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2005 MAY -4 P 11: 05

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



# ENROLLED

## House Bill No. 2777

(By Mr. Speaker, Mr. Kiss and Delegate Boggs)



Passed April 9, 2005

In Effect From Passage.

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**E N R O L L E D**

**H. B. 2777**

(BY MR. SPEAKER, MR. KISS AND DELEGATE BOGGS)

[Passed April 9, 2005; in effect from passage.]

AN ACT to amend and reenact §18B-13-1, §18B-13-2, §18B-13-3, §18B-13-4 and §18B-13-5 of the Code of West Virginia, 1931, as amended, relating to higher education and industry partnerships; amending tax incentives for certain businesses located in the geographic area of a High-Tech research zone, park or technology center; defining qualified business; defining qualified state institution of higher education; designation of the particular geographic area comprising the research zone, park or technology center; updating language to be consistent with current higher education governance structure; updating other language; and other technical amendments.

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

That §18B-13-1, §18B-13-2, §18B-13-3, §18B-13-4 and §18B-13-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 13. HIGHER EDUCATION — INDUSTRY PARTNERSHIPS.**

**§18B-13-1. Legislative findings; intent; definition.**

1 (a) *Legislative findings* — The Legislature finds that a  
2 pressing need exists for collaborative research and development  
3 between institutions of higher education and industry. This need  
4 also extends to assisting companies to develop and adapt to new  
5 technology. A commitment by the state to support cooperative  
6 partnerships between higher education and industry preserves  
7 existing jobs and creates new jobs; promotes development of  
8 business enterprises and helps them become competitive; and  
9 enables West Virginia to achieve the goals of economic growth  
10 and full employment by revitalizing and diversifying the  
11 economy. Focused research and technical assistance efforts  
12 related to West Virginia industry advances such development,  
13 improves technology transfer, assists companies in becoming  
14 growth leaders and links basic research and technological  
15 developments to economic advancement.

16 (b) *Legislative intent* — It is the intent of the Legislature to  
17 adopt the following as state goals to be reached through applied  
18 science and technology and partnership programs:

19 (1) Moving West Virginia into the forefront of science and  
20 technology;

21 (2) Attracting business, federal contracts and industry; and

22 (3) Creating jobs for the people of this state..

23 (c) *Definition* — As used in this article, “Qualified busi-  
24 ness” means a business registered to do business in this state  
25 which is engaged in science and technology related “manufac-  
26 turing” (as defined in section three, article thirteen-s, chapter  
27 eleven of this code) or science and technology related “research  
28 and development” (as defined in section three, article thirteen-  
29 q, or section three, article thirteen-r, chapter eleven of this code)  
30 within a research zone, park or technology center.

**§18B-13-2. Higher education-industry collaboration and technical assistance.**

1 Each governing board of a state institution of higher  
2 education shall develop a plan to engage in collaborative  
3 projects designed to assist business to adapt or develop new  
4 technology under this article.

**§18B-13-3. Powers and duties.**

1 (a) The West Virginia Development Office, in consultation  
2 with the Commission, is hereby authorized and directed to  
3 develop a strategic comprehensive plan and grant program to  
4 attract new science and high technology industries, to retain and  
5 expand current state industries through technology and other  
6 processes and to increase research grants, contracts, matching  
7 funds and procurement arrangements from the federal govern-  
8 ment, private industry and other agencies. The initial strategic  
9 comprehensive plan and each annual plan update shall be  
10 developed and filed with the Governor and Legislature.

11 (b) The West Virginia Development Office, in consultation  
12 with the Commission, shall review the work and projects  
13 undertaken by the Center of Regional Progress, the Center for  
14 Economic Research, the Institute for International Trade  
15 Development and the West Virginia Foundation for Science and  
16 Technology.

**§18B-13-4. High-Tech research zones, parks and technology centers; tax incentives.**

1 (a) For the purposes of this subsection, a “qualified state  
2 institution of higher education” is a state institution of higher  
3 education meeting the qualifications to be established by the  
4 West Virginia Development Office. The West Virginia  
5 Development Office shall work with the county commissions,  
6 municipalities and local development authorities where

7 qualified state institutions of higher education are located and  
8 shall develop a plan and grant program for the establishment  
9 and operation of qualifying High-Tech research zones, parks  
10 and technology centers on or near the campuses of qualified  
11 state institutions of higher education to attract business and  
12 industry engaged in science and technology related research and  
13 development. The plan and grant program shall include  
14 qualifications that are to be met in order to receive approval by  
15 the West Virginia Development Office as a research zone, park  
16 or technology center or as a qualified business. Those qualifica-  
17 tions shall require a minimum partnership commitment from  
18 one or more qualified businesses in the private sector in the  
19 construction, operation or location of the research zone, park or  
20 technology center. The West Virginia Development Office shall  
21 designate the particular geographic area comprising the  
22 research zone, park or technology center.

23 The West Virginia Economic Development Authority is  
24 authorized to enter into agreements with state institutions of  
25 higher education, private developers or other interested busi-  
26 nesses or persons to acquire, finance, construct, operate, own,  
27 lease or otherwise manage any research zone, park or technol-  
28 ogy center and to collect rentals or other forms of payment for  
29 the operation of research zones, parks or technology centers.  
30 The West Virginia Economic Development Authority is  
31 authorized either singly or in conjunction with any county  
32 commission, municipality or local development authority, to  
33 issue special bonds for the purpose of this section, including,  
34 but not limited to, special project revenue bonds and special  
35 user bonds limited to the actual cost of construction and start-up  
36 of any qualifying and approved research zones, parks or  
37 technology centers, and improvements necessary thereto,  
38 pursuant to article twelve-b, chapter eighteen of this code.

39 (b) For taxable years beginning on and after the first day of  
40 January, two thousand five, any qualified business approved by

41 the West Virginia Development Office on or after the first day  
42 of January, two thousand four, and located in a geographic area  
43 designated as a High-Tech research zone, park or technology  
44 center, shall be considered to be:

45 (1) A business eligible for economic opportunity tax credit  
46 entitlement pursuant to section nineteen, article thirteen-q,  
47 chapter eleven of the code, and entitled to the twenty percent  
48 new jobs percentage under section nine of that article, if it  
49 creates at least three new jobs in a research zone, park or  
50 technology center;

51 (2) An eligible taxpayer for purposes of the strategic  
52 research and development credit provided under article thirteen-  
53 r, chapter eleven of the code;

54 (3) An industrial taxpayer for purposes of the manufactur-  
55 ing investment tax credit provided under article thirteen-s,  
56 chapter eleven of the code if it is primarily engaged in manufac-  
57 turing related to research and development; and

58 (4) Entitled to priority for approval of refundable credit for  
59 the small qualified research and development company credit  
60 under section six, article thirteen-r, chapter eleven of the code  
61 ahead of eligible taxpayers that are not qualified businesses  
62 under section one of this article: *Provided*, That the qualified  
63 business otherwise meets the requirements for those credits.

64 (c) Notwithstanding any other provision herein to the  
65 contrary, the amount of total credits and deferrals allowable  
66 under this section, shall not exceed two and one-half million  
67 dollars in any one fiscal year for all eligible businesses:  
68 *Provided*, That, except for the credit allowed under subdivision  
69 (4), subsection (b) of this section, the credits allowed by this  
70 section are nonrefundable so that a taxpayer shall not claim a

71 total credit amount that reduces the taxpayer's tax liability to  
72 less than zero.

**§18B-13-5. Use of state property and equipment; faculty.**

1 (a) The governing boards are authorized to provide for the  
2 low cost and economical use and sharing of state property and  
3 equipment, including computers, research labs and other  
4 scientific and necessary equipment to assist any qualified  
5 business within an approved research park or zone or technol-  
6 ogy center. The Commission shall approve a schedule of  
7 nominal or reduced-cost reimbursements to the state for such  
8 use.

9 (b) The governing boards shall develop and provide for a  
10 program of release time, sabbaticals or other forms of faculty  
11 involvement or participation with any qualifying business.

12 (c) The Legislature finds that cooperation, communication  
13 and coordination are integral components of higher education's  
14 involvement in economic development. In order to proceed in  
15 a manner that is cost effective and time efficient, it is the duty  
16 of the Commission to review and coordinate such aspects of the  
17 programs administered by the governing boards. The review  
18 and coordination may not operate to affect adversely sources of  
19 funding or any statutory characterization of any program as an  
20 independent entity. The Commission shall report annually to  
21 the Legislature and the Governor. The report shall contain the  
22 following information:

23 (1) The number of seminars and workshops conducted;

24 (2) The subject matter addressed in each seminar and  
25 workshop;

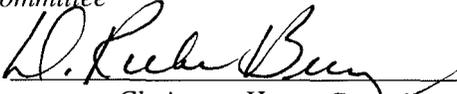
26 (3) The number of feasibility studies conducted and the  
27 subject matter contained in each study;

28       (4) An accounting of the cost of all travel expenses,  
29 seminars, workshops and feasibility studies; and

30       (5) The extent to which the authority provided for in  
31 subsection (b) of this section has been exercised, stating  
32 specifically the names of the institutions and faculty members  
33 involved in the program.

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

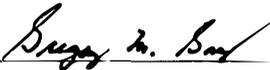
  
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Chairman Senate Committee

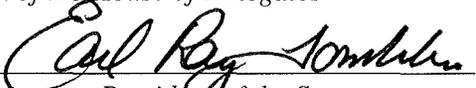
  
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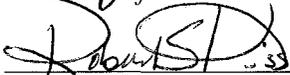
Originating in the House.

In effect from passage.

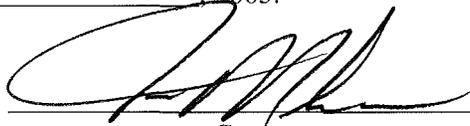
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 4<sup>th</sup>  
day of May 2005.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

APR 26 2005

Time

4:35 pm