject to the
provisions of subsection (d) of this section.
(b) The Commission and Council jointly shall adopt rules governing and controlling acquisitions and purchases in accordance with the provisions of this section. The rules shall assure that the Council, Commission and governing boards:

(1) Do not preclude any person from participating and making sales thereof to the governing board or to the Council or Commission except as otherwise provided in section five of this article. Provision of consultant services such as strategic planning services will not preclude or inhibit the governing boards, Council or Commission from considering any qualified bid or response for delivery of a product or a commodity because of the rendering of those consultant services;

(2) Establish and prescribe specifications, in all proper cases, for materials, supplies, equipment, services and printing to be purchased;

(3) Adopt and prescribe such purchase order, requisition or other forms as may be required;

(4) Negotiate for and make purchases and acquisitions in such quantities, at such times and under contract, in the open market or through other accepted methods of governmental purchasing as may be practicable in accordance with general law;

(5) Advertise for bids on all purchases exceeding twenty-five thousand dollars, to purchase by means of sealed bids and competitive bidding or to effect advantageous purchases through other accepted governmental methods and practices;

(6) Post notices of all acquisitions and purchases for which competitive bids are being solicited in the purchasing office of the specified institution involved in the purchase, at least two weeks prior to making such purchases and ensure that the notice is available to the public during business hours;
(7) Provide for purchasing in the open market;

(8) Provide for vendor notification of bid solicitation and emergency purchasing;

(9) Provide that competitive bids are not required for purchases of twenty-five thousand dollars or less; and

(10) Provide for not fewer than three bids where bidding is required. If fewer than three bids are submitted, an award may be made from among those received.

(c) When a state institution of higher education submits a contract, agreement or other document to the Attorney General for approval as to form as required by this chapter the following conditions apply:

(1) "Form" means compliance with the Constitution and statutes of the State of West Virginia.

(2) The Attorney General does not have the authority to reject a contract, agreement or other document based on the substantive provisions therein or any extrinsic matter so long as there is compliance with the Constitution and statutes of this State.

(3) Within fifteen days of receipt, the Attorney General must notify the appropriate state institution of higher education in writing that the contract, agreement or other document is approved or disapproved as to form. If the contract, agreement or other document is disapproved as to form, the notice of disapproval must identify each defect that supports the disapproval.

(4) If the state institution elects to challenge the disapproval by filing a Writ of Mandamus or other action and prevails, then the Attorney General shall pay reasonable attorney fees and costs incurred.

(d) Pursuant to this subsection, the governing boards of Marshall University and West Virginia University, respectively, may:
(1) Purchase or acquire all materials, supplies, equipment, services and printing required for the governing board without approval from the Commission or the Vice Chancellor for Administration and may issue checks in advance to cover postage as provided in subsection (f) of this section;

(2) Make purchases from cooperative buying groups, consortia, the federal government or from federal government contracts if the materials, supplies, services, equipment or printing to be purchased is available from these groups and if this would be the most financially advantageous manner of making the purchase;

(3) Select and acquire by contract or lease all grounds, buildings, office space or other space, the rental of which is necessarily required by the governing board; and

(4) Use purchase cards under terms approved for the Commission, the Council and governing boards of state institutions of higher education and participate in any expanded program of use as provided in subsection (w) of this section.

(e) The governing boards shall adopt sufficient accounting and auditing procedures and promulgate and adopt appropriate rules subject to the provisions of section six, article one of this chapter to govern and control acquisitions, purchases, leases and other instruments for grounds, buildings, office or other space or lease-purchase agreements.

(f) The Council, Commission or each governing board, through the Vice Chancellor for Administration, may issue a check in advance to a company supplying postage meters for postage used by that board, the Council or Commission and by the state institutions of higher education under their jurisdiction.

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

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

(i) The Commission and Council also jointly shall adopt rules to prescribe qualifications to be met by any person who is to be employed as a buyer pursuant to this section. These rules shall require that a person may not be employed as a buyer unless that person, at the time of employment, either is:

(1) A graduate of an accredited college or university; or

(2) Has at least four years’ experience in purchasing for any unit of government or for any business, commercial or industrial enterprise.
(j) Any person making purchases and acquisitions pursuant to this section shall execute a bond in the penalty of fifty thousand dollars, payable to the State of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, in form prescribed by the Attorney General and conditioned upon the faithful performance of all duties in accordance with this section and sections five through eight, inclusive, of this article and the rules of the governing board and the Council and Commission. In lieu of separate bonds for such buyers, a blanket surety bond may be obtained. Any such bond shall be filed with the Secretary of State. The cost of any such bond shall be paid from funds appropriated to the applicable governing board or the Council or Commission.

(k) All purchases and acquisitions shall be made in consideration and within limits of available appropriations and funds and in accordance with applicable provisions of article two, chapter five-a of this code relating to expenditure schedules and quarterly allotments of funds. Notwithstanding any other provision of this code to the contrary, only those purchases exceeding the dollar amount for competitive sealed bids in this section are required to be encumbered and they may be entered into the state's centralized accounting system by the staff of the Commission, Council or governing boards to satisfy the requirements of article two, chapter five-a of this code and specifically sections twenty-six, twenty-seven and twenty-eight of said article to determine whether the amount of the purchase is within the Commission's, Council's or governing board's quarterly allotment, is in accordance with the approved expenditure schedule and otherwise conforms to the provisions of said article.

(l) The governing boards, Council and Commission may make requisitions upon the Auditor for a sum to be known as an advance allowance account, not to exceed five percent of the total of the appropriations for the governing
board, Council or Commission, and the Auditor shall draw a warrant upon the Treasurer for such accounts. All advance allowance accounts shall be accounted for by the applicable governing board or the Council or Commission once every thirty days or more often if required by the State Auditor.

(m) Contracts entered into pursuant to this section shall be signed by the applicable governing board or the Council or Commission in the name of the state and shall be approved as to form by the Attorney General. A contract which requires approval as to form by the Attorney General is considered approved if the Attorney General has not responded within fifteen days of presentation of the contract. A contract or a change order for that contract and notwithstanding any other provision of this code to the contrary, associated documents such as performance and labor/material payments, bonds and certificates of insurance which use terms and conditions or standardized forms previously approved by the Attorney General and do not make substantive changes in the terms and conditions of the contract do not require approval as to form by the Attorney General. The Attorney General shall make a list of those changes which he or she considers to be substantive and the list, and any changes thereto, shall be published in the State Register. A contract that exceeds the dollar amount requiring competitive sealed bids in this section shall be filed with the State Auditor. If requested to do so, the governing boards, Council or Commission shall make all contracts available for inspection by the State Auditor. The governing board, Council or Commission, as appropriate, shall prescribe the amount of deposit or bond to be submitted with a bid or contract, if any, and the amount of deposit or bond to be given for the faithful performance of a contract.

(n) If the governing board, Council or Commission purchases or contracts for materials, supplies, equipment, services and printing contrary to the provisions of sections

222 four through seven of this article or the rules pursuant
223 thereto, such purchase or contract is void and of no effect.

224 (o) Any governing board or the Council or Commission,
225 as appropriate, may request the Director of purchases to
226 make available, from time to time, the facilities and
227 services of that department to the governing boards,
228 Council or Commission in the purchase and acquisition of
229 materials, supplies, equipment, services and printing and
230 the director of purchases shall cooperate with that govern-
231 ing board, Council or Commission, as appropriate, in all
232 such purchases and acquisitions upon such request.

233 (p) Each governing board or the Council or Commission,
234 as appropriate, shall permit private institutions of higher
235 education to join as purchasers on purchase contracts for
236 materials, supplies, services and equipment entered into by
237 that governing board or the Council or Commission. Any
238 private school desiring to join as purchasers on such
239 purchase contracts shall file with that governing board or
240 the Council or Commission an affidavit signed by the
241 president of the institution of higher education or a
242 designee requesting that it be authorized to join as pur-
243 chaser on purchase contracts of that governing board or
244 the Council or Commission, as appropriate. The private
245 school shall agree that it is bound by such terms and
246 conditions as that governing board or the Council or
247 Commission may prescribe and that it will be responsible
248 for payment directly to the vendor under each purchase
249 contract.

250 (q) Notwithstanding any other provision of this code to
251 the contrary, the governing boards, Council and Commis-
252 sion, as appropriate, may make purchases from coopera-
253 tive buying groups, consortia, the federal government or
254 from federal government contracts if the materials,
255 supplies, services, equipment or printing to be purchased
256 is available from cooperative buying groups, consortia, the
257 federal government or from a federal contract and pur-
258 chasing from the cooperative buying groups, consortia,
federal government or from a federal government contract would be the most financially advantageous manner of making the purchase.

- An independent performance audit of all purchasing functions and duties which are performed at any state institution of higher education, except Marshall University and West Virginia University, shall be performed each fiscal year. The Joint Committee on Government and Finance shall conduct the performance audit and the governing boards, Council and Commission, as appropriate, are responsible for paying the cost of the audit from funds appropriated to the governing boards, Council or Commission.

  1. The governing boards of Marshall University and West Virginia University, respectively, shall provide for independent performance audits of all purchasing functions and duties on their campuses at least once in each three-year period.

  2. Each audit shall be inclusive of the entire time period that has elapsed since the date of the preceding audit.

  3. Copies of all appropriate documents relating to any audit performed by the governing boards of Marshall University and West Virginia University shall be furnished to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability within thirty days of the date the audit report is completed.

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

- Consultant services, such as strategic planning services, may not preclude or inhibit the governing boards,
Council or Commission from considering any qualified bid
or response for delivery of a product or a commodity
because of the rendering of those consultant services.

(u) After the Commission or Council, as appropriate, has
granted approval for lease-purchase arrangements by the
governing boards, a governing board may enter into
lease-purchase arrangements for capital improvements,
including equipment, except the governing boards of
Marshall University and West Virginia University may
enter into lease-purchase arrangements for the state
institutions of higher education known as Marshall
University and West Virginia University without seeking
the approval of the Commission or the Council. Any
lease-purchase arrangement so entered shall constitute a
special obligation of the State of West Virginia. The
obligation under a lease-purchase arrangement so entered
may be from any funds legally available to the institution
and must be cancelable at the option of the governing
board or institution at the end of any fiscal year. The
obligation, any assignment or securitization thereof, never
constitutes an indebtedness of the State of West Virginia
or any department, agency or political subdivision thereof,
within the meaning of any constitutional provision or
statutory limitation, and may not be a charge against the
general credit or taxing powers of the state or any political
subdivision thereof. Such facts shall be plainly stated in
any lease-purchase agreement. Further, the
lease-purchase agreement shall prohibit assignment or
securitization without consent of the lessee and the
approval of the agreement as to form by the Attorney
General of West Virginia. Proposals for any arrangement
must be requested in accordance with the requirements of
this section and any rules or guidelines of the Commission
and Council. In addition, any lease-purchase agreement
which exceeds one hundred thousand dollars total shall be
approved as to form by the Attorney General of West
Virginia. The interest component of any lease-purchase
obligation is exempt from all taxation of the State of West
Virginia, except inheritance, estate and transfer taxes. It is the intent of the Legislature that if the requirements set forth in the Internal Revenue Code of 1986, as amended, and any regulations promulgated pursuant thereto are met, the interest component of any lease-purchase obligation also is exempt from the gross income of the recipient for purposes of federal income taxation and may be designated by the governing board or the president of the institution as a bank-qualified obligation.

(v) Notwithstanding any other provision of this code to the contrary, the Commission, Council and governing boards have the authority, in the name of the state, to lease, or offer to lease, as lessee, any grounds, buildings, office or other space in accordance with this paragraph and as provided below:

(1) The Commission, Council and governing boards have sole authority to select and to acquire by contract or lease all grounds, buildings, office space or other space, the rental of which is necessarily required by the Commission, Council or governing boards for the institutions under their jurisdiction. For state institutions of higher education other than Marshall University and West Virginia University, the Chief Executive Officer of the Commission, Council or an institution shall certify the following:

(A) That the grounds, buildings, office space or other space requested is necessarily required for the proper function of the Commission, Council or institution;

(B) That the Commission, Council or institution will be responsible for all rent and other necessary payments in connection with the contract or lease; and

(C) That satisfactory grounds, buildings, office space or other space is not available on grounds and in buildings currently owned or leased by the Commission, Council or the institution.
Before executing any rental contract or lease, the Commission, Council or a governing board shall determine the fair rental value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall contract for or lease the premises at a price not to exceed the fair rental value.

(2) The Commission, Council and governing boards are authorized to enter into long-term agreements for buildings, land and space for periods longer than one fiscal year but not to exceed forty years. Any purchase of real estate, any lease-purchase agreement and any construction of new buildings or other acquisition of buildings, office space or grounds resulting therefrom, pursuant to the provisions of this subsection shall be presented by the Commission or Council, as appropriate, to the Joint Committee on Government and Finance for prior review. Any such lease shall contain, in substance, all the following provisions:

(A) That the Commission, Council or governing board, as lessee, has the right to cancel the lease without further obligation on the part of the lessee upon giving thirty days' written notice to the lessor at least thirty days prior to the last day of the succeeding month;

(B) That the lease is considered canceled without further obligation on the part of the lessee if the Legislature or the federal government fails to appropriate sufficient funds therefor or otherwise acts to impair the lease or cause it to be canceled; and

(C) That the lease is considered renewed for each ensuing fiscal year during the term of the lease unless it is canceled by the Commission, Council or governing board before the end of the then-current fiscal year.

(3) The Commission, Council or institution which is granted any grounds, buildings, office space or other space leased in accordance with this section may not order or
(A) Appropriate use of the purchasing card system;

(B) Full compliance with the provisions of article three, chapter twelve of this code relating to the purchasing card program; and

(C) Sufficient accounting and auditing procedures for all purchasing card transactions.

By the first day of November, two thousand four, the Council and Commission jointly shall present the procedures to the Legislative Oversight Commission on Education Accountability for its adoption.

Notwithstanding any other provision of this code to the contrary, if the Legislative Oversight Commission on Education Accountability adopts the procedures, the Council, Commission, and any institution authorized pursuant to subdivision (4) of this subsection, may use purchasing cards for:

(A) Travel expenses directly related to the job duties of the traveling employee, including fuel and food; and

(B) Any routine, regularly scheduled payment, including, but not limited to, utility payments and real property rental fees. The Council, Commission and each institution, annually by the thirtieth day of June, shall provide to the State Purchasing Division a list of all goods or services for which payment was made pursuant to this provision during that fiscal year.

The Commission and Council each shall evaluate the capacity of each institution under its jurisdiction for complying with the procedures established pursuant to subdivision (3) of this subsection. The Commission and Council each shall authorize expanded use of purchasing cards pursuant to said subdivision for any such institution it determines has the capacity to comply.

§18B-5-7. Disposition of obsolete and unusable equipment, surplus supplies and other unneeded materials.
make permanent changes of any type thereto, unless the
Commission, Council or governing board, as appropriate,
has first determined that the change is necessary for the
proper, efficient and economically sound operation of the
institution. For purposes of this section, a "permanent
change" means any addition, alteration, improvement,
remodeling, repair or other change involving the expendi-
ture of state funds for the installation of any tangible
thing which cannot be economically removed from the
grounds, buildings, office space or other space when
vacated by the institution.

(4) Leases and other instruments for grounds, buildings,
office or other space, once approved by the Commission,
Council or governing board, may be signed by the Chief
Executive Officer of the Commission, Council or institu-
tion. Any lease or instrument exceeding one hundred
thousand dollars annually shall be approved as to form by
the Attorney General. A lease or other instrument for
grounds, buildings, office or other space that contains a
term, including any options, of more than six months for
its fulfillment shall be filed with the State Auditor.

(5) The Commission and Council jointly may promulgate
rules they consider necessary to carry out the provisions of
this section. The governing boards of Marshall University
and West Virginia University shall promulgate rules
pursuant to section six, article one of this chapter to
implement the provisions of this section.

(w) Purchasing card use may be expanded by the Coun-
cil, Commission and state institutions of higher education
pursuant to the provisions of this subsection.

(1) The Council and Commission jointly shall establish
procedures to be implemented by the Council, Commission
and any institution under their respective jurisdictions
using purchasing cards. The procedures shall ensure that
each maintains:
1 (a) The Commission, the Council and the governing boards shall dispose of obsolete and unusable equipment, surplus supplies and other unneeded materials, either by transfer to other governmental agencies or institutions, by exchange or trade, or by sale as junk or otherwise. The Commission, the Council and each governing board shall adopt rules governing and controlling the disposition of all such equipment, supplies and materials.

9 (1) At least ten days prior to the disposition, the Commission, the Council or the governing boards, as applicable, shall advertise, by newspaper publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, in the county in which the equipment, supplies and materials are located, the availability or sales of such disposable equipment, supplies and materials.

17 (2) The Commission, the Council or governing boards, as applicable, may sell the disposable equipment, supplies and materials, in whole or in part, at public auction or by sealed bid, or may transfer, exchange or trade the same to other governmental agencies or institutions (if by transfer, exchange or trade, then without advertising), in whole or in part, as sound business practices may warrant under existing circumstances and conditions.

25 (3) The requirements set forth in subsection (a) of this section apply to Marshall University and West Virginia University relating only to those items of obsolete and unusable equipment, surplus supplies and other unneeded materials that exceed five thousand dollars in recorded net book value. Marshall University and West Virginia University may dispose of obsolete and unusable computers and computer-related equipment pursuant to the provisions of section two, article three of this chapter.

34 (b) The Commission, Council or governing board, as appropriate, except for Marshall University and West Virginia University, shall report annually to the Legisla-
(1) The report shall include a description of the commodities sold, the name of the buyer to whom each commodity was sold, and the price paid by the buyer.

(2) Marshall University and West Virginia University shall report biennially to the Legislative Auditor the total sales of commodities made during the preceding biennium along with the total recorded net book value of such commodities.

(c) The proceeds of sales or transfers shall be deposited in the State Treasury to the credit on a pro rata basis of the fund or funds from which the purchase of the particular commodities or expendable commodities was made.


(a) The governing boards of Marshall University and West Virginia University each shall ensure the fiscal integrity of its operations using best business and management practices.

(1) The practices include at least the following:

(A) Complying with Generally Accepted Accounting Principles of the Governmental Accounting Standards Board (GAAP); and the Generally Accepted Government Auditing Standards of the Government Accountability Office (GAGAS);

(B) Operating without material weakness in internal controls as defined by GAAP, GAGAS and, where applica-
ble, the Office of Management and Budget (OMB) Circular A-133;

(C) Maintaining annual audited financial statements with an unqualified opinion;

(D) Presenting annual audited financial statements to the respective governing board;

(E) Maintaining quarterly financial statements certified by the chief financial officer of the institution, and

(F) Implementing best practices from Sarbanes-Oxley, or adopting the applicable tenets of Sarbanes-Oxley as best practices.

(2) Marshall University, West Virginia University and the research corporation of each:

(A) Shall comply with the OMB Circular A-133 annual grant award audit requirements; and

(B) Is exempt from the provisions of section fourteen, article four, chapter twelve of this code.

(3) Within thirty days of the completion of the financial audit report, the governing boards of Marshall University and West Virginia University each shall furnish to the Commission, the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance copies of the annual audited financial statements.

(b) The Commission or Council, as appropriate, shall ensure the fiscal integrity of any electronic process conducted at its offices and at all other institutions using best business and management practices.

(c) Marshall University, West Virginia University, the Council and the Commission each shall implement a process whereby, to the maximum extent practicable, employees of Marshall University, West Virginia Univer-
sity, the Council, Commission and all other state institutions of higher education receive their wages via electronic transfer or direct deposit.

(d) Notwithstanding the provisions of section ten-a, article three, chapter twelve of this code, and except as otherwise provided in this subsection, the amount of any purchase made with a purchasing card used by the Council, the Commission or any other state institution of higher education may not exceed five thousand dollars.

(1) Subject to approval of the Auditor, any emergency payment and any routine, regularly scheduled payment, including, but not limited to, utility payments, contracts and real property rental fees, may exceed this limit by an amount to be determined by the Auditor.

(2) The Council, Commission and any state institution of higher education may use a purchasing card for travel expenses directly related to the job duties of the traveling employee. Where approved by the auditor, such expenses may exceed five thousand dollars by an amount to be determined by the auditor. Traveling expenses may include registration fees and airline and other transportation reservations, if approved by the president of the institution. Traveling expenses may not include fuel or food purchases except, the state institutions of higher education known as Marshall University and West Virginia University may include in traveling expenses the purchase of fuel and food.

(3) The state institutions known as Marshall University and West Virginia University each shall maintain one purchasing card for use only in a situation declared an emergency by the institution's president. The Council, Commission and all other institutions shall maintain one purchase card for use only in a situation declared an emergency by the president of the institution and approved by the appropriate chancellor. Emergencies may include, but are not limited to, partial or total destruction
of a campus facility; loss of a critical component of utility infrastructure; heating, ventilation or air condition failure in an essential academic building; loss of campus road, parking lot or campus entrance; or a local, regional, or national emergency situation that has a direct impact on the campus.

(e) Notwithstanding the provisions of section ten-f, article three, chapter twelve of this code, or any other provision of this code or law to the contrary, the Auditor shall accept any receiving report submitted in a format utilizing electronic media. The Auditor shall conduct any audit or investigation of the Council, Commission or any institution at its own expense and at no cost to the Council, Commission or institution.

(f) The Council and the Commission each shall maintain a rule in accordance with the provisions of article three-a, chapter twenty-nine-a of this code. The rule shall provide for institutions individually or cooperatively to maximize their use of any of the following purchasing practices that are determined to provide a financial advantage:

(1) Bulk purchasing;
(2) Reverse bidding;
(3) Electronic marketplaces; and
(4) Electronic remitting.

(g) Each institution shall establish a consortium with at least one other institution, in the most cost-efficient manner feasible, to consolidate the following operations and student services:

(1) Payroll operations;
(2) Human resources operations;
(3) Warehousing operations;
(4) Financial transactions;
(5) Student financial aid application, processing and disbursement;
(6) Standard and bulk purchasing; and
(7) Any other operation or service appropriate for consolidation as determined by the Council or Commission.

(h) An institution may charge a fee to each institution for which it provides a service or performs an operation. The fee rate shall be in the best interest of both the institution being served and the providing institution, as approved by the Council and Commission.

(i) Any community and technical college, college and university may provide the services authorized by this section for the benefit of any governmental body or public or private institution.

(j) Each institution shall strive to minimize its number of low-enrollment sections of introductory courses. To the maximum extent practicable, institutions shall use distance learning to consolidate the course sections. Marshall University, West Virginia University, the Council and Commission shall report the progress of reductions as requested by the Legislative Oversight Commission on Education Accountability.

(k) An institution shall use its natural resources and alternative fuel resources to the maximum extent feasible. The institution:

(1) May supply the resources for its own use and for use by any other institution;
(2) May supply the resources to the general public at fair market value;
(3) Shall maximize all federal or grant funds available for research regarding alternative energy sources; and
(4) May develop research parks to further the purpose of this section and to expand the economic development opportunities in the state.

(1) Any cost-savings realized or fee procured or retained by an institution pursuant to implementation of the provisions of this section is retained by the institution.

(m) The provisions of subsection (b) of this section do not apply to the state institutions known as Marshall University and West Virginia University. Each is authorized, but not required, to comply with the provisions of subsections (f), (g) and (h) of this section.

(1) The governing boards of Marshall University and West Virginia University, respectively, each shall promulgate a rule on purchasing procedures pursuant to the provisions of section six, article one of this chapter. Neither institution is subject to the rules required by subsection (f) of this section.

(2) If either governing board elects to implement the provisions of said subsection (g) of this section, the following conditions apply:

(A) The governing board makes the determination regarding any additional operation or service which is appropriate for consolidation without input from the Council or Commission;

(B) The governing board sets the fee charged to any institution for which it provides a service or performs an operation. The fee rate shall be in the best interest of both the institution being served and the providing institution, but it is not subject to approval by the Council or Commission; and

(C) The governing board may not implement the provisions of this subdivision in a manner which supercedes the requirements established in section twelve, article three-c of this chapter.
§18B-5-10. Medical professional liability insurance and risk management functions.

(a) The Legislature finds that, while recent reforms have helped to address the rising costs and limited availability of medical malpractice and risk management insurance in West Virginia, the state’s doctoral-granting research universities and their medical schools continue to face significant challenges related to the cost and operation of insurance and risk management programs.

(b) The Legislature further finds that the availability of cost-efficient insurance and risk management programs is essential to the long-term financial integrity and viability of these universities and their medical and other health professional schools.

(c) It is the responsibility of the Legislature to make the best use of available resources and to assure the availability of high quality medical education to meet the needs of the citizens of the state.

(d) Therefore, to aid the medical and other health professional schools in meeting these goals and objectives, the following program is authorized:

(1) Upon the agreement of the West Virginia State Board of Risk and Insurance Management, the health professionals schools under the jurisdiction of the governing boards of Marshall University, West Virginia University and the West Virginia School of Osteopathic Medicine, respectively, may participate, separately, in a self-insurance retention program in conjunction with the state insurance program administered by the West Virginia State Board of Risk and Insurance Management to provide medical professional liability coverage to its health care professionals and students.

(2) In administering the self-insurance retention program, each governing board has the authority to adminis-
Section (c) Notwithstanding the provisions of article twelve, chapter twenty-nine of this code, the West Virginia State Board of Risk and Insurance Management is hereby authorized and empowered to enter into separate agreements with the health professionals schools under the jurisdiction of the governing boards of Marshall University, West Virginia University, and the West Virginia School of Osteopathic Medicine, respectively, to develop and implement a self-insurance retention program for medical professional liability insurance.

(f) Prior to the implementation of any self-insurance retention program, the governing boards of Marshall University, West Virginia University, and the West Virginia School of Osteopathic Medicine, respectively, shall submit the proposed program plan to the state Insurance Commissioner for review:

1. The review shall include, but is not limited to, claims handling procedures, investment policies, and reserving practices.

2. A governing board may not implement a plan until it has been reviewed by the state Insurance Commissioner.

(g) The Insurance Commissioner and Board of Risk and Insurance Management each may promulgate an emergency rule as necessary pursuant to the provisions of article three, chapter twenty-nine-a of this code, to specify further the requirements of self-insurance retention programs under this section.

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

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

(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories
of students enrolling at each state institution of higher education under its jurisdiction and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

(1) Tuition and required educational and general fees;
(2) Auxiliary and auxiliary capital fees; and
(3) Required educational and general capital fees.

(b) An institution may establish a single special revenue account for each of the following classifications of fees:

(1) All tuition and required educational and general fees collected;
(2) All auxiliary and auxiliary capital fees collected; and
(3) All required educational and general capital fees collected to support existing system wide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.

(4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from such accounts, an institution may expend funds from each such special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.

(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition and fees may be used to finance a student's attorney to perform legal services for students in civil matters at the institutions: Provided, that the legal services are limited only to those types of cases, programs or services approved by the administrative head of the institution where the legal services are to be performed.
(d) The Commission and Council jointly shall propose a rule for legislative approval in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to govern the fixing, collection and expenditure of tuition and other fees.

(e) The Legislature finds that an emergency exists and, therefore, the Commission and Council jointly shall file the rule required by subsection (d) of this section as an emergency rule pursuant to the provisions of article three-a, chapter twenty-nine-a of this code, subject to the prior approval of the Legislative Oversight Commission on Education Accountability.

(f) The schedule of all tuition and fees, and any changes therein, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the Commission or Council, or both, as appropriate, and the Legislative Auditor a certified copy of such schedule and changes.

(g) The boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term.

(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

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

(h) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:
(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term. All fees shall be paid prior to the awarding of course credit at the end of the academic term.

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

(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis if the finances of a student are affected adversely.

(4) The Commission and Council jointly shall propose a rule in accordance with the provisions of article three-a, chapter twenty-nine-a of this code, defining conditions under which an institution may offer tuition and fee deferred payment plans through the institution or through third parties.

(5) An institution may charge interest or fees for any deferred or installment payment plans.

(i) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

(j) Institutions shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rule proposed by the Commis-
sion and Council jointly pursuant to this section. The tuition rule shall:

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

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

(3) Provide that a board of governors may propose to the Commission, Council or both, as appropriate, a mandatory auxiliary fee under the following conditions:

(A) The fee shall be approved by the Commission, Council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

(B) Increases may not exceed previous state subsidies by more than ten percent;

(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee is implemented;

(E) The Commission, Council or both, as appropriate, shall certify to the Legislature by the first day of October in the fiscal year following implementation of the fee, and annually thereafter, the amount of fees collected for each of the five years;

(4) Establish methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for community and technical college students in all independently accredited community and technical colleges will be
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139 commensurate with the tuition and fees charged by their
140 peer institutions.
141 (k) A penalty may not be imposed by the Commission or
142 Council upon any institution based upon the number of
143 nonresidents who attend the institution unless the Com-
144 mission or Council determines that admission of nonresi-
145 dents to any institution or program of study within the
146 institution is impeding unreasonably the ability of resident
147 students to attend the institution or participate in the
148 programs of the institution. The institutions shall report
149 annually to the Commission or Council on the numbers of
150 nonresidents and such other enrollment information as the
151 Commission or Council may request.
152 (l) Tuition and fee increases of the governing boards,
153 except for the governing boards of the state institutions of
154 higher education known as Marshall University and West
155 Virginia University, are subject to rules adopted by the
156 Commission and Council jointly pursuant to this section
157 and in accordance with the provisions of article three-a,
158 chapter twenty-nine-a of this code.
159 (1) Subject to the provisions of subdivision (4) of this
160 subsection, a governing board of an institution under the
161 jurisdiction of the Commission may propose tuition and
162 fee increases of up to nine and one-half percent for
163 undergraduate resident students for any fiscal year. The
164 nine and one-half percent total includes the amount of
165 increase over existing tuition and fees, combined with the
166 amount of any newly established, specialized fee which
167 may be proposed by a governing board.
168 (2) A governing board of an institution under the juris-
169 diction of the Council may propose tuition and fee in-
170 creases of up to four and three quarters percent for
171 undergraduate resident students for any fiscal year. The
172 four and three-quarters percent total includes the amount
173 of increase over existing tuition and fees, combined with
the amount of any newly established, specialized fee which
may be proposed by a governing board.

(3) The Commission or Council, as appropriate, shall
examine individually each request from a governing board
for an increase.

(4) The governing boards of Marshall University and
West Virginia University, as these provisions relate to the
state institutions of higher education known as Marshall
University and West Virginia University, each may
annually:

(A) Increase tuition and fees for undergraduate resident
students to the maximum allowed by this section without
seeking approval from the Commission; and

(B) Set tuition and fee rates for post-baccalaureate
resident students and for all nonresident students, includ-
ing establishing regional tuition and fee rates, reciprocity
agreements or both.

(C) The provisions of this subdivision do not apply to
tuition and fee rates of the administratively linked institu-
tion known as Marshall Community and Technical College,
the administratively linked institution known as the
Community and Technical College at West Virginia
University Institute of Technology and the regional
campuses known as West Virginia University Institute of
Technology and West Virginia University at Parkersburg.

(5) Any proposed tuition and fee increase for state
institutions of higher education other than the state
institutions of higher education known as Marshall
University and West Virginia University requires the
approval of the Commission or Council, as appropriate. In
determining whether to approve or deny the governing
board’s request, the Commission or Council shall deter-
mine the progress the institution has made toward meeting
the conditions outlined in this subdivision and shall make
this determination the predominate factor in its decision.
The Commission or Council shall consider the degree to which each institution has met the following conditions:

(A) Has maximized resources available through nonresident tuition and fee charges to the satisfaction of the Commission or Council;

(B) Is consistently achieving the benchmarks established in the compact of the institution pursuant to the provisions of article one-a of this chapter;

(C) Is continuously pursuing the statewide goals for post-secondary education and the statewide compact established in articles one and one-a of this chapter;

(D) Has demonstrated to the satisfaction of the Commission or Council that an increase will be used to maintain high-quality programs at the institution;

(E) Has demonstrated to the satisfaction of the Commission or Council that the institution is making adequate progress toward achieving the goals for education established by the southern regional education board; and

(F) To the extent authorized, will increase by up to five percent the available tuition and fee waivers provided by the institution. The increased waivers may not be used for athletics.

This section does not require equal increases among institutions or require any level of increase at an institution.

§18B-10-5. Fee waivers – Undergraduate schools.

Each governing board periodically may establish fee waivers for students in undergraduate studies at institu-
tions under its jurisdiction entitling recipients to waiver of
 tuition, capital and other fees subject to the following
 conditions and limitations:

(a) Undergraduate fee waivers established by the
governing boards of Marshall University and West Vir-
ginia University, respectively, for the state institutions of
higher education known as Marshall University and West
Virginia University, are subject to the provisions of section
six–a of this Article;

(b) For the governing boards of state institutions of
higher education other than the state institutions of higher
education known as Marshall University and West Vir-
ginia University, the following conditions apply:

(1) An institution may not have in effect at any time a
number of undergraduate fee waivers which exceeds five
percent of the number of full-time equivalent undergradu-
ate students registered during the fall semester of the
immediately preceding academic year.

(2) Each undergraduate fee waiver entitles the recipient
thereof to attend a designated state institution of higher
education without payment of the tuition, capital and
other fees as may be prescribed by the governing board
and is for a period of time not to exceed eight semesters of
undergraduate study.

(3) The governing board shall make rules pursuant to the
provisions of section six, article one of this chapter,
governing the award of undergraduate fee waivers; the
issuance and cancellation of certificates entitling the
recipients to the benefits thereof; the use of the fee waivers
by the recipients; and the rights and duties of the recipi-
ents with respect to the fee waivers. These rules may not
be inconsistent with the provisions of this section.

(4) The awarding of undergraduate fee waivers shall be
entered in the minutes of the meetings of the governing
board.
(5) Students enrolled in an administratively-linked community and technical college shall be awarded a proportionate share of the total number of undergraduate fee waivers awarded by a governing board. The number to be awarded to students of the community and technical college is based upon the full-time equivalent enrollment of that institution.

§18B-10-6. Fee waivers – Professional and graduate schools.

In addition to the fee waivers authorized for undergraduate study by the provisions of section five of this article, each governing board periodically may establish fee waivers for study in graduate and professional schools under its jurisdiction, including medicine and dentistry, entitling the recipients to waiver of tuition, capital, and other fees, subject to the following conditions and limitations:

(a) Graduate and professional fee waivers established by the governing boards of Marshall University and West Virginia University, respectively, are subject to the provisions of section six-a of this Article;

(b) For the governing boards of state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University, the following conditions apply:

(1) An institution may not have in effect at any time a number of graduate and professional school fee waivers which exceeds five percent of the number of full-time equivalent graduate and professional students registered during the corresponding fall semester, spring semester and summer term of the immediately preceding academic year. In addition to the above five percent, all graduate assistants employed by these institutions shall be granted a fee waiver.

(2) Each graduate or professional school fee waiver entitles the recipient to waiver of the tuition, capital and
other fees as may be prescribed by the governing boards and is for a period of time not to exceed the number of semesters normally required in the recipient's academic discipline.

(3) The governing boards shall make rules pursuant to the provisions of section six, article one of this chapter, governing the award of graduate and professional school fee waivers, the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of graduate and professional school fee waivers shall be entered in the minutes of the meeting of each governing board.

§18B-10-6a. Undergraduate, graduate and professional fee waivers – Marshall University and West Virginia University.

(a) Undergraduate fee waivers. –

(1) The governing boards of Marshall University and West Virginia University, respectively, may establish fee waivers for students in undergraduate studies at institutions under their jurisdiction which entitle recipients to waiver of tuition, capital and other fees, in whole or in part.

(2) Each undergraduate fee waiver is for a period of time not to exceed eight semesters of undergraduate study.

(3) Each governing board shall promulgate rules pursuant to the provisions of section six, article one of this chapter to govern the award of undergraduate fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipi-
ents with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of undergraduate fee waivers shall be entered in the minutes of the meetings of the governing board.

(5) Students enrolled in an administratively linked community and technical college shall be awarded a proportionate share of the total number of undergraduate fee waivers awarded by a governing board. The number to be awarded to students of the community and technical college is based upon the full-time equivalent enrollment of that institution.

(b) Graduate and professional school fee waivers. –

(1) In addition to the fee waivers authorized for undergraduate study by subsection (a) of this section, the governing boards of Marshall University and West Virginia University, respectively, each may establish fee waivers for study in the graduate and professional schools under its jurisdiction, including medicine and dentistry, which entitle the recipients to waiver of tuition, capital and other fees, in whole or in part.

(2) Each graduate or professional school fee waiver entitles the recipient to waiver of the tuition, capital, and other fees, in whole or in part, as may be prescribed by the governing board and is for a period of time not to exceed the number of semesters normally required in the recipient's academic discipline.

(3) The governing boards each shall promulgate a rule pursuant to the provisions of section six, article one of this chapter, governing the award of graduate and professional school fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers.
These rules may not be inconsistent with the provisions of this section.

(4) The awarding of graduate and professional school fee waivers shall be entered in the minutes of the meeting of each governing board.

ARTICLE 11. MISCELLANEOUS INSTITUTES AND CENTERS.

§18B-11-7. Regional Brownfield Assistance Centers.

(a) For the purposes of this section, "eligible entities" means government entities as defined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, at 42 U. S. C. §9604 or nonprofit organizations as defined by the federal Financial Assistance Management Improvement Act at 31 U. S. C. §6101.

(b) Marshall University and West Virginia University each shall establish a nonprofit Regional Brownfield Assistance Center through the corporations set out in article twelve of this chapter for the purposes of expediting the redevelopment of Brownfield sites. The Centers shall provide assistance to eligible entities on state and federal Brownfield programs, secure state and federal funding for Brownfield redevelopment and acquire property eligible for state and federal Brownfield assistance.

(c) The Center established by Marshall University serves the following counties:

(1) McDowell, Mercer, Monroe, Raleigh, Summers and Wyoming;

(2) Cabell, Lincoln, Logan, Mason, Mingo and Wayne;

(3) Boone, Clay, Kanawha and Putnam; and

(4) Braxton, Fayette, Greenbrier, Nicholas, Pocahontas and Webster.
(d) The Center established by West Virginia University serves the following counties:

1. Calhoun, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt and Wood;
2. Brooke, Hancock, Marshall, Ohio and Wetzel;
3. Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Preston, Randolph, Taylor, Tucker and Upshur; and

(e) To accomplish the purposes of this section, the Regional Brownfield Assistance Centers each have powers and duties including, but not limited to, the following:

1. Acquiring property that is eligible for state and federal Brownfield assistance pursuant to the Small Business Liability Relief and Brownfields Revitalization Act (Public Law No. 107-118, 185 Stat. 2356) and the West Virginia Voluntary Remediation and Redevelopment Act established in article twenty-two, chapter twenty-two of this code;
2. Serving as the developer of property or entering into partnerships, agreements or other contractual arrangements with other public or private entities for the purposes of managing and coordinating remediation and redevelopment activities;
3. Preparing an inventory of Brownfield sites within their respective geographic regions by the first day of July, two thousand six, and updating the inventory of sites annually;
4. Promoting and coordinating the development of Brownfield property by providing training and technical assistance on Brownfield development, grant writing, site
assessments, remediation, community involvement and site preparation to eligible entities;

(5) Administering federal Brownfield Job Training Grants, the Brownfields Revolving Fund, and other federal Brownfield financial assistance programs to assist eligible entities in their Brownfield development efforts;

(6) Coordinating efforts to secure federal Brownfield funding by establishing priority rankings and by other necessary measures to maximize federal financial assistance and eliminate overlapping competition for federal dollars;

(7) Coordinating the development and publication by the first day of July, two thousand six, of a website to provide education and appropriate information on Brownfields development in West Virginia; and

(8) Coordinating with the West Virginia Development Office and the Department of Environmental Protection to establish and track key Brownfield economic statistics and conduct Brownfield conferences, as appropriate.

ARTICLE 14. MISCELLANEOUS.

§18B-14-11. Legislative findings; creation of Governor's Commission on Graduate Study in Science, Technology, Engineering, and Mathematics; membership; report.

(a) The Legislature finds that West Virginia ranks below most other states on key indicators of scientific and technical capacity, including the number of scientists and engineers who hold doctoral degrees, the number of science and engineering post-doctorates and the number of science and engineering graduate students.

(b) The Legislature further finds that this lack of scientific and technical capacity places the state at a competitive disadvantage to other states in terms of generating economic development and winning research grants, as
evidenced by limited amounts of academic research and
development funding, industrial research and develop-
ment, small business innovation grant awards, technol-
ygy-related start-up companies and the low number of
high-tech jobs.

(c) To address these findings, there is created the Gover-
nor's Commission on Graduate Study in Science, Technol-
ogy, Engineering and Mathematics, which may be cited as
the STEM Commission, to address issues which include,
but are not limited to, the following:

1. Promoting coordination between higher education
and K-12 education to create a seamless system of science
and mathematics education and to improve science and
mathematics education at all levels;

2. Increasing the number of graduate students and
post-doctorates in science, technology, engineering and
mathematics, including the number of women and minor-
ity graduate students in these fields;

3. Increasing the number of West Virginia undergradu-
ate and graduate students who receive nationally competi-
tive scholarships and fellowships in science, technology,
engineering and mathematics, such as Goldwater, Howard
Hughes, National Science Foundation and Udall Fellow-
ships;

4. Improving the quality of graduate faculty and
programs in science, technology, engineering and mathe-
matics;

5. Aligning graduate programs in science, technology,
engineering and mathematics with the goals and objectives
of the State EPSCoR Program, the State Science and
Technology Advisory Council, the West Virginia Develop-
ment Office and the Doctoral Scholars Program of the
Southern Regional Education Board; and
increasing the quantity and enhancing the quality of academic research, as measured by federal and external expenditures for research and development.

(d) STEM Commission membership. -

(1) The Commission is comprised of fourteen members selected as follows:

(A) The Governor or designee, who serves as Chair;

(B) The Chancellor for the Higher Education Policy Commission;

(C) The Director of Academic Affairs of the Higher Education Policy Commission;

(D) The Executive Director of the State EPSCoR Program;

(E) The Executive Director of the West Virginia Development Office or designee;

(F) The provosts of Marshall University and West Virginia University or their designees;

(G) Five members appointed by the Governor who represent academic, business and research interests; and

(H) The Chair of the House of Delegates Committee on Education and the Chair of the West Virginia Senate Committee on Education as ex officio, nonvoting members who serve in an advisory capacity.

(2) At least two of the Governor's appointees are state residents.

(3) The Governor shall make appointments to the Commission so that members may begin their deliberations no later than the first day of July, two thousand five.

(e) The Commission shall complete its work and report its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate the
75 recommendations, to the Legislative Oversight Commission on Education Accountability, the Higher Education Policy Commission and the State EPSCoR Advisory Council by the first day of December, two thousand five.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within...disapproved...this...Day of...Mary...., 2005.

Governor