WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2006

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4690

(By Delegates Perry and Pino)

Passed March 11, 2006

In Effect Ninety Days from Passage
AN ACT to repeal §18B-2-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-6 of said code; to amend and reenact §18B-1C-1 and §18B-1C-2 of said code; to amend said code by adding thereto a new section, designated §18B-1C-3; to amend and reenact §18B-2A-1 of said code; to amend and reenact §18B-3-1 of said code; to amend and reenact §18B-3C-4 and §18B-3C-8 of said code; to amend said code by adding thereto a new section, designated §18B-3C-13; to amend and reenact §18B-3D-2, §18B-3D-3, §18B-3D-4 and §18B-3D-5 of said code; to amend and reenact §18B-6-1 and §18B-6-1a of said code; and to amend and reenact §18B-10-1 of said code, all relating to higher education generally; higher education governance; making West Virginia University Institute of Technology a fully integrated division of West Virginia University; consolidating administrative and academic units; assigning direction and support of such units to
West Virginia University; designating certain board of advisors as board of visitors; providing that chair of West Virginia University Institute of Technology Board of Advisors serves as ex officio, voting member of West Virginia University Board of Governors; establishing legislative findings and intent regarding collaboration in engineering programs between West Virginia University Institute of Technology, Marshall University and West Virginia University; establishing legislative findings and intent; adding and clarifying definitions; providing for appointment of certain institutional presidents and officers; designating Community and Technical College of Shepherd as Blue Ridge Community and Technical College; requiring study and reports on operations of certain community and technical college; providing for continuance of certain state institutions of higher education; creating West Virginia Consortium for Undergraduate Research and Engineering; membership; purpose; requiring development of collaborative engineering strategic plan; requiring reports by certain dates; continuing Workforce Development Initiative Program under West Virginia Council for Community and Technical College Education; providing for appointment of advisory committee members; requiring report to Legislative Oversight Commission on Education Accountability; requiring plan as part of institutional compact; requiring promulgation of legislative rule; providing for continuation of current rule; deleting requirement for certain chairs of boards of governors and advisors to serve on certain boards of advisors and governors; clarifying role of boards of advisors in process to select certain institutional presidents; providing for fee increases for certain institutions under certain conditions; making technical corrections and repealing obsolete provisions.

Be it enacted by the Legislature of West Virginia:

That §18B-2-9 of the Code of West Virginia, 1931, as amended, be repealed; that §18B-1-2 of said code be amended and reenacted; that §18B-1B-6 of said code be amended and reenacted; that §18B-
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1C-1 and §18B-1C-2 be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1C-3; that §18B-2A-1 of said code be amended and reenacted; that §18B-3-1 of said code be amended and reenacted; that §18B-3C-4 and §18B-3C-8 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-3C-13; that §18B-3D-2, §18B-3D-3, §18B-3D-4 and §18B-3D-5 of said code be amended and reenacted; that §18B-6-1 and §18B-6-1a of said code be amended and reenacted; and that §18B-10-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

§18B-1-2. Definitions.

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

(a) Effective the first day of July, two thousand seven, "regional campus" means West Virginia University at Parkersburg.

(b) "Governing boards" or "boards" means the institutional boards of governors created pursuant to section one, article two-a of this chapter;

(c) "Freestanding community and technical colleges" means Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College and Eastern West Virginia Community and Technical College which may not be operated as branches or off-campus locations of any other state institution of higher education;
(d) "Community college" or "community colleges" means community and technical college or colleges as those terms are defined in this section;

(e) "Community and technical college," in the singular or plural, means the freestanding community and technical colleges and other state institutions of higher education which deliver community and technical college education. This definition includes Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, Eastern West Virginia Community and Technical College, New River Community and Technical College, West Virginia University at Parkersburg, The Community and Technical College at West Virginia University Institute of Technology, Blue Ridge Community and Technical College, Fairmont State Community and Technical College Marshall Community and Technical College and West Virginia State Community and Technical College;

(f) "Community and technical college education" means the programs, faculty, administration and funding associated with the delivery of community and technical college education programs;

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

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

(i) "Higher Education Policy Commission," "policy commission" or "commission" means the commission created pursuant to section one, article one-b of this chapter;
(j) "Chancellor for Higher Education" means the chief executive officer of the Higher Education Policy Commission employed pursuant to section five, article one-b of this chapter;

(k) "Chancellor for Community and Technical College Education" means the Chief Executive Officer of the West Virginia Council for Community and Technical College Education employed pursuant to section three, article two-b of this chapter;

(l) "Chancellor" means the Chancellor for Higher Education where the context refers to a function of the Higher Education Policy Commission. "Chancellor" means chancellor for Community and Technical College Education where the context refers to a function of the West Virginia Council for Community and Technical College Education;

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

(n) "Community and technical college education program" means any college-level course or program beyond the high school level provided through a public institution of higher education resulting in or which may result in a two-year associate degree award including an associate of arts, an associate of science and an associate of applied science; certificate programs and skill sets; developmental education; continuing education; collegiate credit and noncredit workforce development programs; and transfer and baccalaureate parallel programs. All such programs are under the jurisdiction of the
council. Any reference to "post-secondary vocational education programs" means community and technical college education programs as defined in this subsection;

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

(p) "Senior administrator" means the vice chancellor for administration employed in accordance with section two, article four of this chapter;

(q) "State college" means Bluefield State College, Concord University, Fairmont State University, Glenville State College, Shepherd University, West Liberty State College or West Virginia State University;

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

(s) Until the first day of July, two thousand seven "Regional campus" means West Virginia University at Parkersburg and West Virginia University Institute of Technology;

(t) The advisory board previously appointed for the West Virginia Graduate College is known as the "Board of Visitors" and shall provide guidance to the Marshall University Graduate College;

(u) "Institutional compact" means the compact between the commission or council and a state institution of higher education under its jurisdiction, as described in section two, article one-a of this chapter;

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

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

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

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

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

(aa) "Council" means the West Virginia Council for Community and Technical College Education created pursuant to article two-b of this chapter.

(bb) "West Virginia Consortium for Undergraduate Research and Engineering" or "West Virginia CURE" means the collaborative planning group established pursuant to article one-c of this chapter.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§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. The president serves at the will and pleasure of the governing board. 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.

3. Until the first day of July, two thousand seven and 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 the 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 Blue Ridge Community and Technical College.

(b) Other appointments. — The institutional president appoints a provost to be the administrative head of the Potomac campus of West Virginia University and, effective the first day of July, two thousand seven, for West Virginia University Institute of Technology.

(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
ARTICLE 1C. WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY

§18B-1C-1. Legislative findings and intent.

(a) The Legislature recognizes that:

1. West Virginia University Institute of Technology is a vital part of higher education in West Virginia;

2. The engineering program at West Virginia University Institute of Technology plays a significant role in the continued success of the students at the institution and of the state as a whole;

3. The average salaries of faculty at West Virginia University Institute of Technology are significantly lower than the average salaries of faculty at West Virginia University;

4. Facilities at West Virginia University Institute of Technology are in greater disrepair and in greater need of overall capital investment than are facilities at West Virginia University; and

5. Collaboration between the engineering program of West Virginia University Institute of Technology, West Virginia University, Marshall University and other private partners as appropriate would:

   (A) Lead to a greater understanding and knowledge of engineering research;

   (B) Lead to greater opportunities for students to engage in research; and
(C) Result in greater opportunities for participating students to find gainful employment in future research or to continue graduate level research and study.

(b) It is the intent of the Legislature to encourage collaboration between West Virginia University Institute of Technology, West Virginia University, Marshall University and appropriate private entities to provide significant education opportunities to students.

(c) It is specifically the intent of the Legislature that:

1. The baccalaureate engineering program offered at the West Virginia University Institute of Technology be and remain a permanent component of its curriculum;
2. Collaboration in engineering and other appropriate programs occur between West Virginia University Institute of Technology, West Virginia University, Marshall University and appropriate private entities pursuant to section three of this article; and
3. The West Virginia University Board of Governors develop a plan and take appropriate steps to address faculty average salary levels. In developing the plan, the board may consider the unique mission of the division and the performance expectations for faculty in meeting the goals of the institution. The plan also shall include recommendations for addressing the capital improvement needs at West Virginia University Institute of Technology.

§18B-1C-2. West Virginia University Institute of Technology; division of West Virginia University.

(a) Notwithstanding any other provision of this code to the contrary by the first day of July, two thousand seven, West Virginia University Institute of Technology shall merge and
consolidate with West Virginia University and become a fully integrated division of West Virginia University. All administrative and academic units shall be consolidated with primary responsibility for direction and support assigned to West Virginia University. The advisory board previously appointed for West Virginia University Institute of Technology shall be known as the board of visitors and shall provide guidance to the division in fulfilling its mission. The chairperson of the board of visitors serves as an ex-officio, voting member of the West Virginia University Board of Governors.

(b) The fully integrated division formerly named West Virginia University Institute of Technology is hereafter named West Virginia University Institute of Technology. The headquarters of West Virginia University Institute of Technology shall remain in Montgomery, West Virginia.

(c) The provisions of this section do not affect the independent accreditation, administrative linkage or continued operation of The Community and Technical College at West Virginia University Institute of Technology under the jurisdiction and authority of the council.

(d) Auxiliary enterprises shall be incorporated into the West Virginia University auxiliary enterprise system. The West Virginia University Board of Governors shall determine if operations at West Virginia University Institute of Technology can be operated on a self-sufficient basis when establishing rates for auxiliary services and products.

(e) West Virginia University Institute of Technology has a strong reputation in engineering and other scientific disciplines. These programs shall be maintained, cultivated and emphasized further as its sustaining mission over the next decade.

(f) By the first day of April, two thousand seven, the West Virginia University Board of Governors shall develop and
approve a plan to implement the provisions of this article.
Beginning the first day of July, two thousand six, the board of
governors may begin implementing appropriate changes in the
operations of West Virginia University Institute of Technology
to further the purposes of this article.

(g) By the first day of November, two thousand six, and
annually thereafter for a period of four years, the West Virginia
University Board of Governors shall prepare and submit a
report to the commission and Legislative Oversight Commis-
sion on Education Accountability on progress being made to
implement the provisions of this article.

(h) The West Virginia University Board of Governors, in
conjunction with the Board of Advisors of The Community and
Technical College at West Virginia University Institute of
Technology, shall conduct a study and report to the council by
the first day of November, two thousand six. The study in-
cludes, but is not limited to, the following issues:

(1) An appropriate governance structure for the community
& technical college;

(2) An appropriate name for the community & technical
college; and

(3) The most effective and efficient mechanism to ensure
that all essential conditions for the delivery of community and
technical college education are met, including the most effec-
tive and efficient method for the community and technical
college to obtain services.

The council shall review the study findings, conclusions
and recommendations and report to the Legislative Oversight
Commission on Education Accountability by the first day of
January, two thousand seven. The report of the council shall
include a determination of the need for statutory change, together with drafts of any legislation necessary to effectuate the council's recommendations. West Virginia University Institute of Technology shall develop or maintain baccalaureate degree programs as a permanent component or its curriculum.

§18B-1C-3. West Virginia Consortium for Undergraduate Research and Engineering established; short title; membership; purpose; strategic plan; report.

(a) There is established the West Virginia Consortium for Undergraduate Research and Engineering. This section may be designated and cited as "West Virginia CURE".

(b) West Virginia CURE is a collaborative planning group comprised of thirteen members. The Governor shall designate one of the members to be the chairperson. The members are selected as follows:

(1) The provost or a designee from West Virginia University Institute of Technology, Marshall University and West Virginia University;

(2) The director of sponsored programs from West Virginia University Institute of Technology and the vice presidents for research from Marshall University and West Virginia University;

(3) The deans of engineering from West Virginia University Institute of Technology, Marshall University and West Virginia University; and

(4) Four members appointed by the Governor, each of whom has demonstrated an interest in public higher education in West Virginia and each of whom possesses recognized credentials and expertise in one or more of the following fields:
(A) Engineering;
(B) Technology and computer science;
(C) Research development;
(D) Business leadership and management; and
(E) Finance.

At least one of the members appointed by the Governor shall be a representative of the engineering profession from business or industry.

(c) The purposes for which West Virginia CURE is established include, but are not limited to, the following:

1. Increasing West Virginia's capacity for high quality engineering instruction and research;
2. Increasing access throughout the state to high quality instruction and research opportunities in science, technology, engineering, and mathematics; and
3. Stimulating economic development throughout West Virginia by increasing the number of professional engineers available to business and industry.

(d) Collaborative Engineering Strategic Plan Required.

CURE shall develop a collaborative engineering strategic plan to address the needs identified in subsection (c) of this section.

(e) Collaborative Engineering Strategic Plan Elements.

1. The Collaborative Engineering Strategic Plan shall focus on methods to use the complementary strengths of West
Virginia University Institute of Technology, Marshall University and West Virginia University.

(A) West Virginia University Institute of Technology provides a student-centered engineering program that provides full-time faculty attention and small classes. This approach prepares students well to enter and succeed in the professional practice of engineering.

(B) Marshall University exhibits a strong commitment to engineering outreach and has developed an undergraduate engineering program that builds upon the institution’s tradition in liberal arts and sciences to provide unique, flexible engineering opportunities that are attractive to a broad range of students.

(C) West Virginia University’s large student enrollment and high quality faculty enables the institution to provide access to a broad range of undergraduate and graduate engineering programs as well as opportunities for research-oriented study at the graduate level.

(2) The strategic plan may address, but is not limited to, consideration of the following elements:

(A) Faculty.

(B) Libraries and technology resources.

(C) Research collaboration.

(D) Coordination with K-12 education.

The strategic plan may not contain a recommendation which would result in abolishing an existing program.

(3) The consortium shall:
(A) Prepare an interim report outlining its progress and tentative conclusions for presentation to the Governor and the Legislative Oversight Commission on Education Accountability no later than the first day of December, two thousand six; and

(B) Prepare a final report containing the Collaborative Engineering Strategic Plan, together with recommendations for implementation, for presentation to the Governor and the Legislative Oversight Commission on Education Accountability no later than the first day of July, two thousand seven.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

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

(a) A board of governors is continued at each of the following institutions: Bluefield State College, Blue Ridge Community and Technical College, Concord University, Eastern West Virginia Community and Technical College, Fairmont State University, Glenville State College, Marshall University, New River Community and Technical College, Shepherd University, Southern West Virginia Community and Technical College, West Liberty State College, West Virginia Northern Community and Technical College, the West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University.

(b) The Institutional Board of Governors for Marshall University consists of sixteen persons, and the Institutional Board of Governors for West Virginia University consists of seventeen persons. Each other board of governors consists of twelve persons.

(c) Each board of governors includes the following members:
19 (1) A full-time member of the faculty with the rank of
ingurer or above duly elected by the faculty of the respective
institution;

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

25 (3) A member from the institutional classified employees
duly elected by the classified employees of the respective
institution; and

28 (4) For the Institutional Board of Governors at Marshall
University, twelve lay members appointed by the Governor, by
and with the advice and consent of the Senate, pursuant to this
section and, additionally, the chairperson of the Institutional
Board of Advisors of Marshall Community and Technical
College serving as an ex officio, voting member.

34 (5) For the Institutional Board of Governors at West
Virginia University, twelve lay members appointed by the
Governor by and with the advice and consent of the Senate
pursuant to this section and, additionally, the chairperson of the
Institutional Board of Advisors of The Community and Techni-
cal College at West Virginia University Institute of Technology
and West Virginia University at Parkersburg.

41 (6) For each institutional board of governors of an institu-
tion that does not have an administratively-linked community
and technical college under its jurisdiction, nine lay members
appointed by the Governor, by and with the advice and consent
of the Senate, pursuant to this section.

46 (7) For each institutional board of governors which has an
administratively linked community and technical college under
its jurisdiction:
(A) Eight lay members appointed by the Governor, by and
with the advice and consent of the Senate, pursuant to this
section and, additionally, the chairperson of the institutional
board of advisors of the administratively linked community and
technical college; and

(B) Of the eight lay members appointed by the Governor,
one shall be the superintendent of a county board of education
from the area served by the institution.

(d) Of the eight or nine members appointed by the Gover-
nor, no more than five may be of the same political party. Of
the twelve members appointed by the Governor to the govern-
ing boards of Marshall University and West Virginia Univer-
sity, no more than seven may be of the same political party. Of
the eight or nine members appointed by the Governor, at least
six shall be residents of the state. Of the twelve members
appointed by the Governor to the governing boards of Marshall
University and West Virginia University, at least eight shall be
residents of the state.

(e) The student member serves for a term of one year. Each
term begins on the first day of July.

(f) The faculty member serves for a term of two years. Each
term begins on the first day of July. Faculty members are
eligible to succeed themselves for three additional terms, not to
exceed a total of eight consecutive years.

(g) The member representing classified employees serves
for a term of two years. Each term begins on the first day of
July. Members representing classified employees are eligible to
succeed themselves for three additional terms, not to exceed a
total of eight consecutive years.
(h) The appointed lay citizen members serve terms of four years each and are eligible to succeed themselves for no more than one additional term.

(i) A vacancy in an unexpired term of a member shall be filled for the unexpired term within thirty days of the occurrence of the vacancy in the same manner as the original appointment or election. Except in the case of a vacancy, all elections shall be held and all appointments shall be made no later than the thirtieth day of June preceding the commencement of the term. Each board of governors shall elect one of its appointed lay members to be chairperson in June of each year. A member may not serve as chairperson for more than two consecutive years.

(j) The appointed members of the institutional boards of governors serve staggered terms of four years.

(k) A person is ineligible for appointment to membership on a board of governors of a state institution of higher education under the following conditions:

(1) For a baccalaureate institution or university, a person is ineligible for appointment who is an officer, employee or member of any other board of governors, a member of an institutional board of advisors of any public institution of higher education, an employee of any institution of higher education, an officer or member of any political party executive committee, the holder of any other public office or public employment under the government of this state or any of its political subdivisions or a member of the council or commission. This subsection does not prevent the representative from the faculty, classified employees, students or chairpersons of the boards of advisors or the superintendent of a county board of education from being members of the governing boards.
(2) For a community and technical college, a person is ineligible for appointment who is an officer, employee or member of any other board of governors; a member of an institutional board of advisors of any public institution of higher education; an employee of any institution of higher education; an officer or member of any political party executive committee; the holder of any other public office, other than an elected county office, or public employment, other than employment by the county board of education, under the government of this state or any of its political subdivisions; or a member of the council or commission. This subsection does not prevent the representative from the faculty, classified employees, students or chairpersons of the boards of advisors from being members of the governing boards.

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

(m) A member of a governing board appointed by the Governor may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal of the state elective officers by the Governor.

(n) The president of the institution shall make available resources of the institution for conducting the business of its board of governors. The members of the board of governors serve without compensation, but are reimbursed for all reasonable and necessary expenses actually incurred in the performance of official duties under this article upon presentation of an itemized sworn statement of expenses. All expenses incurred

142 by the board of governors and the institution under this section
143 are paid from funds allocated to the institution for that purpose.

ARTICLE 3. ADDITIONAL POWERS AND DUTIES OF RESEARCH,
DOCTORAL-GRANTING PUBLIC UNIVERSITIES.

§18B-3-1. Legislative findings, purpose and intent; definitions.

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

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

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

(d) Therefore, the purposes of this article include, but are
23 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) Until the first day of July, two thousand seven, 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.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-4. Community and technical college consortia planning districts.

(a) Unless otherwise designated, the president of each community and technical college facilitates the formation of community and technical college consortia in the state, which includes representatives of community and technical colleges, public vocational-technical education centers, and public
baccalaureate institutions offering associate degrees. The community and technical college consortium shall:

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

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

(3) Plan and develop a unified effort between the community and technical colleges and public vocational-technical education to meet the documented workforce development needs of the district through individual and cooperative programs, shared facilities, faculty, staff, equipment and other resources and the development and use of distance learning and other education technologies;

(4) Regularly review and revise curricula to ensure that the workforce needs are met, develop new programs and phase out or modify existing programs as appropriate to meet such needs, streamline procedures for designing and implementing customized training programs;

(5) Increase the integration of secondary and post-secondary curriculum and programs that are targeted to meet regional labor market needs, including implementation of seamless curricula projects in all major career pathways and the West Virginia EDGE, “Earn a Degree Graduate Early” program;

(6) Plan and implement integrated professional development activities for secondary and post-secondary faculty, staff and administrators;
(7) Ensure that program graduates have attained the competencies required for successful employment through the involvement of business, industry and labor in establishing student credentialing;

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

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

(10) Increase the integration of adult literacy, adult basic education, federal Work Force Investment Act and community and technical college programs and services to expedite the transition of adults from welfare to gainful employment; and

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

(b) The community and technical college education consortium shall cooperate with the regional workforce investment board in the district and shall participate in any development or amendment to the regional workforce investment plan.

(c) To carry out the provisions of this section, community and technical college consortia planning districts are established and defined as follows:
(1) Northern Panhandle Community and Technical College District includes Hancock, Brooke, Ohio, Marshall and Wetzel counties.

(A) The facilitating institution is West Virginia Northern Community and technical College.

(B) Participating institutions include West Virginia Northern Community and technical College; John Marshall High School; Cameron High School; John D. Rockefeller Center; and other public vocational technical schools offering post-secondary programs.

(2) North Central West Virginia Community and Technical College District includes Monongalia, Marion, Preston, Taylor, Barbour, Randolph, Doddridge, Harrison, Braxton, Lewis, Calhoun, Gilmer and Upshur counties.

(A) The facilitating institution is Fairmont State Community and Technical College.

(B) Participating institutions include Fairmont State Community and Technical College; Glenville State College; Randolph County Vocational-Technical Center; Monongalia County Technical Education Center; United Technical Center; Marion County Technical Center; Fred W. Eberly Technical Center; and other public vocational technical schools offering post-secondary programs.

(3) Mid-Ohio Valley Community and Technical College District includes Tyler, Pleasants, Ritchie, Wood, Wirt, Jackson and Roane counties.

(A) The facilitating institution is West Virginia University at Parkersburg.
(B) Participating institutions includes West Virginia University at Parkersburg; West Virginia Northern Community and technical College; Roane-Jackson Technical Center; Gaston Caperton Center; Wood County Technical Center; and other public vocational technical schools offering post-secondary programs.

(4) Potomac Highlands Community and Technical College District includes Tucker, Pendleton, Grant, Hardy, Mineral and Hampshire counties.

(A) The facilitating institution is Eastern West Virginia Community and Technical College.

(B) Participating institutions include Eastern West Virginia Community and Technical College; South Branch Career and Technical Center; Mineral County Technical Center; and other public vocational technical schools offering post-secondary programs.

(5) Shenandoah Valley Community and Technical College District includes Berkeley, Jefferson and Morgan counties.

(A) The facilitating institution is Blue Ridge Community and Technical College.

(B) Participating institutions include Blue Ridge Community and Technical College; James Rumsey Technical Institute; and other public vocational technical schools offering post-secondary programs.

(6) Advantage Valley Community and Technical College District includes Fayette, Kanawha, Clay, Putnam, Cabell, Mason and Wayne counties.

(A) The facilitating institution is Marshall Community and Technical College.
(B) Every five years the council shall:

(i) Evaluate the progress of the Advantage Valley Consortia toward achieving the goals and benchmarks of its compact;

(ii) Evaluate the progress of each community and technical college in the district toward achieving the goals and benchmarks of its institutional compact;

(iii) Determine which community and technical college in the district would best serve the needs of the district for the following five-year period if serving as the facilitating institution; and

(iv) Designate the community and technical college selected pursuant to subparagraph (iii) of this paragraph to serve as the facilitating institution for the following five-year period.

(C) Participating institutions include Marshall Community and Technical College; The Community and Technical College at West Virginia University Institute of Technology; West Virginia State Community and Technical College; Carver Career Center; Garnet Career Center; Ben Franklin Career Center; Putnam County Vocational-Technical-Occupational Center; Cabell County Career-Technical Center; and other public vocational technical schools offering post-secondary programs.

(7) Southern Mountains Community and Technical College District includes Lincoln, Boone, Logan, Mingo, Wyoming and McDowell counties.

(A) The facilitating institution is Southern West Virginia Community and Technical College.
(B) Participating institutions include Southern West Virginia Community and Technical College; New River Community and Technical College; Boone County Career and Technical Center; Wyoming County Vocational-Technical Center; Ralph R. Willis Career and Technical Center; McDowell County Career and Technology Center; Mingo County Vocational-Technical Center; Charles Yeager Technical Center; and other public vocational technical schools offering post-secondary programs.

(8) Southeastern Community and Technical College District includes Raleigh, Summers, Fayette, Nicholas, Webster, Pocahontas, Greenbrier, Monroe and Mercer counties.

(A) The facilitating institution is New River Community and Technical College.

(B) Participating institutions include New River Community and Technical College; Southern West Virginia Community and Technical College; The Community and Technical College at West Virginia University Institute of Technology; Bluefield State College; Academy of Careers and Technology; Fayette Plateau Vocation-Technology Center; Summers County High School; Monroe County Technical Center; Mercer County Technical Center; and other public vocational technical schools offering post-secondary programs.

(d) In the role of the facilitating institution of the community and technical college district, the college:

(1) Communicates to the council;

(2) Facilitates the delivery of comprehensive community and technical college education in the region, which includes the seven areas of comprehensive community and technical college education delivery as required by section six of this article; and
(3) Facilitates development of statement of commitment signed by all participating institutions in the region as to how community and technical college education will be delivered.

(e) Participating institutions are not subordinate to the facilitating institution but will sign the statement of commitment to participate.

(f) The council shall:

(1) Maintain guidelines for community and technical college consortia development;

(2) Set goals for each consortium based upon legislative goals for the delivery of comprehensive community and technical college education; and

(3) Maintain a format for developing and revising a consortium compact outlining plans for achieving stated goals to be submitted to the council annually for approval.

(g) Annually, on or before the fifteenth day of November, each consortium shall submit to the council for approval a compact which outlines plans for obtaining the stated goals. Each compact shall include the implementation of seamless curricula and the West Virginia EDGE, "Earn a Degree Graduate Early" program.

(h) Annually, the council shall evaluate the progress made in meeting the compact goals for each community and technical college consortium through the development and collection of performance indicator data.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-8. Statewide network of independently accredited community and technical colleges.
(a) There is continued a statewide network of independently accredited community and technical colleges serving every region of the state. This section does not apply to the freestanding community and technical colleges or West Virginia University at Parkersburg.

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

1. That it has as a part of its institutional compact approved by the council a step-by-step plan with measurable benchmarks for developing an independently accredited community and technical college that meets the essential conditions set forth in section three of this article;

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

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

(c) The statewide network of independently accredited community and technical colleges is comprised of the freestanding community and technical colleges, West Virginia University at Parkersburg, and the following state institutions of higher education:

1. New River Community and Technical College. —

(A) There is continued the multicampus entity known as New River Community and Technical College, administratively
linked to Bluefield State College. New River Community and Technical College is headquartered in the Beckley Higher Education Center and incorporates the campuses of Greenbrier Community College Center of New River Community and Technical College and Nicholas Community College Center of New River Community and Technical College. New River Community and Technical College is an independently accredited community and technical college.

(B) Bluefield State College may continue associate degree programs in areas of particular institutional strength which are closely articulated to its baccalaureate programs and missions or which are of a high-cost nature and can best be provided through direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the council and through contract with the community and technical college. The terms of the contract shall be negotiated between the council and the governing board of the sponsoring institution. The final contract is approved by the council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the council. If the council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by the community and technical college.

(C) Bluefield State College may continue the associate of science degree in nursing which is an existing nationally accredited associate degree program in an area of particular institutional strength and which is closely articulated to the baccalaureate program and mission. The program is of a high-cost nature and can best be provided through direct administration by a baccalaureate institution. This program may not be transferred to New River Community and Technical College or any other community and technical college as long as the
program maintains national accreditation and is seamlessly coordinated into the baccalaureate program at the institution.

(D) As an independently accredited community and technical college, New River also serves as a higher education center for its region by brokering with other colleges, universities and providers, in state and out of state, both public and private, to ensure the coordinated access of students, employers and other clients to needed programs and services.

(E) New River Community and Technical College participates in the planning and development of a unified effort involving multiple providers to meet the documented education and workforce development needs in the region. Nothing in this subdivision prohibits or limits any existing, or the continuation of any existing, affiliation between Mountain State University, West Virginia University Institute of Technology and West Virginia University. The objective is to assure students and employers in the area that there is coordination and efficient use of resources among the separate programs and facilities, existing and planned, in the Beckley area.

(2) Fairmont State Community and Technical College. — Fairmont State Community and Technical College is an independently accredited community and technical college. The community and technical college is developed on the base of the component community and technical college of Fairmont state college. Subject to the provisions of this section, the president and the governing board of Fairmont state college are responsible, according to a plan approved by the council, for step-by-step implementation of the independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section twelve of this article, the community and technical college will remain administratively linked to Fairmont State College. Fairmont State College may continue
associate degree programs in areas of particular institutional
strength which are closely articulated to their baccalaureate
programs and missions or which are of a high-cost nature and
can best be provided in direct coordination with a baccalaureate
institution. Any such program shall be delivered under the
authority of the council and through contract with the commu-
nity and technical college. The terms of the contract shall be
negotiated between the council and the governing board of the
sponsoring institution. The final contract is approved by the
council. Such a program shall be evaluated according to the
benchmarks and indicators for community and technical college
education developed by the council. If the council determines
that the program is making insufficient progress toward
accomplishing the benchmarks, the program shall thereafter be
delivered by the community and technical college.

(3) Marshall Community and Technical College. —
Marshall Community and Technical College is an independ-
extly accredited community and technical college. The new
community and technical college is developed on the base of
the component community and technical college of Marshall
university. Subject to the provisions of this section, the presi-
dent and the governing board of Marshall University are
responsible, according to a plan approved by the council, for
step-by-step implementation of the new independently accred-
dited community and technical college which adheres to the
essential conditions pursuant to section three of this article.
Subject to the provisions of section twelve of this article, the
community and technical college remains administratively
linked to Marshall University. Marshall University may
continue associate degree programs in areas of particular
institutional strength which are closely articulated to its
baccalaureate programs and missions or which are of a
high-cost nature and can best be provided in direct coordination
with a baccalaureate institution. Any such program shall be
delivered under the authority of the council and through
contract with the community and technical college. The terms
of the contract shall be negotiated between the council and the
governing board of the sponsoring institution. The final contract
is approved by the council. Such a program shall be evaluated
according to the benchmarks and indicators for community and
technical college education developed by the council. If the
council determines that the program is making insufficient
progress toward accomplishing the benchmarks, the program
shall thereafter be delivered by the community and technical
college.

(4) Blue Ridge Community and Technical College. — Blue
Ridge Community and Technical College is an independently
accredited community and technical college. Subject to the
provisions of section twelve of this article, the community and
technical college remains administratively linked to Shepherd
University. Shepherd University may continue associate degree
programs in areas of particular institutional strength which are
closely articulated to its baccalaureate programs and missions
or which are of a high-cost nature and can best be provided in
direct coordination with a baccalaureate institution. Any such
program shall be delivered under the authority of the council
and through contract with the community and technical college.
The terms of the contract shall be negotiated between the
council and the governing board of the sponsoring institution.
The final contract is approved by the council. Such a program
shall be evaluated according to the benchmarks and indicators
for community and technical college education developed by
the council. If the council determines that the program is
making insufficient progress toward accomplishing the
benchmarks, the program shall thereafter be delivered by the
community and technical college.

(5) West Virginia State Community and Technical College.
— West Virginia State Community and Technical College is an
independently accredited community and technical college. The
new community and technical college is developed on the base of the component community and technical college of West Virginia state college. Subject to the provisions of this section, the president and the governing board of West Virginia state college are responsible, according to a plan approved by the council, for step-by-step implementation of the new independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section twelve of this article, the community and technical college remains administratively linked to West Virginia State University. West Virginia State University may continue associate degree programs in areas of particular institutional strength which are closely articulated to its baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the council and through contract with the community and technical college. The terms of the contract shall be negotiated between the council and the governing board of the sponsoring institution. The final contract is approved by the council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the council. If the council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by the community and technical college.

(6) The Community and Technical College at West Virginia University Institute of Technology. — The Community and Technical College at West Virginia University Institute of Technology is an independently accredited community and technical college. The new community and technical college is developed on the base of the component community and technical college of West Virginia University Institute of Technology. Subject to the provisions of this section, the
president and the governing board of West Virginia University are responsible, according to a plan approved by the council, for step-by-step implementation of the new independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section twelve of this article, the community and technical college remains administratively linked to West Virginia University Institute of Technology. West Virginia University Institute of Technology may continue associate degree programs in areas of particular institutional strength which are closely articulated to its baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the council and through contract with the community and technical college. The terms of the contract shall be negotiated between the council and the governing board of the sponsoring institution. The final contract is approved by the council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the council. If the council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by the community and technical college.

(d) The president and the board of governors of each sponsoring institution are accountable to the council for ensuring that the community and technical college adheres to the essential conditions pursuant to section three of this article.


The Community and Technical College of Shepherd is hereafter named "Blue Ridge Community and Technical College". Any reference in this code to The Community and
ARTICLE 3D. WORKFORCE DEVELOPMENT INITIATIVE.

§18B-3D-2. Workforce Development Initiative Program continued; purpose; program administration; rule required.

(a) The Workforce Development Initiative Program is continued under the supervision of the council. The purpose of the program is to administer and oversee grants to community and technical colleges to implement the provisions of this article in accordance with legislative intent.

(b) It is the responsibility of the council to administer the state fund for community and technical college and workforce development, including setting criteria for grant applications, receiving applications for grants, making determinations on distribution of funds and evaluating the performance of workforce development initiatives.

(c) The chancellor, under the direction of the council, shall review and approve the expenditure of all grant funds, including development of application criteria, the review and selection of applicants for funding and the annual review and justification of applicants for grant renewal.

(1) To aid in decision making, the chancellor appoints an advisory committee consisting of the Executive Director of the West Virginia Development Office or designee; the Secretary of Education and the Arts or designee; the Assistant State Superintendent for Technical and Adult Education; the Chair of the West Virginia Council for Community and Technical College Education; the Chair of the West Virginia Workforce Investment Council, the Executive Director of Workforce West Virginia, two members representing business and industry and
one member representing labor. The advisory committee shall
review all applications for workforce development initiative
grants and make recommendations for distributing grant funds
to the council. The advisory committee also shall make recom-
mendations on methods to share among the community and
technical colleges any curricula developed as a result of a
workforce development initiative grant.

(2) When determining which grant proposals will be
funded, the council shall give special consideration to proposals
by community and technical colleges that involve businesses
with fewer than fifty employees.

(3) The council shall weigh each proposal to avoid award-
ing grants which will have the ultimate effect of providing
unfair advantage to employers new to the state who will be in
direct competition with established local businesses.

(d) The council may allocate a reasonable amount, not to
exceed five percent up to a maximum of fifty thousand dollars
of the funds available for grants on an annual basis, for general
program administration.

(e) The council shall report to the Legislative Oversight
Commission on Education Accountability and the Legislative
Oversight Commission on Workforce Investment for Economic
Development on the status of the Workforce Development
Initiative Program annually by the first day of December.

(f) Moneys appropriated or otherwise available for the
Workforce Development Initiative Program shall be allocated
by line item to an appropriate account. Any moneys remaining
in the fund at the close of a fiscal year are carried forward for
use in the next fiscal year.

(g) Nothing in this article requires a specific level of
appropriation by the Legislature.
§18B-3D-3. Mission of the Workforce Development Initiative Program.

(a) The statewide mission of the Workforce Development Initiative Program is to develop a strategy to strengthen the quality of the state's workforce by linking the existing post-secondary education capacity to the needs of business, industry and other employers. Available funding will be used to provide explicit incentives for partnerships between employers and community and technical colleges to develop comprehensive workforce development services. Funds will be granted on the basis of proposals developed according to criteria established by the council.

(b) The mission of any community and technical college accepting a workforce development initiative grant is to:

   (1) Become client-focused and develop programs that meet documented employer needs;

   (2) Involve and collaborate with employers in the development of programs;

   (3) Develop customized training programs that provide for the changing needs of employers and that are offered at flexible times and locations to accommodate employer scheduling;

   (4) Develop partnerships with other public and private providers, including small business development centers and vocational, technical and adult education centers, and, with business and labor, to fulfill the workforce development needs of the service area;

   (5) Establish cooperative arrangements with the public school system for the seamless progression of students through programs of study that begin at the secondary level and conclude at the community and technical college level, particu-
larly with respect to career and technical education certificates, associate of applied science and selected associate of science degree programs for students seeking immediate employment, individual entrepreneurship skills, occupational development, skill enhancement and career mobility; and

(6) Assist in the on-going assessment of the workforce development needs of the service area.

§18B-3D-4. Grant application procedures.

(a) In order to participate in the workforce development initiative grant program, a community and technical college shall meet the following conditions:

(1) Participate in a community and technical college consortia planning district as required by article three-c of this chapter. Consortia representatives participate in the development of and approve applications for funding grants under the provisions of this article and approve the workforce development initiative budget;

(2) Develop, as a component of its institutional compact, a plan to achieve measurable improvements in the quality of the workforce within its service area over the period covered by the compact. The plan is developed in partnership with employers, local vocational schools and other workforce education providers; and

(3) Establish a special revolving fund under the jurisdiction of the community and technical college dedicated solely to workforce development initiatives for the purposes provided in this article. Any fees or revenues generated from workforce development initiatives funded by a competitive grant are deposited into this fund.
(b) To be eligible to receive a workforce development initiative grant, a community and technical college shall provide at least the following information in its application:

(1) Identification of the specific business or business sector training needs that will be met if a workforce development initiative grant is received;

(2) A commitment from the private or public sector partner or partners to provide a match of one dollar, cash and in-kind, for each dollar of state grant money received except:

(A) In cases where the community and technical college can demonstrate that it would be a hardship for the private sector partner or partners to provide a dollar-to-dollar match, the match may be reduced to one dollar for each three dollars of state funding.

(B) In cases where the grant award is to be used to modernize equipment, the council may establish a separate match requirement not to exceed one dollar, cash or in-kind, for each state dollar awarded.

(C) Beginning in fiscal year 2006, the commitment required by this subdivision may be provided by a public sector partner using state or federal dollars to provide the required match if funding for this initiative in the fiscal year exceeds six hundred fifty thousand dollars in which case, one-half the amount exceeding six hundred fifty thousand dollars may be granted using a public sector match;

(3) An agreement to share with other community and technical colleges any curricula developed using funds from a workforce development initiative grant;

(4) A specific plan showing how the community and technical college will collaborate with local post-secondary
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52 vocational institutions to maximize the use of existing facilities,
53 personnel and equipment; and

54 (5) An acknowledgment that acceptance of a grant under
55 the provisions of this article commits the community and
56 technical college and its consortia committee to such terms,
57 conditions and deliverables as specified by the council in the
58 request for applications, including, but not limited to, the
59 measures by which the performance of the workforce develop-
60 ment initiative will be evaluated.

61 (c) Applications submitted by community and technical
62 colleges may be awarded funds for programs which meet the
63 requirements of this article that are operated on a collaborative
64 basis at facilities under the jurisdiction of the public schools
65 and utilized by both secondary and post-secondary students.

§18B-3D-5. Legislative rules.

1 The council shall propose a legislative rule pursuant to
2 article three-a, chapter twenty-nine-a of this code to implement
3 the provisions of this article and shall file the rule with the
4 legislative oversight commission on education accountability
5 no later than the first day of September, two thousand six.

6 Any rule promulgated by the West Virginia Development
7 Office pursuant to previous enactments of this section and in
8 effect on the effective date of the amendment and reenactment
9 of this section in the year two thousand six remains in effect
10 until amended, modified, repealed or replaced by the council.

ARTICLE 6. ADVISORY COUNCILS.

§18B-6-1. Institutional boards of advisors for regional campuses
and certain administratively linked community
and technical colleges.
(a) There are continued institutional boards of advisors as follows:

(1) For each regional campus. The chairperson of the board of advisors of West Virginia University at Parkersburg serves as an ex officio, voting member of the governing board of West Virginia University;

(2) For administratively linked community and technical colleges which share a physical location with the sponsoring institution. This category includes Fairmont State Community and Technical College, Marshall Community and Technical College, West Virginia State Community and Technical College and The Community and Technical College at West Virginia University Institute of Technology. The chairperson of the board of advisors of each administratively linked community and technical college serves as an ex officio, voting member of the sponsoring institution’s board of governors, or, in the case of The Community and Technical College at West Virginia University Institute of Technology, the chairperson of the board of advisors serves as an ex officio voting member of the governing board of West Virginia University;

(b) The lay members of the institutional boards of advisors for the regional campuses are appointed by the board of governors.

(c) The lay members of the institutional boards of advisors established for the administratively linked community and technical colleges are appointed by the West Virginia Council for Community and Technical College Education.

(d) The board of advisors consists of fifteen members, including a full-time member of the faculty with the rank of instructor or above duly elected by the faculty of the respective institution; a member of the student body in good academic
standing, enrolled for college credit work and duly elected by
the student body of the respective institution; a member from
the institutional classified employees duly elected by the
classified employees of the respective institution; and twelve
lay persons appointed pursuant to this section who have
demonstrated a sincere interest in and concern for the welfare
of that institution and who are representative of the population
of its responsibility district and fields of study. At least eight of
the twelve lay persons appointed shall be residents of the state.
Of the lay members who are residents of the state, at least two
shall be alumni of the respective institution and no more than a
simple majority may be of the same political party.

(e) The student member serves for a term of one year
beginning on the first day of May. The member from the faculty
and the classified employees, respectively, serves for a term of
two years beginning on the first day of May. The twelve lay
members serve terms of four years each beginning on the first
day of May. All members are eligible to succeed themselves for
no more than one additional term. A vacancy in an unexpired
term of a member shall be filled for the remainder of the
unexpired term within thirty days of the occurrence thereof in
the same manner as the original appointment or election. Except
in the case of a vacancy:

(1) All elections shall be held and all appointments shall be
made no later than the thirtieth day of April preceding the
commencement of the term; and

(2) Terms of members begin on the first day of May
following election.

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

(g) One of the twelve lay members shall be elected as chairperson by the board of advisors in May of each year. A member may not serve as chairperson for more than two consecutive years.

(h) The president of the institution shall make available resources of the institution for conducting the business of the board of advisors. The members of the board of advisors shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties under this section upon presentation of an itemized sworn statement thereof. All expenses incurred by the boards of advisors and the institutions under this section shall be paid from funds allocated to the institutions for that purpose.

(i) Prior to the submission by the president to its governing board, the board of advisors shall review all proposals of the institution in the areas of mission, academic programs, budget, capital facilities and such other matters as requested by the president of the institution or its governing board or otherwise assigned to it by law. The board of advisors shall comment on each such proposal in writing, with such recommendations for concurrence therein or revision or rejection thereof as it considers proper. The written comments and recommendations shall accompany the proposal to the governing board and the governing board shall include the comments and recommendations in its consideration of and action on the proposal. The governing board shall promptly acknowledge receipt of the comments and recommendations and shall notify the board of advisors in writing of any action taken thereon.

(j) Prior to their implementation by the president, the board of advisors shall review all proposals regarding institution-wide
personnel policies. The board of advisors may comment on the proposals in writing.

(k) The board of advisors shall provide advice and assistance to the president and the governing board in areas including, but not limited to, the following:

(1) Establishing closer connections between higher education and business, labor, government and community and economic development organizations to give students greater opportunities to experience the world of work. Examples of such experiences include business and community service internships, apprenticeships and cooperative programs;

(2) Communicating better and serving the current workforce and workforce development needs of their service area, including the needs of nontraditional students for college-level skills upgrading and retraining and the needs of employers for specific programs of limited duration; and

(3) Assessing the performance of the institution’s graduates and assisting in job placement.

(1) When a vacancy occurs in the office of president of the institution, the board of advisors shall serve as a search and screening committee for candidates to fill the vacancy under guidelines established by the council. When serving as a search and screening committee, the board of advisors and its governing board are each authorized to appoint up to three additional persons to serve on the committee as long as the search and screening process is in effect. The three additional appointees of the board of advisors shall be faculty members of the institution. For the purposes of the search and screening process only, the additional members shall possess the same powers and rights as the regular members of the board of advisors, including reimbursement for all reasonable and necessary expenses
actually incurred. Following the search and screening process, the committee shall submit the names of at least three candidates to the appropriate governing board. If the governing board rejects all candidates submitted, the committee shall submit the names of at least three additional candidates and this process shall be repeated until the governing board approves one of the candidates submitted. In all cases, the governing board shall make the appointment with the approval of the council or the commission in the case of West Virginia University Institute of Technology. The governing board or the council shall provide all necessary staff assistance to the board of advisors in its role as a search and screening committee.

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

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

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

3. Documentation of the involvement of the commission, institutional constituency groups, clientele of the institution and
the general public in the development of all segments of the
institutional master plan.

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

§18B-6-la. Definitions.

For the purposes of this article, the following words have
the meanings specified unless the context clearly indicates a
different meaning:

(a) “Advisory council of Classified Employees” or “classified
council” means the state advisory organization of classified
employees created pursuant to section five of this article.

(b) “Advisory council of Faculty” or “faculty council”
means the state advisory organization of faculty created
pursuant to section two of this article.

(c) “Advisory Council of Students” or “student advisory
council” means the state advisory organization of students
created pursuant to section four of this article.

(d) “Classified employee”, in the singular or plural, means
any regular full-time or regular part-time employee of a
governing board, the commission, the council or the West
Virginia Network for Educational Telecomputing who holds a
position that is assigned a particular job title and pay grade in
accordance with the personnel classification system established
by law.

(e) “Community and technical college” means Eastern West
Virginia Community and Technical College, Fairmont State
Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, West Virginia Northern Community and Technical College, Blue Ridge Community and Technical College, Southern West Virginia Community and Technical College, West Virginia State Community and Technical College, The Community and Technical College at West Virginia University Institute of Technology, West Virginia University at Parkersburg and any other community and technical college so designated by the Legislature.

(f) "Council" means the West Virginia Council for Community and Technical College Education created pursuant to section three, article two-b of this chapter.

(g) "Institutional Classified Employee Council" or "staff council" means the advisory group of classified employees formed at a state institution of higher education pursuant to section six of this article.

(h) "Institutional Faculty Senate", "faculty senate" or "faculty assembly" means the advisory group of faculty formed at a state institution of higher education pursuant to section three of this article.

(i) "State institution of higher education", in the singular or plural, means the institutions as defined in section two, article one of this chapter and, additionally, Fairmont State Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, Potomac State Campus of West Virginia University, Robert C. Byrd Health Sciences Charleston Division of West Virginia University, Blue Ridge Community and Technical College, West Virginia State Community and Technical College, West Virginia University at Parkersburg, West Virginia University Institute of Technology, The Community and Technical College
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54 at West Virginia University Institute of Technology, the Higher
55 Education Policy Commission, the West Virginia Council for
56 Community and Technical College Education, the West
57 Virginia Network for Educational Telecomputing and any other
58 institution so designated by the Legislature.

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

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

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

7 (1) Tuition and required educational and general fees;

8 (2) Auxiliary and auxiliary capital fees; and

9 (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:

12 (1) All tuition and required educational and general fees
collected;

14 (2) All auxiliary and auxiliary capital fees collected; and

15 (3) All required educational and general capital fees collected to support existing systemwide 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 accord-
dance 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 accep-
tance 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 commission 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 commensurate with the tuition and fees charged by their peer institutions.

(k) A penalty may not be imposed by the commission or council upon any institution based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The institutions shall report annually to the commission or council
on the numbers of nonresidents and such other enrollment
information as the commission or council may request.

(1) Tuition and fee increases of the governing boards, except
for the governing boards of the state institutions of higher
education known as Marshall University and West Virginia
University, are subject to rules adopted by the commission and
council jointly pursuant to this section and in accordance with
the provisions of article three-a, chapter twenty-nine-a of this
code.

(1) Subject to the provisions of subdivision (4) of this
subsection, a governing board of an institution under the
jurisdiction of the commission may propose tuition and fee
increases of up to nine and one-half percent for undergraduate
resident students for any fiscal year. The nine and one-half
percent total includes the amount 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.

(2) A governing board of an institution under the jurisdic-
tion of the council may propose tuition and fee increases of up
to four and three quarters percent for undergraduate resident
students for any fiscal year. The four and three-quarters percent
total includes the amount 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:
172 (A) Increase tuition and fees for undergraduate resident
173 students to the maximum allowed by this section without
174 seeking approval from the commission; and
175
176 (B) Set tuition and fee rates for post-baccalaureate resident
177 students and for all nonresident students, including establishing
178 regional tuition and fee rates, reciprocity agreements or both.
179
180 (C) The provisions of this subdivision do not apply to
181 tuition and fee rates of the administratively linked institution
182 known as Marshall Community and Technical College, the
183 administratively linked institution known as The Community
184 and Technical College at West Virginia University Institute of
185 Technology, the regional campus known as West Virginia
186 University at Parkersburg and, until the first day of July, two
187 thousand seven, the regional campus known as West Virginia
188 University Institute of Technology.
189
190 (5) Any proposed tuition and fee increase for state institu-
191 tions of higher education other than the state institutions of
192 higher education known as Marshall University and West
193 Virginia University requires the approval of the commission or
194 council, as appropriate. In determining whether to approve or
195 deny the governing board’s request, the commission or council
196 shall determine the progress the institution has made toward
197 meeting the conditions outlined in this subdivision and shall
198 make this determination the predominate factor in its decision.
199 The commission or council shall consider the degree to which
200 each institution has met the following conditions:
201
202 (A) Has maximized resources available through nonresident
203 tuition and fee charges to the satisfaction of the commission or
204 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.

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

(7) The commission and council shall report to the Legislative Oversight commission on Education Accountability regarding the basis for each approval or denial as determined using the criteria established in subdivision (5) of this subsection.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 4th day of April, 2006.