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REGULAR SESSION, 1993

ENROLLED

Com. Sub. for Com. Sub. for
SENATE BILL NO. 377

(By Senator *Burdette*, Mr. President, and
Wally, by Request of the Executive)

PASSED *April 10*, 1993
In Effect *from* Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 377

(By SENATORS BURDETTE, MR. PRESIDENT, AND BOLEY,
By REQUEST OF THE EXECUTIVE)

[Passed April 10, 1993; in effect from passage.]

AN ACT to repeal section ten, article one, of chapter eighteen-b of the code of West Virginia one thousand nine hundred thirty-one, as amended; to amend and reenact sections thirteen and fifteen, article two, chapter five-a of said code; to amend and reenact section two-a, article five, chapter ten of said code; to amend and reenact section eight, article three, chapter twelve of said code; to amend article seven-a, chapter eighteen of said code by adding thereto a new section, designated section fourteen-b; to amend and reenact sections two, five, seven and eight, article one, chapter eighteen-b of said code; to further amend said article by adding thereto three new sections, designated sections one-a, one-b and five-a; to amend and reenact sections one and three, article two of said chapter; to further amend said article by adding thereto a new section,

designated section eight; to amend and reenact sections one, three and four, article three of said chapter; to amend and reenact section two, article three-a of said chapter; to further amend said chapter by adding thereto a new article, designated article three-c; to amend and reenact sections one and two, article four of said chapter; to amend and reenact section two, article five of said chapter; to further amend said article by adding thereto a new section, designated section two-a; to amend and reenact section one, article six of said chapter; to amend and reenact sections one and five, article seven of said chapter; to further amend said article by adding thereto five new sections, designated sections six, seven, eight, nine and ten; to amend and reenact section three, article eight of said chapter; to further amend said article by adding thereto a new section, designated section three-a; to amend and reenact sections four and five, article nine of said chapter; to further amend said article by adding thereto a new section, designated section eleven; to amend and reenact sections one and fourteen, article ten of said chapter; to amend and reenact article thirteen of said chapter; to amend article fourteen of said chapter by adding thereto a new section, designated section three; to amend and reenact sections two and three, article seventeen of said chapter; to amend chapter eighteen-c of said code by adding thereto a new article, designated article five, all relating to advancing certain recommendations of the higher education advocacy team; providing for quarterly allotment shortfalls through temporary special revenue transfers and special consideration by secretary of administration; providing retirement benefits for certain board of regents employees; stating legislative intent and goals regarding distance learning; placing secretary of education and arts on council; placing council under jurisdiction of secretary of education and arts; allowing term extension of chair of council; transferring funds of distance learning coordinating council to secretary of education and arts; providing for expenditure of appropriations to distance learning fund; prioritizing use of funds; providing that state board of education approve rather than accredit

distance courses; authorizing pilot program; authorizing comparable fees if enrolled for credit; redefining community college terms; requiring governing boards and state board of education to provide secretary of education and arts with requested information in timely manner; requiring elimination of certain courses and notification thereof; requiring presidential performance evaluations to be written; requiring individuals to work with state auditor and treasurer and report to legislative oversight commission on education accountability regarding efficient expenditure methods that ensure payment within fifteen days of properly submitted requests therefor; allowing federal employees to serve on higher education governing boards; requiring boards and institutions to adopt salary policies; stating legislative intent to provide funds for salaries from appropriations; establishing consortium of comprehensive child development centers; providing generally therefor; giving Fairmont State and West Virginia Institute of Technology primary responsibility for technical preparation teacher training programs; specifying duties of board of directors regarding comprehensive community college system; requiring board of directors to delegate authority as deemed prudent to community college presidents; requiring community college components within university system to coordinate; requiring that funds, including special fees, collected at freestanding community colleges remain with those community colleges; creating governor's council on higher and other postsecondary education; providing generally therefor; setting forth powers and duties of council and limitations thereto; updating duties of senior administrator; requiring governing boards to establish resource allocation model and policies; requiring funds, including funds for salary increases, be distributed in accordance with policies; authorizing certain transfers of general and special revenue funds within and among certain higher education accounts in accordance with stated procedure and with stated limitations; authorizing and providing generally for special efficiency surplus revolving fund which may be carried over to next fiscal year and

expended only by line item appropriation; authorizing Legislature to transfer certain funds and redesignate same; requiring reports regarding line item transfer and surplus fund; requiring institutional board of advisors to provide advice and assistance to president relating to certain activities; authorizing administrative officer appointed to institutional board of advisors to serve more than two terms and coordinate institution's economic development activities; providing for preferential hiring of existing classified employees; requiring boards to establish policies, with assistance of faculty and/or classified employees, regarding continuing education and staff development, adjunct faculty, professional productivity, teaching and research duties of faculty-rank campus administrators, and employment innovations; providing across-the-board annual salary increase of two thousand dollars for full-time faculty, including extension faculty, and nonclassified employees subject to appropriations; providing across-the-board monthly salary increase of one hundred twenty-five dollars for full-time classified employees, including extension employees, subject to appropriations; providing classified employee salary increase be prorated for part-time classified employees as defined; setting forth timeline for approval and implementation of uniform employee classification system for classified employees without additional appropriation; stating need for emergency rule in regard thereto; declaring certain provisions null and void upon implementation of rule; allowing classified employees at maximum salary to receive limited salary increase; stating goal for level of tuition and required fees for resident and nonresident students at state institutions of higher education; defining full-time enrollment for fee purposes; providing alternative methods for payment of fees; requiring boards to adopt standardized refund policy; requiring penalties, by rule, for excessive course registration; requiring boards to consider fee waivers in exchange for service to institution; requiring stated textbook policies in order to minimize costs; streamlining provision regarding higher education-industry partnerships; limiting tax credits and deferrals; requir-

ing certain reports; authorizing southern West Virginia community college to sell property as set forth; recodifying higher education grant program and requiring additional one and one-half million appropriation each year for five years to that grant program; and deleting or updating outdated code provisions.

Be it enacted by the Legislature of West Virginia:

That section ten, article one, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections thirteen and fifteen, article two, chapter five-a of said code be amended and reenacted; that section two-a, article five, chapter ten of said code be amended and reenacted; that section eight, article three, chapter twelve of said code be amended and reenacted; that article seven-a, chapter eighteen of said code be amended by adding thereto a new section, designated section fourteen-b; that sections two, five, seven and eight, article one, chapter eighteen-b of said code be amended and reenacted; that said article be further amended by adding thereto three new sections, designated one-a, one-b and five-a; that sections one and three, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eight; that sections one, three and four, article three of said chapter be amended and reenacted; that section two, article three-a of said chapter be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article three-c; that sections one and two, article four of said chapter be amended and reenacted; that section two, article five of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section two-a; that section one, article six of said chapter be amended and reenacted; that sections one and five, article seven of said chapter be amended and reenacted; that said article be further amended by adding thereto five new sections, designated sections six, seven, eight, nine and ten; that section three, article eight of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section three-a; that sections four and five, article nine

of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eleven; that sections one and fourteen, article ten of said chapter be amended and reenacted; that article thirteen of said chapter be amended and reenacted; that article fourteen of said chapter be amended by adding thereto a new section, designated section three; that sections two and three, article seventeen of said chapter be amended and reenacted; that chapter eighteen-c of said code be amended by adding thereto a new article, designated article five, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 2. FINANCE DIVISION.

§5A-2-13. Examination and approval of expenditure schedules; amendments; copies to legislative auditor.

1 The secretary shall examine the expenditure sched-
2 ule of each spending unit, and if it conforms to the
3 appropriations made by the Legislature, the require-
4 ments of this article, and is in accordance with sound
5 fiscal policy, the secretary shall approve the schedule.
6 In addition, the secretary shall give special consider-
7 ation in the approval of expenditure schedules to
8 accounts in which the appropriations consist predom-
9 inantly of personal services funds so that the quarterly
10 allotments of funds to the various spending units
11 pursuant to section fifteen of this article are sufficient
12 to pay such personnel costs in the quarter in which
13 they are due.

14 The expenditure of the appropriations made to a
15 spending unit shall be only in accordance with the
16 approved expenditure schedule unless the schedule is
17 amended with the consent of the secretary, or unless
18 appropriations are reduced in accordance with the
19 provisions of sections twenty to twenty-three, inclu-
20 sive, of this article. The spending officer of a spending
21 unit shall transmit to the legislative auditor a copy of
22 each and every requested amendment to such sched-
23 ule at the same time that such requested amendment
24 is submitted to the secretary. The secretary shall send

25 to the legislative auditor copies of any schedule
26 amended with the secretary's approval.

**§5A-2-15. Requests for quarterly allotments; approval or
reduction by governor.**

1 At least thirty days prior to the beginning of each
2 quarter of the fiscal year, each spending officer shall
3 submit to the secretary a request for an allotment of
4 public funds sufficient to operate the unit during the
5 ensuing quarter in accordance with the approved
6 expenditure schedule.

7 The secretary shall examine the requests, giving
8 special consideration to accounts in which the appro-
9 priations consist predominantly of personal services
10 funds so that the quarterly allotments of funds to the
11 various spending units are sufficient to pay such
12 personnel costs in the quarter in which they are due,
13 and, if the secretary finds that the amounts requested
14 are in accordance with the approved expenditure
15 schedules and are in accordance with sound fiscal
16 policy, the secretary shall submit the requests to the
17 governor. The secretary shall also submit a summary
18 statement showing the amounts expended under the
19 budget for each preceding quarter of the fiscal year
20 and the total amount requested for allotment during
21 the ensuing quarter.

22 The governor shall consider the amount of requests
23 for allotment and the collection of revenues. If the
24 governor finds that the collection of revenue warrants
25 the expenditure of the amount requested in the
26 allotment, the governor shall approve the allotment of
27 funds for the ensuing quarter and send copies of the
28 requests to the legislative auditor after approval. If the
29 governor finds that the collection of revenue does not
30 warrant the allotment of the requested amount, the
31 governor may reduce the amount of allotments pend-
32 ing the collection of sufficient revenue.

**CHAPTER 10. PUBLIC LIBRARIES; PUBLIC
RECREATION; ATHLETIC ESTABLISHMENTS;
MONUMENTS AND MEMORIALS;**

**ROSTER OF SERVICEMEN; EDUCATIONAL
BROADCASTING AUTHORITY.**

ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.

**§10-5-2a. West Virginia distance learning coordinating
council; creation; duties.**

1 (a) The Legislature finds that the educational bene-
2 fits of making a broader range of courses available to
3 West Virginia students, and the economic benefits
4 from continuing education and staff development for
5 businesses, industry and the professions, are immeas-
6 urable and that distance learning technology offers an
7 efficient means of delivering such education and
8 personnel development courses. The Legislature fur-
9 ther finds that distance learning technology requires a
10 substantial financial investment and the acquisition
11 and utilization of such technology should, therefore, be
12 coordinated among the various affected agencies.

13 (b) To facilitate such coordination, there is hereby
14 created a West Virginia distance learning coordinating
15 council which shall be composed of one representative
16 of each of the following: SatNet, EdNet, the education-
17 al broadcasting authority, the West Virginia library
18 commission, the state department of education, the
19 higher education central office, the department of
20 administration's division of information systems and
21 communications, and the office of the secretary of
22 education and the arts. The chair elected by the
23 council shall serve a term of one year, at which time
24 the council shall elect a new chair. A member of the
25 council may not serve for more than two consecutive
26 terms as chair, except by unanimous vote of the
27 council.

28 The council shall meet at least quarterly and shall
29 develop long-range plans to integrate the instructional
30 telecommunications system, to coordinate distance
31 learning in West Virginia and to clarify the roles of the
32 agencies involved in the state's distance learning
33 enterprise. The council shall submit an annual report
34 to the governor and the Legislature, which includes its

35 recommendations for achieving the best use of limited
36 resources in the development and operation of a
37 distance learning technology system.

38 (c) A goal of the council is the creation of a statewide
39 technology system linking universities and colleges,
40 schools, libraries and, eventually, homes with soft-
41 ware, data bases and video learning capabilities. In
42 pursuit of this goal, the council shall determine the
43 most effective and efficient ways to integrate the
44 capabilities of the state for producing, delivering and
45 receiving electronic instruction and establish a com-
46 prehensive long-range plan to further the cooperation
47 and coordination of the various educational and other
48 agencies of the state, and the county boards of educa-
49 tion, in establishing distance learning technology.

50 (d) There is hereby created in the state treasury, a
51 special fund designated the "Distance Learning Fund"
52 which shall be under the jurisdiction of the secretary
53 of education and the arts for use solely for the
54 purposes of the distance learning grant program as
55 provided in this section.

56 Appropriate guidelines for participation by school
57 districts, state institutions of higher education, public
58 libraries and public broadcasting stations, in the grant
59 program, shall be established by the distance learning
60 coordinating council subject to approval by the legisla-
61 tive oversight commission on education accountability.
62 Such guidelines shall include application procedures
63 and shall establish policies for awarding grants in the
64 event that more grant applications are received than
65 there are funds available to honor the applications in
66 any fiscal year. In allocating funds to applicants, the
67 council may give due consideration to revenues
68 available from all other sources. The state board of
69 education shall approve courses offered through this
70 program at the elementary and secondary education
71 level. The higher education governing boards shall
72 approve courses taught at the post-secondary level.

73 (e) In any fiscal year moneys in the fund shall be

74 used first to ensure that any and all school districts,
75 state institutions of higher education, public libraries
76 and public television stations seeking aid under this
77 program shall receive telecommunications equipment
78 necessary to participate in the satellite learning
79 process; second, to provide the school districts and
80 state institutions of higher education with access to
81 subjects at the advanced level or the remedial level or
82 which are not taught in the schools of the district or
83 the service area or campus; and third, to provide
84 enrichment classes, continuing education and profes-
85 sional development. However, the council may set
86 aside a portion of the funds to be used to contract with
87 state institutions of higher education, state institutions
88 of public education and public broadcasting stations to
89 develop instructional programs for grades kinder-
90 garten through twelve. Funds may also be used for
91 undergraduate and graduate course work suitable for
92 broadcast to the school districts, state institutions of
93 higher education, as appropriate, for continuing
94 education and professional development for business
95 and industry seminars, and to develop the capability to
96 transmit programs cited in this section.

97 (f) Participation by a local school district, a state
98 institution of higher education, a public library or a
99 public broadcasting station in the program established
100 by this section shall be voluntary. No school district,
101 state institution of higher education, public library or
102 public broadcasting station receiving funds under this
103 program shall use those funds for any purpose other
104 than that for which they were intended. Any school
105 district, state institution of higher education, public
106 library or public broadcasting station shall be eligible
107 to receive funds under this program regardless of its
108 curriculum, local wealth or previous contractual
109 arrangements to receive satellite broadcast instruction.

110 (g) The secretary of education and the arts on behalf
111 of the state of West Virginia may contract with
112 institutions of higher education and the state board of
113 education for the development or operation, or both, of

114 state employee training programs transmitted by
115 telecommunications technology.

116 Instructional programs developed under this section
117 which are transmitted one-way through the airwaves
118 or by cable shall be available to all residents of this
119 state without charge or fee to the extent permitted by
120 the West Virginia constitution. "Without charge or
121 fee" shall not require the providing of equipment to
122 transmit or receive telecommunications instruction or
123 the providing of commercial cable service. If the
124 instructional program involves two-way, interactive
125 communication between the instructor and the partic-
126 ipant, the district or institution operating the program
127 may prescribe academic prerequisites and limit the
128 number of persons who may enroll in the specific
129 program and give preference to residents of the
130 district or institutional attendance area who are age
131 twenty-one or younger but shall not discriminate
132 against any resident on any other basis. A fee may be
133 charged which will be paid directly by the individual
134 participant for the specific program, but the fee shall
135 be equal for all such participants. If a subscription fee
136 is charged by the originator of the program, the
137 district or institution may pay the subscription fee for
138 all participants from a grant under this section or from
139 any other public or private fund legally authorized to
140 be used for this purpose. Printed materials designed to
141 facilitate or complement telecommunications pro-
142 grams or electronic reproduction thereof may be made
143 available for loan by the school district, institution of
144 higher education through the public library system or
145 the curriculum technology resource center, subject to
146 the normal rules and regulations of the lending system
147 and in such quantities as may be approved by the
148 governing body of the district or institution.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

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

1 No requisition shall be made upon the auditor for
2 any money appropriated for the penitentiary, the West
3 Virginia schools for the deaf and blind, state mental
4 health facilities, state hospitals, corrections facilities, or
5 for any other public institution for education, charity
6 or correction, institutions governed by the university
7 of West Virginia board of trustees and by the board of
8 directors of the state college system, unless such
9 requisition shall be accompanied by the statement in
10 writing of the treasurer or other financial officer of
11 such institution, showing the amount of money in his
12 or her hands to the credit of such institution, or
13 otherwise in its control, on the day such requisition is
14 forwarded for payment.

**§18-7A-14b. Full participation in retirement system of
certain former Board of Regents employees.**

1 Notwithstanding section fourteen-a of this article or
2 any other provision of law to the contrary, any person
3 who was a member of the retirement system on
4 February twelve, one thousand nine hundred seventy,
5 who, as an employee of the West Virginia board of
6 regents, was not limited in the amount paid into the
7 retirement system, paid into the system the full
8 amount provided by law for members of the retire-
9 ment system, and was not an employee of the board of
10 regents who was limited in the amount which could be
11 paid from July one, one thousand nine hundred sixty-
12 three, to July one, one thousand nine hundred seven-
13 ty, shall be considered a full participant in that
14 retirement system, shall be paid a retirement benefit
15 comparable to the benefit being received by other
16 members of the retirement system who paid the full
17 amount provided by law, and shall be entitled to
18 retirement, death and all other benefits to the same
19 extent as any member of the retirement system who
20 paid the full amount provided by law may be entitled.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE I. GOVERNANCE.

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

1 (a) *Findings and directives.* —

2 The Legislature finds that higher education is a vital
3 force in the future of West Virginia. For the state to
4 realize its considerable potential in the twenty-first
5 century, West Virginia should invest in its people
6 through a strong and dynamic higher education
7 system.

8 The Legislature further finds that the people of West
9 Virginia have demonstrated their support for this
10 finding through their involvement and comments at
11 meetings held throughout the state pursuant to Senate
12 Concurrent Resolution 30 adopted at the regular
13 session of the West Virginia Legislature, one thousand
14 nine hundred ninety-two. The Legislature, also,
15 endorses the report submitted by the higher education
16 advocacy team pursuant to said resolution and directs
17 the affected educational agencies to implement unified
18 strategies for accomplishing the needed improvements.

19 (b) *Goals and objectives.* —

20 In the pursuance of the above findings, the following
21 goals and objectives are hereby adopted with respect
22 to the investments which are necessary for higher
23 education in West Virginia to contribute fully to the
24 growth, development and quality of life of the state
25 and its citizens:

26 (1) Students should be better prepared in high school
27 to meet college standards jointly agreed upon by
28 higher education and the public schools as required
29 under subsection (c), section five of this article. Those
30 standards should be conveyed to students prior to
31 entering tenth grade;

32 (2) More students should obtain education beyond
33 the high school level for our individual and collective
34 economic development:

35 (A) The awareness of post-secondary educational
36 opportunities among the state's citizens should be
37 expanded and their motivation to take advantage of
38 available opportunities should be enhanced;

39 (B) Assistance in overcoming the financial barriers
40 to post-secondary education should be provided;

41 (C) A student-friendly environment should be
42 created within post-secondary education to encourage
43 and expand participation for the increasingly diverse
44 student population;

45 (3) Students should be prepared to compete in a
46 global economy in which the good jobs will require an
47 advanced education and level of skill which far
48 surpasses former requirements:

49 (A) Academic preparation should be improved to
50 ensure that students enrolling in programs of post-
51 secondary education are adequately prepared to be
52 successful in their selected fields of study and career
53 plans;

54 (B) College graduates should meet or exceed
55 national and international standards for skill levels in
56 reading, oral and written communications, mathemat-
57 ics, critical thinking, science and technology, research
58 and human relations;

59 (C) College graduates should meet or exceed
60 national and international standards for performance
61 in their fields through national accreditation of pro-
62 grams and through outcomes assessment of graduates;

63 (4) Resources should be focused on programs and
64 courses which offer the greatest opportunities for
65 students and the greatest opportunity for job creation
66 and retention in the state:

67 (A) An entrepreneurial spirit and flexibility should
68 be created within higher education to respond to the
69 needs of the current work force and other nontradi-
70 tional students for college-level skills upgrading and
71 retraining;

72 (B) A focus should be created on programs suppor-
73 tive of West Virginia employment opportunities and
74 the emerging high technology industries;

75 (C) Closer linkages should be established among
76 higher education and business, labor, government,

77 community and economic development organizations;

78 (5) Resources should be used to their maximum
79 potential and faculty and technology should be com-
80 bined in a way that makes West Virginia higher
81 education more productive than similar institutions in
82 other states:

83 (A) Institutional missions should be clarified and
84 resources should be shifted to programs which meet
85 the current and future work force needs of the state;

86 (B) Program duplication necessary for geographic
87 access should be determined and unnecessary duplica-
88 tion should be eliminated;

89 (C) Systematic ongoing mechanisms should be
90 established for each state institution of higher educa-
91 tion to set goals, measure the extent to which those
92 goals are met, and use results of quantitative evalua-
93 tion processes to improve institutional effectiveness;

94 (D) Institutional productivity and administrative
95 efficiency standards should be established to ensure
96 that state institutions of higher education are more
97 productive and efficient than similar institutions in
98 other states; and

99 (6) The compensation of faculty, staff and adminis-
100 trators should be established at competitive levels to
101 attract and keep quality personnel at state institutions
102 of higher education:

103 (A) Faculty and staff classification and compensation
104 at state institutions of higher education should be
105 competitive with relevant market levels; and

106 (B) Available revenues should be distributed in an
107 equitable fashion which enables each state institution
108 of higher education to fulfill its mission and reward its
109 employees appropriately.

§18B-1-1b. Implementation of findings, directives, goals and objectives.

1 The board of trustees and the board of directors
2 shall develop a plan for implementation of the legisla-

3 tive findings, directives, goals and objectives set forth
4 in section one-a of this article and to ensure accoun-
5 tability in implementing said findings, directives, goals
6 and objectives in consultation with the secretary of
7 education and the arts, the president of the West
8 Virginia association of private colleges, the president
9 of the joint commission for vocational-technical-
10 occupational education, and the president of the West
11 Virginia economic development council. A written
12 report of the plan required by this section shall be
13 submitted to the governor and the legislative oversight
14 commission on education accountability by the first
15 day of December, one thousand nine hundred ninety-
16 three.

§18B-1-2. Definitions.

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

5 (a) "Governing board" or "board" means the uni-
6 versity of West Virginia board of trustees or the board
7 of directors of the state college system, whichever is
8 applicable within the context of the institution or
9 institutions referred to in this chapter or in other
10 provisions of law;

11 (b) "Governing boards" or "boards" means both the
12 board of trustees and the board of directors;

13 (c) "Freestanding community colleges" means
14 Southern West Virginia Community College and West
15 Virginia Northern Community College, which shall
16 not be operated as branches or off-campus locations of
17 any other state institution of higher education;

18 (d) "Community colleges" means freestanding com-
19 munity colleges, branches or off-campus locations of
20 state institutions of higher education within the state
21 college system, and programs offered at state institu-
22 tions of higher education within the state college
23 system which are two years or less in duration;

24 (e) "Community college component" means any

25 program operated by a state institution of higher
26 education within the university system which is two
27 years or less in duration, which program may be
28 offered at the institution or at a branch or off-campus
29 location;

30 (f) "Directors" or "board of directors" means the
31 board of directors of the state college system created
32 pursuant to article three of this chapter or the
33 members thereof;

34 (g) "Higher educational institution" means any
35 institution as defined by sections 401(f), (g), (h) of the
36 federal higher education facilities act of 1963, as
37 amended;

38 (h) "Post-secondary vocational education programs"
39 means any college-level course or program beyond the
40 high school level provided through an institution of
41 higher education which results in or may result in the
42 awarding of a two-year associate degree, under the
43 jurisdiction of the board of directors;

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

47 (j) "Senior administrator" means the person hired
48 by the governing boards in accordance with section
49 one, article four of this chapter, with such powers and
50 duties as may be provided for in section two of said
51 article four;

52 (k) "State college" means Bluefield State College,
53 Concord College, Fairmont State College, Glenville
54 State College, Shepherd College, West Liberty State
55 College, West Virginia Institute of Technology, or West
56 Virginia State College;

57 (l) "State college system" means the state colleges
58 and community colleges, and also shall include post-
59 secondary vocational education programs in the state,
60 as those terms are defined in this section;

61 (m) "State institution of higher education" means
62 any university, college or community college in the

63 state university system or the state college system as
64 those terms are defined in this section;

65 (n) "Trustees" and "board of trustees" means the
66 university of West Virginia board of trustees created
67 pursuant to article two of this chapter or the members
68 thereof; and

69 (o) "University", "University of West Virginia" and
70 "state university system" means the multi-campus,
71 integrated university of the state, consisting of West
72 Virginia University including West Virginia University
73 at Parkersburg, Potomac State College of West Virgi-
74 nia University and the West Virginia University
75 School of Medicine; Marshall University including the
76 Marshall University School of Medicine; the West
77 Virginia Graduate College; and the West Virginia
78 School of Osteopathic Medicine.

**§18B-1-5. Board of trustees and board of directors under
department of education and the arts.**

1 (a) The board of trustees and the board of directors,
2 created in articles two and three of this chapter, are
3 under the jurisdiction of the department of education
4 and the arts created in article one, chapter five-f of
5 this code, and are subject to the supervision of the
6 secretary of education and the arts. Rules adopted by
7 the governing boards shall be subject to approval by
8 the secretary of education and the arts. The budget
9 submitted by each board pursuant to the provisions of
10 section eight of this article shall be subject to approval
11 of the secretary of the department of education and
12 the arts, all pursuant to the provisions of article two,
13 chapter five-f of this code.

14 (b) The secretary of education and the arts is
15 responsible for the coordination of policies and pur-
16 poses of the state university system and the state
17 college system and shall provide for and facilitate
18 sufficient interaction between the governing boards,
19 and between the governing boards and the state board
20 of education, to assure appropriate mission and pro-
21 gram coordination and cooperation among: (1) The
22 state university system; (2) the state college system,

23 exclusive of the community colleges; (3) the commun-
24 ity colleges, including free-standing community col-
25 leges, and community college components; and (4) the
26 vocational-technical centers in the state, recognizing
27 the inherent differences in the missions and capabili-
28 ties of these four categories of institutions. The
29 governing boards and the state board of education
30 shall provide any and all information requested by the
31 secretary of education and the arts and legislators in a
32 timely manner.

33 (c) The secretary of education and the arts, the
34 chancellors of the board of trustees and the board of
35 directors, and the state superintendent of schools shall
36 develop standards and suggest implementation
37 methods for a standardized test to be used to predict
38 post-secondary educational success such as the test
39 offered by the American college testing program. The
40 test, hereinafter referred as the post-secondary aca-
41 demic success score or PASS, is to be administered to
42 all students during the fall semester of the tenth
43 grade. The secretary of education and the arts, the
44 chancellors of the board of trustees and the board of
45 directors, and the state superintendent of schools shall
46 submit a joint report outlining their findings to the
47 governor and the legislative oversight commission on
48 education accountability by the first day of December,
49 one thousand nine hundred ninety-three.

**§18B-1-5a. Pilot program of delivering educational services
via distance learning.**

1 (a) The intent of the Legislature in enacting this
2 section is to create the framework for establishing an
3 educational delivery system to address findings that:

4 (1) The strength of the economy of the state of West
5 Virginia is directly affected by the percentage of the
6 available work force possessing college degrees and/or
7 an advanced vocational-technical education from
8 which an employer may draw;

9 (2) Real and perceived barriers within West Virginia
10 and its systems of higher education, such as the cost of
11 a college education, the availability of appropriate

12 course work at locations and times convenient for
13 students with families and/or jobs, and inadequate
14 preparation for college-level work, have created road
15 blocks for West Virginians in achieving their educa-
16 tional goals and, in turn, have limited the economic
17 opportunities available to them and the state of West
18 Virginia; and

19 (3) Because of the state's history of a low college-
20 going rate and a low percentage of state residents who
21 hold college degrees, meeting the current and future
22 work force needs of West Virginia will require atten-
23 tion to the needs of working-age adults for upgrading
24 their skills, continuing their educations, preparing for
25 new careers and other lifelong learning pursuits, in
26 addition to attending to the educational needs of
27 traditional college age students.

28 (b) Such a delivery system should employ the best
29 available technology and qualified instructors to
30 provide courses of instruction to students at remote
31 locations by means of electronic transmission and
32 computer assisted instruction. The delivery system
33 should make maximum use of the currently existing
34 resources, facilities, equipment and personnel in the
35 state's systems of public and higher education and
36 other educational and administrative agencies and
37 should be low-tuition, commuter-oriented, open door
38 admissions, serving adults of all ages. The courses of
39 instruction offered through such a system should be
40 relevant to the needs of the target population as
41 expressed in the major findings listed in subsection (a)
42 of this section and should meet the several goals of
43 helping students to prepare for college level work, to
44 increase their likelihood of securing gainful employ-
45 ment given their other relevant life circumstances, to
46 obtain higher education core curriculum course work
47 that is universally accepted at all state institutions of
48 higher education with the grade earned, and to
49 minimize the amount of additional course work they
50 will be required to take at less convenient times and
51 locations to achieve their educational goals. The
52 delivery system should also include adequate student

53 support services such as student advising, career
54 counseling, library access and immediate interaction
55 with peers and instructors.

56 (c) The secretary of education and the arts is
57 responsible for establishing a three-year pilot program
58 consisting of no more than eight sites within the state
59 for the delivery of educational programs consistent
60 with the goals established in this section. To assist in
61 the development of this program, the secretary shall
62 appoint an advisory committee comprised of persons
63 from public education, higher education, the West
64 Virginia distance learning coordinating council, the
65 Legislature and the business community. In consulta-
66 tion with the advisory committee, the secretary shall
67 contract with the appropriate governing board or
68 other body to offer courses or programs of various
69 levels and types to meet the objectives of this section.
70 The contracts shall specify the pilot sites for offering
71 the educational programs, the various technologies for
72 program delivery, the types of courses to be offered,
73 the course instructors and site coordinators and their
74 training, the fees to be charged, the institutions in the
75 state willing to enroll the student participants, the
76 collection of tuition and fees, a method for accounting
77 for the funds collected and expended, and other issues
78 relevant to program administration. There is hereby
79 established in the state treasury a special revolving
80 fund within the account of the secretary of education
81 and the arts into which appropriations, course fees,
82 charitable contributions and other moneys received by
83 the secretary for the purposes of the program shall be
84 paid for expenditures in the operation of the pilot
85 program. During each year of the pilot program, the
86 secretary shall report to the governor and the Legisla-
87 ture on the progress of the program, whether it should
88 be continued or discontinued, and, if continued, any
89 recommended modifications in program scope and
90 mission and any action which is necessary on behalf of
91 the governor or the Legislature to improve the success
92 of the program. At the end of the pilot program, the
93 secretary shall make a final report to the governor and
94 the Legislature as to whether the findings set forth in

95 this section are being addressed through such an
96 educational delivery system and shall recommend
97 whether it should become permanent. If the secretary
98 recommends that the delivery system should become
99 permanent, the secretary shall also recommend specif-
100 ic structures for program support and administration,
101 instructional development and objectives, technology,
102 student support services and other relevant policy
103 issues.

§18B-1-7. Supervision by governing boards; delegation to president.

1 On and after the first day of July, one thousand nine
2 hundred eighty-nine, the governing boards shall
3 determine, control, supervise and manage all of the
4 policies and affairs of the state institutions of higher
5 education under their jurisdiction and shall exercise
6 and perform all such powers, duties and authorities
7 respecting those institutions as were previously exer-
8 cised and performed by the West Virginia board of
9 regents.

10 The governing boards have the general determina-
11 tion, control, supervision and management of the
12 financial, business, and educational policies and affairs
13 of all state institutions of higher education under their
14 jurisdiction. The board of trustees and the board of
15 directors shall seek the approval of the West Virginia
16 Legislature before either governing board takes action
17 that would result in the creation or closing of a state
18 institution of higher education.

19 Except as otherwise provided by law, each board's
20 responsibilities shall include, but shall not be limited
21 to, the making of studies and recommendations
22 respecting higher education in West Virginia; allocat-
23 ing among the state institutions of higher education
24 under their jurisdiction specific functions and respon-
25 sibilities; submitting budget requests for such institu-
26 tions; and equitably allocating available state approp-
27 riated funds between the boards and among such
28 institutions in accordance with the resource allocation
29 model and policies required by section two, article five

30 of this chapter.

31 Each board shall delegate, as far as is lawful,
32 efficient and fiscally responsible and within prescribed
33 standards and limitations, such part of its power and
34 control over financial, educational and administrative
35 affairs of each state institution of higher education to
36 the president or other administrative head of those
37 institutions. This shall not be interpreted to include
38 the classification of employees, lawful appeals made by
39 students in accordance with board policy, lawful
40 appeals made by faculty or staff, or final review of
41 new or established academic or other programs.

§18B-1-8. Powers and duties of governing boards generally.

1 (a) Each governing board shall separately have the
2 power and duty to:

3 (1) Determine, control, supervise and manage the
4 financial, business and educational policies and affairs
5 of the state institutions of higher education under its
6 jurisdiction;

7 (2) Prepare a master plan for the state institutions of
8 higher education under its jurisdiction, setting forth
9 the goals, missions, degree offerings, resource require-
10 ments, physical plant needs, state personnel needs,
11 enrollment levels and other planning determinates
12 and projections necessary in such a plan to assure that
13 the needs of the state for a quality system of higher
14 education are addressed: *Provided*, That the master
15 plan for post-secondary vocational education is subject
16 to approval by the joint commission for vocational-
17 technical-occupational education. The plan shall also
18 address the roles and missions of private post-secon-
19 dary education providers in the state. Each board shall
20 involve the executive and legislative branches of state
21 government and the general public in the develop-
22 ment of all segments of the plan for post-secondary
23 education in the state. The plan shall be established
24 for periods of not less than five nor more than ten
25 years and shall be periodically revised as necessary,
26 including the addition or deletion of degree programs
27 as in the discretion of the boards may be necessary.

28 Whenever a state institution of higher education
29 desires to establish a new degree program, such
30 program proposal shall not be implemented until the
31 same is filed with both governing boards. Upon
32 objection thereto within sixty days by either govern-
33 ing board, such program proposal shall be filed with
34 the secretary of education and the arts, who shall
35 approve or disapprove such proposal within one year
36 of the filing of said program proposal;

37 (3) Prescribe and allocate among the state institu-
38 tions of higher education under its jurisdiction, in
39 accordance with its master plan, specific functions and
40 responsibilities to meet the higher education needs of
41 the state and to avoid unnecessary duplication;

42 (4) Consult with the executive branch and the
43 Legislature in the establishment of funding parame-
44 ters, priorities and goals;

45 (5) Establish guidelines for and direct the prepara-
46 tion of budget requests for each of the state institu-
47 tions of higher education under its jurisdiction, such
48 requests to relate directly to missions, goals and
49 projections in its state master plan;

50 (6) Consider, revise and submit to the appropriate
51 agencies of the executive and legislative branches of
52 state government separate budget requests on behalf
53 of the state institutions of higher education under its
54 jurisdiction or a single budget for the state institutions
55 of higher education under its jurisdiction: *Provided,*
56 That when a single budget is submitted, that budget
57 shall be accompanied by a tentative schedule of
58 proposed allocations of funds to the separate state
59 institutions of higher education under its jurisdiction;

60 (7) Prepare and submit to the speaker of the House
61 of Delegates and the president of the Senate, no later
62 than the first day of each regular session of the
63 Legislature, and to any member of the Legislature
64 upon request, an analysis of the budget request
65 submitted under subdivision (6) of this subsection. The
66 analysis shall summarize all amounts and sources of
67 funds outside of the general revenue fund anticipated

68 to be received by each state institution of higher
69 education under its jurisdiction and the effect of such
70 funds on the budget request;

71 (8) Prepare and submit to the legislative auditor, no
72 later than the first day of July of each year, the
73 approved operating budgets of each state institution of
74 higher education under its jurisdiction for the fiscal
75 year beginning on that date and, no later than the first
76 day of August, a summary of federal and other
77 external funds received at each such institution during
78 the previous fiscal year;

79 (9) Establish a system of information and data
80 management that can be effectively utilized in the
81 development and management of higher education
82 policy, mission and goals;

83 (10) Review, at least every five years, all academic
84 programs offered at the state institutions of higher
85 education under its jurisdiction. The review shall
86 address the viability, adequacy and necessity of the
87 programs in relation to its master plan and the
88 educational and work force needs of the state. As a
89 part of such review, each governing board shall
90 require each of its institutions to conduct periodic
91 studies of its graduates and their employers to deter-
92 mine placement patterns and the effectiveness of the
93 educational experience. Where appropriate, these
94 studies should make use of the studies required of
95 many academic disciplines by their accrediting bodies.
96 The governing boards shall also ensure that the
97 sequence and availability of academic programs and
98 courses is such that students have the maximum
99 opportunity to complete programs in the time frame
100 normally associated with program completion, that the
101 needs of nontraditional college age students are
102 appropriately addressed, and that core course work
103 completed at any state institution of higher education
104 is transferable to another state institution of higher
105 education for credit with the grade earned. Notwith-
106 standing any other provision of this code to the
107 contrary, after the effective date of this section the
108 appropriate governing board shall have the exclusive

109 authority to approve the teacher education programs
110 offered in the institutions under their control. In order
111 to permit graduates of teacher education programs to
112 receive a degree from a nationally accredited program
113 and in order to prevent expensive duplication of
114 program accreditation, the boards may select and
115 utilize one nationally recognized teacher education
116 program accreditation standard as the appropriate
117 standard for program evaluation;

118 (11) Utilize faculty, students and classified staff in
119 institutional level planning and decision making when
120 those groups are affected;

121 (12) Administer a uniform system of personnel
122 classification and compensation for all employees other
123 than faculty and policy level administrators;

124 (13) Establish a uniform system for the hearing of
125 employee grievances and appeals therefrom, so that
126 aggrieved parties may be assured of timely and
127 objective review;

128 (14) Solicit and utilize or expend voluntary support,
129 including financial contributions and support services,
130 for the state institutions of higher education;

131 (15) Appoint a president or other administrative
132 head for each institution of higher education from
133 candidates submitted by the search and screening
134 committees of the institutional boards of advisors
135 pursuant to section one, article six of this chapter;

136 (16) Conduct written performance evaluations of
137 each institution's president in every fourth year of
138 employment as president, recognizing unique charac-
139 teristics of the institution and utilizing institutional
140 personnel, institutional boards of advisors, staff of the
141 appropriate governing board and persons knowledgeable
142 in higher education matters who are not otherwise
143 employed by a governing board;

144 (17) Submit to the joint committee on government
145 and finance, no later than the first day of December
146 of each year, an annual report of the performance of
147 the system of higher education under its jurisdiction

148 during the previous fiscal year as compared to stated
149 goals in its master plan and budget appropriations for
150 that fiscal year; and

151 (18) The governing boards shall have the power and
152 authority to enter into contracts or consortium agree-
153 ments with the public schools, private schools or
154 private industry to provide technical, vocational,
155 college preparatory, remedial and customized training
156 courses at locations either on campuses of public
157 institutions of higher education or at off-campus
158 locations in such institutions' regional educational
159 service areas. To accomplish this goal, the boards are
160 permitted to share resources among the various
161 groups in the community. The governing boards shall
162 promulgate uniform legislative rules providing for
163 entering into said contracts and consortium agree-
164 ments and for determining and granting credit for
165 work experience for courses offered by the consortium.

166 (b) The power, herein given to each governing board
167 to prescribe and allocate among the state institutions
168 of higher education under its jurisdiction specific
169 functions and responsibilities to meet the higher
170 educational needs of the state and avoid unnecessary
171 duplication, shall not be restricted by any provision of
172 law assigning specified functions and responsibilities to
173 designated state institutions of higher education, and
174 such power shall supersede any such provision of law:
175 *Provided*, That each governing board may delegate,
176 with prescribed standards and limitations, such part of
177 its power and control over the business affairs of a
178 particular state institution of higher education to the
179 president or other administrative head of such state
180 institution of higher education in any case where it
181 deems such delegation necessary and prudent in order
182 to enable such institution to function in a proper and
183 expeditious manner: *Provided, however*, That such
184 delegation shall not be interpreted to include classifi-
185 cation of employees, lawful appeals made by students
186 in accordance with the appropriate governing board's
187 policy, lawful appeals made by faculty or staff, or final
188 review of new or established academic or other

189 programs. Any such delegation of power and control
190 may be rescinded by the appropriate governing board
191 at any time, in whole or in part.

192 (c) The governing boards shall promulgate uniform
193 legislative rules by the first day of September, one
194 thousand nine hundred ninety-three, setting forth
195 standards for acceptance of advanced placement credit
196 for their respective institutions. Individual depart-
197 ments at institutions of higher education may, upon
198 approval of the institutional faculty senate, require
199 higher scores on the advanced placement test than
200 scores designated by the appropriate governing board
201 when the credit is to be used toward meeting a
202 requirement of the core curriculum for a major in
203 that department.

204 (d) Each governing board and/or an individual
205 appointed by the president of each institution shall
206 consult, cooperate and work with the state treasurer
207 and the state auditor to develop an efficient and cost-
208 effective system for the financial management and
209 expenditure of special revenue and appropriated state
210 funds for higher education that ensures that properly
211 submitted requests for payment be paid within fifteen
212 days of receipt in the state auditor's office. The system
213 shall be established and implemented as soon as
214 practical, and the governing boards shall report to the
215 legislative oversight commission on education account-
216 ability prior to the first day of January, one thousand
217 nine hundred ninety-four, regarding the efficacy of
218 the system.

219 (e) The governing boards shall implement by the
220 first day of July, one thousand nine hundred ninety-
221 four, a uniform and consistent method of conducting
222 personnel transactions including, but not limited to,
223 hiring, dismissal, promotions and transfers at all
224 institutions under their jurisdiction. Each such person-
225 nel transaction shall be accompanied by the approp-
226 riate standardized system or forms which will be
227 submitted to the respective governing boards, secre-
228 tary of education and the arts, department of finance
229 and administration and the legislative oversight

230 commission on education accountability.

ARTICLE 2. UNIVERSITY OF WEST VIRGINIA BOARD OF TRUSTEES.

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

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

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

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

36 trustees shall be appointed from each congressional
37 district.

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

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

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

52 The governor shall appoint a trustee to fill any
53 vacancy among the twelve trustees appointed by the
54 governor, by and with the advice and consent of the
55 Senate, which trustee appointed to fill such vacancy
56 shall serve for the unexpired term of the vacating
57 trustee. The governor shall fill the vacancy within
58 sixty days of the occurrence of the vacancy.

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

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

73 (c) Before exercising any authority or performing
74 any duties as a trustee, each trustee shall qualify as

75 such by taking and subscribing to the oath of office
76 prescribed by section five, article four of the constitu-
77 tion of West Virginia, and the certificate thereof shall
78 be filed with the secretary of state.

79 (d) No trustee appointed by the governor shall be
80 removed from office by the governor except for
81 official misconduct, incompetence, neglect of duty or
82 gross immorality, and then only in the manner pres-
83 cribed by law for the removal of the state elective
84 officers by the governor.

§18B-2-3. Additional duties of board of trustees.

1 (a) The trustees shall govern the University of West
2 Virginia. The trustees shall develop a master educa-
3 tional plan for the university system in the state,
4 establish research policies for the several institutions
5 within the university system and shall oversee gradu-
6 ate, professional and medical education at the appro-
7 priate institutions of higher education under their
8 jurisdiction to the end of avoiding duplication in
9 advanced study, specialty institutes and research.

10 (b) The board of trustees shall adopt a faculty salary
11 program with an overall goal of attaining salaries
12 equal to the average faculty salaries within similar
13 groups of disciplines and program levels at comparable
14 peer institutions within member states of the southern
15 regional educational board (Four-Year 1 at West
16 Virginia University; Four-Year 3 at Marshall Univer-
17 sity; and appropriate levels at the West Virginia
18 Graduate College, Potomac State College of West
19 Virginia University, West Virginia University at Par-
20 kersburg and the School of Osteopathic Medicine as
21 determined by the Board of Trustees). It is the intent
22 of the Legislature, limited by the extent of appropri-
23 ations provided specifically therefor, to provide the
24 board of trustees with sufficient funds to meet this goal
25 by fiscal year one thousand nine hundred ninety-six.

**§18B-2-8. Consortium of comprehensive child development
centers; establishment and operation of a
consortium of comprehensive child develop-
ment centers.**

1 (a) There is hereby established a consortium of
2 comprehensive child development centers under the
3 auspices of the board of trustees and under the
4 direction and administration of the vice chancellor for
5 health services. The goals of the consortium include,
6 but are not limited to:

7 (1) Recommending a comprehensive diagnostic and
8 technical support system to assist faculty and students
9 in providing educational programs for students with
10 disabilities;

11 (2) Providing a system for the comprehensive inter-
12 disciplinary diagnosis, treatment and follow-up of
13 children and young adults with special needs and their
14 families;

15 (3) Offering programs for the training of parents and
16 families;

17 (4) Creating significant links between disciplines,
18 departments, schools, colleges, universities and
19 agencies;

20 (5) Providing all services (clinical, training, technical
21 assistance and consultation) at child development
22 centers and at strategically planned outreach sites,
23 including institutions of higher education;

24 (6) Planning and implementing a statewide system
25 of care for children with special needs and their
26 families;

27 (7) Providing family-centered, community-based,
28 culturally sensitive, coordinated care;

29 (8) Assuring interdisciplinary, interagency co-
30 operation;

31 (9) Linking community-based health and educational
32 services with institutions of higher education;

33 (10) Establishing a statewide comprehensive diagnos-
34 tic support team and advisory boards at each center
35 composed of agency representatives, physicians, educa-
36 tion providers, center personnel, parents and other;
37 and

38 (11) Facilitating significant parent and family partic-
39 ipation, including parents as members of the statewide
40 team and representing a majority of the membership
41 of each center's advisory boards.

42 (b) Subject to appropriations by the Legislature, the
43 board of trustees is authorized and directed to estab-
44 lish at least four comprehensive child development
45 sites at existing university health science centers
46 located at Morgantown, Charleston, Huntington and
47 Lewisburg. Planning of at least these four centers and
48 the establishment of advisory boards shall be complet-
49 ed by the first day of July, one thousand nine hundred
50 ninety-three. The board of trustees shall establish at
51 least these four sites prior to the first day of January,
52 one thousand nine hundred ninety-four.

53 The board of trustees may enter into a contractual
54 relationship with each child development center,
55 which shall be in accordance with laws that apply to
56 publicly funded partnerships with private, nonprofit
57 entities and the provisions of section three, article five
58 of this chapter.

**ARTICLE 3. BOARD OF DIRECTORS OF THE STATE COLLEGE
SYSTEM.**

**§18B-3-1. Composition of board; terms and qualifications of
members; vacancies; eligibility for reappoint-
ment; oath of office; removal from office.**

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

15 advice and consent of the Senate.

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

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

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

40 (b) The governor shall appoint twelve directors as
41 soon after July one, one thousand nine hundred
42 eighty-nine, as is practicable, and the original terms of
43 all directors shall commence on that date. The terms
44 of the directors appointed by the governor shall be for
45 overlapping terms of six years, except, of the original
46 appointments, four shall be appointed to terms of two
47 years, four shall be appointed to terms of four years,
48 and four shall be appointed to terms of six years. Each
49 subsequent appointment which is not for the purpose
50 of filling a vacancy in an unexpired term shall be
51 appointed to a term of six years.

52 The governor shall appoint a director to fill any
53 vacancy among the twelve directors appointed by the
54 governor, by and with the advice and consent of the

55 Senate, which director appointed to fill such vacancy
56 shall serve for the unexpired term of the vacating
57 director. The governor shall fill the vacancy within
58 sixty days of the occurrence of the vacancy.

59 All directors appointed by the governor shall be
60 eligible for reappointment: *Provided*, That a person
61 who has served as a director or trustee during all or
62 any part of two consecutive terms shall be ineligible to
63 serve as a director for a period of three years imme-
64 diately following the second of the two consecutive
65 terms.

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

73 (c) Before exercising any authority or performing
74 any duties as a director, each director shall qualify as
75 such by taking and subscribing to the oath of office
76 prescribed by section five, article four of the constitu-
77 tion of West Virginia, and the certificate thereof shall
78 be filed with the secretary of state.

79 (d) No director appointed by the governor shall be
80 removed from office by the governor except for
81 official misconduct, incompetence, neglect of duty or
82 gross immorality, and then only in the manner pre-
83 scribed by law for the removal by the governor of the
84 state elective officers.

§18B-3-3. Additional duties of board of directors.

1 (a) The board of directors of the state college system
2 shall govern the state college system.

3 (b) The board of directors shall determine programs
4 to be offered by state institutions of higher education
5 under its jurisdiction, shall clarify the missions of the
6 institutions under its jurisdiction, and, in so doing,
7 ensure that Fairmont State and West Virginia Insti-
8 tute of Technology are given primary responsibility

9 for technical preparation teacher training programs.

10 (c) The board of directors shall govern community
11 colleges and shall organize eight community college
12 service areas in accordance with section four of this
13 article.

14 (d) The board of directors shall adopt a faculty salary
15 program with an overall goal of attaining salaries
16 equal to the average faculty salaries within similar
17 groups of disciplines and program levels at comparable
18 peer institutions within member states of the southern
19 regional education board. It is the intent of the
20 Legislature, limited by the extent of appropriations
21 made specifically therefor, to provide the board of
22 directors with sufficient funds to meet this goal by
23 fiscal year one thousand nine hundred ninety-six.

§18B-3-4. Community colleges.

1 (a) Effective the first day of July, one thousand nine
2 hundred eighty-nine, the following institutions are
3 hereby established or continued as freestanding com-
4 munity colleges: Southern West Virginia Community
5 College and West Virginia Northern Community
6 College. Such freestanding community colleges shall
7 not be operated as branches or off-campus locations of
8 any other state institution of higher education.

9 (b) The directors, in accordance with article two-b,
10 chapter eighteen of this code, shall cooperate with the
11 state board of education, the state council of vocation-
12 al-technical education, and the joint commission
13 for vocational-technical-occupational education to
14 develop a comprehensive system of academic, voca-
15 tional, technical and career development programs to
16 serve the educational needs of adults for college
17 preparatory, two-year associate degree, continuing
18 education, work force training and retraining, and
19 other such programs within the state. The board of
20 directors shall delegate such authority as they deem
21 prudent to the community college presidents, or other
22 administrative heads, to work with campus level
23 advisory committees to assess the work force needs of
24 business and industry within their service areas,

25 regularly review and revise curricula to ensure that
26 the work force needs are met, develop new programs
27 and phase out or modify existing programs as appro-
28 priate to meet such needs, provide professional devel-
29 opment opportunities for faculty and staff, establish
30 cooperative programs and student internships with
31 business and industry, streamline procedures for
32 designing and implementing customized training
33 programs, and to accomplish such other complements
34 of a quality comprehensive community college. In
35 developing such a system, the various educational
36 agencies shall establish cooperative relationships to
37 utilize existing community colleges and programs,
38 public school vocational centers and other existing
39 facilities to serve the identified needs within the
40 service area. The community colleges, including
41 freestanding community colleges, shall be organized
42 into eight community college service areas which shall
43 have the same boundaries as the regional educational
44 service agencies established by the state board of
45 education pursuant to section twenty-six, article two of
46 chapter eighteen of said code: *Provided*, That any
47 community college and the branches thereof existing
48 on the effective date of this section may be located in
49 more than one community college service area created
50 pursuant to this section and shall not be affected by
51 such service area boundary.

52 (c) A separate division of community colleges shall
53 be established under the board of directors. Programs
54 at community colleges shall be two years or less in
55 duration.

56 (d) The board of directors may fix tuition and
57 establish and set such other fees to be charged stu-
58 dents as it deems appropriate, and shall pay such
59 tuition and fees collected into a revolving fund for the
60 partial or full support, including the making of capital
61 improvements, of any community college established,
62 continued or designated hereunder. Funds collected at
63 any such community college may be used only for the
64 benefit of that community college. The board of
65 directors may also establish special fees for such

66 purposes as, including, but not limited to, health
67 services, student activities, student recreation, athlet-
68 ics or any other extracurricular purposes. Such special
69 fees shall be paid into special funds and used only for
70 the purposes for which collected.

71 Moneys collected at a branch college or off-campus
72 location of a state institution of higher education
73 which is subsequently designated as a community
74 college shall be transferred to and vested in the
75 successor community college.

76 (e) The board of directors may allocate funds from
77 the appropriations for the state college system for the
78 operation and capital improvement of any community
79 college continued, established or designated under
80 authority of this section and may accept federal grants
81 and funds from county boards of education, other local
82 governmental bodies, corporations or persons. The
83 directors may enter into memoranda of agreements
84 with such governmental bodies, corporations or per-
85 sons for the use or acceptance of local facilities and/or
86 the acceptance of grants or contributions toward the
87 cost of the acquisition or construction of such facilities.
88 Such local governmental bodies may convey capital
89 improvements, or lease the same without monetary
90 consideration, to the board of directors for the use by
91 the community college, and the board of directors may
92 accept such facilities, or the use or lease thereof, and
93 grants or contributions for such purposes from such
94 governmental bodies, the federal government or any
95 corporation or person.

96 (f) To facilitate the administration, operation and
97 financing of programs in shared facilities of the state
98 college system or the university of West Virginia
99 system and a county board or boards of education, the
100 affected governing board and county board or boards
101 of education may appoint a joint administrative board
102 consisting of five members to be appointed as follows:
103 The county board of education shall appoint two
104 members in consultation with the county superinten-
105 dent of schools; the appropriate governing board shall
106 appoint two members in consultation with the presi-

107 dent of the affected state institution of higher educa-
108 tion; and one at-large member, who shall chair the
109 joint administrative board, shall be appointed by
110 mutual agreement of the respective boards in consul-
111 tation with their superintendent and president. When
112 two or more county boards of education are participat-
113 ing in such shared program, such county board
114 appointments shall be made by mutual agreement of
115 each of the participating county boards in consultation
116 with their respective superintendents. Members shall
117 serve for staggered terms of three years. With respect
118 to initial appointments, one member appointed by the
119 county board or boards of education and one member
120 appointed by the governing board shall serve for one
121 year, one member appointed by the county board or
122 boards of education and one member appointed by the
123 governing board shall serve for two years, and the at-
124 large member shall serve for three years. Subsequent
125 appointments shall be for three years. A member may
126 not serve more than two consecutive terms. Members
127 shall be reimbursed for reasonable and necessary
128 expenses actually incurred in the performance of their
129 duties as board members from funds allocated to the
130 shared facility, except that members who are
131 employed by a board of education, governing board or
132 state institution of higher education shall be reim-
133 bursed by their employer.

**ARTICLE 3A. WEST VIRGINIA JOINT COMMISSION FOR VOCATION-
AL- TECHNICAL-OCCUPATIONAL EDUCATION.**

**§18B-3A-2. Composition of commission; terms of members;
qualifications of members.**

1 The members appointed by the governor shall
2 include all of the following:

3 (a) Seven individuals who shall be representatives
4 from business, industry and agriculture, including one
5 member representing small business concerns, one
6 member of whom shall represent the governor's office
7 of community and industrial development, one
8 member of whom shall represent proprietary schools
9 and one member of whom shall represent labor

10 organizations. In selecting private sector individuals
11 under this subdivision, the governor shall give due
12 consideration to the appointment of individuals who
13 serve on a private industry council or other appro-
14 priate state agencies.

15 (b) Six individuals, three of whom shall be represen-
16 tatives of secondary vocational-technical-occupational
17 education appointed by the governor with advice from
18 the state superintendent of schools, and three of whom
19 shall be representatives of post-secondary vocational-
20 technical-occupational education appointed by the
21 governor, with advice from the chancellor of the board
22 of directors.

23 In addition to the members appointed by the gover-
24 nor, the state superintendent of schools and the
25 chancellor of the board of directors shall serve as an
26 ex officio member.

27 Members of the commission shall serve for overlap-
28 ping terms of four years, except that the original
29 appointments to the commission shall be for staggered
30 terms allocated in the following manner: One member
31 recommended for appointment by the chancellor, one
32 member recommended for appointment by the state
33 superintendent of schools and two members appointed
34 by the governor for terms of two years; one member
35 recommended for appointment by the chancellor, one
36 member recommended for appointment by the state
37 superintendent of schools and two members appointed
38 by the governor for terms of three years; and one
39 member recommended for appointment by the state
40 superintendent of schools, one member recommended
41 for appointment by the chancellor and three members
42 appointed by the governor for terms of four years.

**ARTICLE 3C. GOVERNOR'S COUNCIL ON HIGHER AND OTHER
POSTSECONDARY EDUCATION.**

§18B-3C-1. Legislative findings; statement of purpose.

1 (a) The Legislature finds that West Virginia's eco-
2 nomic future depends in part on the number of
3 citizens with higher and other postsecondary educa-

4 tion. In today's knowledge-based economy, higher
5 education or other training beyond the high school
6 level is required for most jobs that allow our citizens
7 to maintain or improve their standard of living. To
8 that end, access to higher and other postsecondary
9 education must be expanded for students currently
10 enrolled in school, as well as nontraditional students.
11 This requires adequate planning and preparation, as
12 well as the acquisition of strong basic skills, thinking
13 and learning skills, and human relation skills, so that
14 the education may be successfully completed.

15 The Legislature further finds that real and per-
16 ceived barriers within West Virginia's education
17 systems hamper West Virginians from achieving their
18 educational goals and limit citizens' economic oppor-
19 tunities. To overcome these barriers, the education
20 providers must address issues such as cost and avail-
21 ability of courses at locations and times convenient to
22 students with families and jobs, as well as adequate
23 preparation.

24 The Legislature further finds that clear expectations
25 and objectives among the institutions, boards and
26 other entities providing higher and postsecondary
27 education can be improved, with a view toward
28 accountability, efficiency and productivity. The state
29 board of education, the governing board of the state
30 college system, the governing board of the university
31 system, the joint commission on vocational-technical-
32 occupational education, and the administrations of the
33 many private college and universities and private,
34 proprietary schools are all important components in
35 the delivery of higher and other postsecondary educa-
36 tion in this state and will play a vital role in meeting
37 the challenges of the future. Cooperation and planning
38 among the public and private institutions is necessary
39 for effective workforce preparation.

40 The Legislature further intends, by this article, to
41 extend postsecondary and higher educational oppor-
42 tunities to diverse populations, thereby requiring
43 sensitivity to regional, cultural, ethnic, economic, age
44 and other differences so as to enhance West Virginians

45 preparedness for, awareness of, interest in and access
46 to such education and to eliminate barriers to receiv-
47 ing such education. The emphasis must be to meet the
48 needs of all West Virginians.

49 (b) To that end, the Legislature intends to regularly
50 convene those persons at the highest legislative and
51 education policy-making levels of state government, as
52 well as private educational institutions and economic
53 development entities, to fulfill the responsibilities set
54 forth in this article, as well as to adopt other strategies
55 to meet the goals set forth in this article.

56 The Legislature intends this council to be an advi-
57 sory, coordinating council with no governing authority
58 over the state's educational institutions.

**§18B-3C-2. Governor's Council on Higher and Other Post-
secondary Education established.**

1 There is hereby created the governor's council on
2 higher and other postsecondary education, hereinafter
3 referred to as the "HOPE council" or the "council". In
4 addition to such other persons as the governor may
5 appoint to the HOPE council, the council shall include
6 the secretary of education and the arts, the chairs of
7 each of the higher education governing boards, the
8 president of the state board of education, the president
9 of the association of independent colleges, the presi-
10 dent of the joint commission on vocational-technical-
11 occupational education, the president of the council on
12 economic development, and the chairs of the education
13 committees of both the senate and the house of
14 delegates, both of whom shall serve in an advisory
15 capacity only.

16 The HOPE council shall be chaired by the governor
17 and shall convene at least quarterly. The HOPE
18 council shall establish bylaws which govern its deci-
19 sion making.

§18B-3C-3. Powers and authority of council generally.

1 (a) In addition to all other powers granted to the
2 HOPE council in this article and elsewhere by law, the
3 HOPE council shall have the power and authority to:

4 (1) Make such budget recommendations as may be
5 necessary for financing the work coordinated or
6 facilitated by the council, such recommendation to be
7 submitted to the governor for inclusion in the execu-
8 tive budget in one or more appropriate existing
9 accounts;

10 (2) Promote the work of the HOPE council in order
11 to engender strong support from the community,
12 education providers, the Legislature and business
13 leaders;

14 (3) Report annually to the Legislature and to such
15 other entities as the HOPE council may deem appro-
16 priate on issues relating to higher and other postsec-
17 ondary education, and develop a means of communica-
18 tion with education providers and advisory councils
19 and with community members and business leaders
20 who are involved in activities which further the goals,
21 objectives and duties set forth in this article;

22 (4) Facilitate written agreements and procedures
23 between and among the higher education governing
24 boards, the state board of education, county boards of
25 education, the joint commission for vocational-techni-
26 cal-occupational education, the distance learning
27 coordinating council, and other boards, agencies and
28 entities involved in activities which further the goals,
29 objectives and duties set forth in this article;

30 (5) Review any rules, policies and procedures to the
31 extent that they impact on or create barriers to higher
32 or postsecondary education;

33 (6) Solicit proposals in furtherance of any program
34 or service required by this article, especially for the
35 implementation of pilot programs, and direct such
36 proposals to the appropriate entity for possible
37 implementation;

38 (7) Solicit grants, gifts, bequests, donations and other
39 funds for the benefit of any board, agency, commission
40 or other public entity best suited to administer or
41 facilitate the purpose of the grant, gift, bequest,
42 donation or other funds; and

43 (8) Report to the Legislature not later than the first
44 day of January one thousand nine hundred ninety-
45 four, a common protocol for the education and certifi-
46 cation of teachers in the public schools of this state
47 which shall be developed with input from the center
48 for professional development.

49 (b) The HOPE council shall not have the authority
50 to hire personnel, nor shall the council have a separate
51 budget or direct control over any state funds.

**§18B-3C-4. Funding and budgetary needs for higher and
other postsecondary education.**

1 (a) The HOPE council shall analyze the accounts in
2 the state budget that address or impact upon higher
3 education and other postsecondary educational oppor-
4 tunities, review budgetary needs and revenue sources,
5 and make recommendations regarding the governor's
6 proposed budget and the redirection of resources. In
7 making such recommendations, the HOPE council
8 shall educate themselves on the availability of and
9 eligibility for federal, local and private funding, with
10 the goal of maximizing federal, local and private
11 revenues for enhancing higher education and other
12 postsecondary educational opportunities.

13 (b) The HOPE council shall consider statutory
14 changes necessary to further the intent of this article:
15 *Provided*, That any legislative recommendation shall
16 be accompanied by a proposal or plan for sufficient
17 funding. In exploring all aspects of funding possibili-
18 ties, the HOPE council shall consider innovative,
19 flexible funding such as inter-board and inter-agency
20 funding and reimbursement and joint funding pools.

21 (c) The HOPE council shall recommend fiscal incen-
22 tives for institutions offering higher and other post-
23 secondary education that adopt and implement policies
24 and programs that result in substantial cost savings.
25 Any resulting savings shall be identified, deposited in
26 a special revenue account, and expended in accordance
27 with legislative appropriation: *Provided*, That any
28 resulting savings shall be retained by the school, state
29 institution of higher education, board, commission or

30 other public entity responsible for the savings: *Pro-*
31 *vided, however,* That the governing boards may
32 redirect no more than fifty percent of savings identi-
33 fied by specific institutions of higher education if the
34 appropriate governing board decides that the savings
35 should not be retained by the institution: *Provided*
36 *further,* That any savings accruing to accounts which
37 are subject to appropriation by the Legislature shall
38 remain in said appropriated accounts and may be
39 expended only upon subsequent appropriation by the
40 Legislature.

§18B-3C-5. Increased enrollment.

1 (a) The HOPE council shall work to increase all West
2 Virginians' preparedness for, awareness of, interest in
3 and access to higher and other postsecondary educa-
4 tion through effective means that include, but are not
5 limited to, recommending or coordinating:

6 (1) Marketing programs and other means of dissem-
7 inating information illustrating the benefits of higher
8 and other postsecondary education, including informa-
9 tion regarding lifetime earning potential projections
10 and specific job opportunities which require higher or
11 other postsecondary education;

12 (2) Clear definitions of expectations and needs
13 regarding academic competencies required for success
14 in higher and other postsecondary educational
15 programs;

16 (3) Utilization of students, alumni, advisory councils,
17 and and business and community leaders to promote
18 the importance of education;

19 (4) Coordinated information systems and examples
20 of forms, including admission and other forms,
21 designed to provide people with complete, easy-to-read
22 information on higher and other postsecondary educa-
23 tion and to simplify the admissions process;

24 (5) Public information whereby citizens can receive
25 information on higher and other postsecondary educa-
26 tion which may include television programs, public
27 service announcements and any other effective means

28 of providing information on, communicating or pro-
29 moting higher and other postsecondary education,
30 including an expansion of "Project Go" and other
31 computerized services intended to designate appro-
32 priate institutions of higher education to meet the
33 goals, needs and abilities of potential students;

34 (6) Support, assistance and encouragement to cur-
35 rently enrolled students and other citizens, especially
36 in minority or other groups under-represented in the
37 postsecondary student population, who may need same
38 to begin or return to higher or other postsecondary
39 education, which shall include an expansion of the
40 federally-funded talent search project;

41 (b) As to students currently enrolled in elementary
42 and secondary school programs, the council shall work
43 to increase their preparedness for, awareness of,
44 interest in and access to higher and other postsecon-
45 dary education through effective means that include
46 but are not limited to facilitating:

47 (1) Having college student volunteers tutor in the
48 elementary and secondary schools;

49 (2) Providing career counseling to each student, with
50 at least two in-depth sessions, including one during the
51 middle or junior high school years;

52 (3) Emphasizing strong basis skills in math, science
53 and communication, together with total wellness
54 concepts that recognize the link between good physical
55 health and mental aptitude;

56 (4) Eliminating the general curriculum and, instead,
57 focusing on college preparation, technical preparation
58 ("tech prep") or occupational preparation;

59 (5) Developing and signing onto a high school
60 curriculum plan for each eighth grade student that
61 steers each student into appropriate career directions
62 without setting up limitations and educational and
63 career barriers for any student;

64 (6) Organizing at least annually career day programs
65 and career fairs and inviting guest lecturers in careers

66 requiring higher or other postsecondary education;

67 (7) Developing an early warning system for elemen-
68 tary and secondary school students to identify academ-
69 ic deficiencies, which includes an opportunity for each
70 student to be evaluated and assesses each student's
71 progress regarding potential entry into postsecondary
72 education by each student's tenth grade year;

73 (8) Providing sequential assessment in junior and
74 senior high school to periodically measure student
75 academic achievement, utilizing such means of assess-
76 ment as the education planning and assessment system
77 (EPAS) offered by American College Testing (ACT);

78 (9) Providing information on financing postsecon-
79 dary education to each sixth grade student;

80 (10) Extending by the nineteen ninety-three —
81 ninety-four school year to students entering the ninth
82 grade the warranty of proficiency that is given in the
83 form of a certificate of proficiency in basic skills to
84 public school system graduates that enables them to
85 return to the public school system to receive additional
86 schooling in the areas where proficiency is lacking;

87 (11) Informing each eleventh grade student, by the
88 mid-point of the eleventh grade year, of standardized
89 test-taking requirements for college entrance, provid-
90 ing instruction on how to prepare for such tests,
91 explaining college application procedures, and provid-
92 ing financial aid information;

93 (12) Assisting students in the twelfth grade and their
94 parents with admission and financial aid forms;

95 (13) Exposing each student to a college campus
96 through at least one academic visit to a college campus
97 and providing opportunities for high school juniors
98 and seniors to spend time on campus;

99 (14) Expanding college courses offered in high
100 schools and enrolling advanced high school students in
101 college courses;

102 (c) As to non-traditional students, the council shall
103 work to increase their preparedness for, awareness of,

104 interest in and access to higher and other postsecon-
105 dary education through effective means that include
106 but are not limited to facilitating:

107 (1) Outreach in familiar environments by commun-
108 ity organizations and by employment services and
109 public assistance organizations;

110 (2) Development of a retraining fund for persons
111 who have been in the workforce for four or more
112 years;

113 (3) Provision of child care services;

114 (4) College recruitment programs for retired mil-
115 itary personnel;

116 (5) Advisory groups of employees and trade councils;

117 (6) Institution of courses attractive and available to
118 business and industry employees and employers who
119 require advanced training or retraining;

120 (7) Funding for rapid responses to the needs of
121 business and industry, making courses available when
122 needed and where needed without developing per-
123 manent programs, in an amount to be appropriated by
124 the Legislature to the West Virginia Development
125 Office for a competitive grant program;

126 (8) Courses at locations and times convenient for
127 students with families and/or jobs, such as modular
128 courses in non traditional formats and at non-tradi-
129 tional times such as on weekends;

130 (9) Work toward an amendment of federal law to
131 allow unemployed workers to become full-time stu-
132 dents without losing benefits;

133 (10) Sensitivity training for faculty, staff and stu-
134 dents regarding cultural diversity; and

135 (11) Coordinating in-service training for all faculty
136 and staff to inform them of the requirements of Public
137 Law 101-336, the Americans with disabilities act, and
138 any amendments thereto, to sensitize them to the
139 needs of individuals with disabilities.

§18B-3C-6. Student financing and cost of providing higher and other postsecondary education.

1 (a) In addition to other provisions in this article and
2 code relating to student financing of higher and other
3 postsecondary education, the HOPE council shall
4 address issues regarding the cost of higher and other
5 postsecondary education in an attempt to render such
6 education more affordable and shall utilize effective
7 means that include but are not limited to:

8 (1) Recommending increases in available funds
9 subject to legislative appropriation for grants and
10 loans, including the higher education grant program
11 created pursuant to article five, chapter eighteen-c of
12 this code;

13 (2) Encouraging new student aid funded primarily
14 from local community resources in return for the
15 future performance of public service jobs by students
16 receiving such aid;

17 (3) Facilitating the sale or offering of bonds pursuant
18 to the individual higher education savings plan pro-
19 gram set forth in section five, article nine-d, chapter
20 eighteen of this code;

21 (4) Publicizing the availability of unsubsidized
22 guaranteed loans;

23 (5) Arranging for the publication of brochures about
24 applying for financial aid and make same widely
25 available in convenient locations;

26 (6) Addressing the financial needs and sources of
27 funds for state institutions of higher education with a
28 goal that tuition and fees for state residents are
29 approximately the median of the average of fees for
30 comparable institutions within the southern regional
31 education board area and so that, beginning with the
32 school year beginning on the first day of July, one
33 thousand nine hundred ninety-five, and continuing
34 thereafter, tuition and fees for nonresident students
35 covers the full cost of instruction at state institutions
36 of higher education;

37 (7) Assisting the governing boards with the develop-
38 ment of flexible means for the payment of tuition and
39 fees, including installment payment plans, and pay-
40 ment by credit card or other commonly accepted form
41 of credit;

42 (8) Assisting the governing boards with the develop-
43 ment of policies which minimize textbook changes,
44 utilize textbooks system-wide and statewide to the
45 extent possible and require that each campus imple-
46 ment a textbook exchange program, which program
47 shall be extended system-wide and statewide; and

48 (9) Exploring ways that students can earn money
49 while having higher and other postsecondary educa-
50 tional opportunities;

51 (b) In addition to other provisions in this article and
52 code relating to fiscal efficiency and accountability in
53 the provision of higher and other postsecondary
54 education, the HOPE council shall address issues
55 regarding the cost of higher and other postsecondary
56 education in an attempt to reduce the cost of providing
57 such education and shall utilize effective means that
58 include but are not limited to:

59 (1) Assisting with the expansion of computer-assisted
60 instruction and technological delivery, including the
61 expanded use of public libraries for this delivery; the
62 integration to the greatest extent possible of the higher
63 education, public education and public library systems;
64 the delivery of the general education core curriculum
65 by technology-based instruction; and other distance
66 learning technologies set forth in section two-a, article
67 five, chapter ten of this code;

68 (2) As regards the general education core curricu-
69 lum, facilitating the establishment of standards and
70 strategies for assessing student learning of the technol-
71 ogy-based instruction, including standards for min-
72 imum competencies in basic skill areas, higher order
73 thinking skills, and general knowledge, utilizing the
74 college assessment of academic proficiency (CAAP)
75 component of the educational planning and assessment
76 system (EPAS) offered by American College Testing

77 (ACT); and

78 (3) Recommending the elimination of unnecessary
79 duplicate programs and courses.

**§18B-3C-7. Succeeding in higher and other postsecondary
education endeavors.**

1 (a) The HOPE council shall facilitate the adoption of
2 policies and the implementation of programs that
3 assist students currently enrolled in higher education
4 and other postsecondary educational programs in
5 completing such programs, such policies and programs
6 to include but not be limited to:

7 (1) Standard systems for assessing students and their
8 proficiency for entrance and placement in either
9 college-level credit courses or non-credit development
10 courses and periodic evaluations of these systems;

11 (2) Procedures to monitor individual student pro-
12 gress and assess student proficiencies during the
13 second year of enrollment;

14 (3) Counseling and academic advising services that
15 give students an understanding of the academic
16 program requirements necessary for successful pro-
17 gram or degree completion, with a view toward each
18 student's career goals, which services should be
19 accessible to the student in terms of the hours that
20 student service offices are open and the location of
21 such services;

22 (4) Other student support services such as library
23 access, prompt interaction with peers and instructors,
24 and peer mentoring for new students;

25 (5) Course reviews intended to assure that full-time
26 undergraduate students can earn degrees in a reasona-
27 ble length of time, to minimize the amount of addi-
28 tional course work that must be taken at less conve-
29 nient times and locations before an undergraduate
30 degree may be completed, and to ensure that the
31 sequence and availability of academic programs and
32 courses is such that students have the maximum
33 opportunity to complete programs in the timeframe

34 normally associated with program completion; and

35 (6) Transferability of course work credits, especially
36 core course work credits, among the state institutions
37 of higher education in each system, between the
38 systems, and with private colleges and universities,
39 including transferability of core course work complet-
40 ed at any state institution of higher education to
41 another state institution of higher education at the
42 grade earned.

43 (b) The HOPE council shall facilitate the adoption of
44 policies and the implementation of programs that
45 assist students currently enrolled in higher education
46 and other postsecondary educational programs in
47 completing such programs, such policies and programs
48 to include but not be limited to:

49 (1) A smooth transition from secondary and postse-
50 condary vocational programs to associate degree
51 programs, including the provision of enough resources
52 to meet the influx of students from vocational
53 programs;

54 (2) Encouragement to each student to complete the
55 associate degree even if that student intends to earn a
56 higher education bachelor's degree through approp-
57 riate counseling services;

58 (3) Encouragement to each student, after completion
59 of the associate degree, to continue toward a higher
60 education bachelor's degree through appropriate
61 counseling services;

62 (4) Facilitation of the completion of the associate
63 degree and the continuation of education to comple-
64 tion of a higher education bachelor's degree by
65 providing more "two plus two" programs which
66 combine two-year associate degree programs with two
67 more years of study toward a bachelor's degree;

68 (c) While encouraging all students to receive as
69 much higher or other postsecondary education as their
70 means and circumstances may allow, the HOPE
71 council shall recognize the appropriateness of technical
72 certificates and associate degrees, shall not treat the

73 programs as second-class programs, and shall give
74 attention to such programs through effective means
75 that include but are not limited to:

76 (1) Cooperation between private, public and higher
77 education in the delivery of vocational, occupational
78 and technical programs and courses, including the
79 sharing of advanced technology;

80 (2) Competitive grants administered by the joint
81 commission on vocational-technical-occupational edu-
82 cation as set forth in article three-a of this chapter,
83 with priority given to grants intended to match state
84 and federal funds for expansion of technical prepara-
85 tion programs; and

86 (3) Definitions regarding expectations for secondary
87 and associate degree levels programs and the success-
88 ful completion thereof.

89 (d) The HOPE council shall assure that the higher
90 and other postsecondary education offered in this state
91 prepares the student for entering the workforce
92 through effective means that include, but are not
93 limited to:

94 (1) Utilizing campus-level, system-wide and state-
95 wide advisory groups, assess workforce, business and
96 industry, and market needs; prepare students for
97 specialized and other careers that meet these needs;
98 regularly review and revise programs and curricula
99 designed to train for specialized and other careers that
100 meet the workforce needs; and develop new programs
101 and phase out or modify existing programs as approp-
102 riate to meet workforce, business and industry, and
103 market needs;

104 (2) Emphasizing science and technology courses;

105 (3) Encouraging the establishment of courses and
106 programs which incorporate into the curriculum field
107 placements, internships, cooperative or apprenticeship
108 components, on-the-job training, service internships
109 and/or work experiences;

110 (4) Facilitating the study of the placement of the

111 patterns of students receiving a general education
112 degree to assess the effectiveness of the general
113 education experience, using studies required of accred-
114 iting bodies;

115 (5) Assuring that graduates meet performance
116 standards through national accreditation and through
117 outcome assessments of graduates determined through
118 such means as follow-up studies of performances on
119 licensure exams and other objective indicia of meeting
120 performance standards and surveys and interviews
121 with subsequent employers;

122 (6) Recommending ways to streamline procedures
123 for designing and implementing customized training
124 programs to meeting the needs of employers for
125 specific programs of limited duration;

126 (e) The HOPE council shall assist students who have
127 completed higher and other postsecondary education
128 in finding suitable employment through effective
129 means that include but are not limited to:

130 (1) Coordinating the maintenance of a statewide job
131 bank for persons holding vocational, associate and
132 college degrees;

133 (2) Inviting committees of private citizens and
134 business leaders to identify workforce needs, expand
135 opportunities and aid in job placement;

136 (3) Making recommendations regarding resource
137 placement based on economic realities and job
138 opportunities;

139 (4) Periodically assessing employee supply and job
140 demands in order to make recommendations regarding
141 the adjustment of programs to accommodate employ-
142 ment needs and produce appropriate number of
143 graduates;

144 (5) Assisting with the development of systems for
145 enrollment management so that the number of stu-
146 dents corresponds to the demand for graduates in that
147 area of training;

148 (6) Recommending increases in admission and grad-

149 uation standards in programs producing too many
150 graduates;

151 (f) The HOPE council shall facilitate the provision of
152 evaluative feedback to the public and private second-
153 ary schools in this state to determine the effective-
154 ness of the educational experience and the perfor-
155 mance of their alumni through periodic studies of its
156 graduates and reports to the schools, which feedback
157 shall include information relating to:

158 (1) The graduates' general readiness for higher and
159 other postsecondary educational experiences;

160 (2) Student performance levels; and

161 (3) Job offers and job placement to the extent such
162 information is available.

163 (g) The HOPE council shall facilitate the provision of
164 evaluative feedback to higher education institutions
165 and other postsecondary schools in this state to
166 determine the effectiveness of the educational expe-
167 rience and the job placement of their alumni through
168 periodic studies of its graduates and reports to the
169 schools, which feedback shall, where appropriate,
170 make use of studies required of many academic
171 disciplines by their accrediting bodies and shall
172 include information relating to:

173 (1) The graduates' general readiness for additional
174 higher and other postsecondary educational experien-
175 ces or for entry into the workforce;

176 (2) Job offers and job placement; and

177 (3) General evaluative information regarding the
178 graduates' employment performance levels.

§18B-3C-8. Interaction among the state's education professionals.

1 (a) The HOPE council shall encourage interaction
2 among elementary, secondary, postsecondary and
3 higher education faculty and counselors through
4 effective means that include but are not limited to:

5 (1) Communications and academic alliances among

6 educators in similar academic fields, especially among
7 middle and high school counselors and higher educa-
8 tion personnel in student advising roles, regarding
9 academic standards, expectations and needs;

10 (2) Strategies to ensure that school counselors are
11 well informed about the efforts of the council to help
12 students prepare for, be aware of and interested in,
13 and have access to higher education and other postse-
14 condary educational opportunities;

15 (b) The HOPE council shall facilitate the coordina-
16 tion of secondary, postsecondary and higher education
17 programs through effective means that include but are
18 not limited to:

19 (1) Administration of community colleges and tech-
20 nical schools in a single system;

21 (2) Post-baccalaureate courses for teachers that are
22 more subject-matter based; and

23 (3) Professional development opportunities.

§18B-3C-9. Assistance for students with disabilities.

1 (a) The HOPE council shall coordinate efforts among
2 the state institutions of higher education to work with
3 educational professionals in the public and private
4 elementary and secondary schools to increase training,
5 education and awareness regarding individuals with
6 disabilities and to develop and implement the adoles-
7 cent plan for transition services.

8 (b) The HOPE council shall encourage schools and
9 educational institutions to solicit input, advice and
10 consultation regarding issues that impact individuals
11 with disabilities through an advisory disability council
12 established at the schools and institutions. Membership
13 on the disability council should include individuals
14 with disabilities, teachers and faculty members,
15 parents, agency representatives, principals or other
16 administrative personnel, counselors, and others
17 whose input would be helpful to the counsel. The
18 HOPE council shall encourage that each school or
19 institution with an advisory council make every effort

20 to coordinate with existing community networks and
21 give them appropriate representation on the council.

22 (c) The HOPE council shall make recommendations
23 regarding teacher education training to enable future
24 teachers to meet the unique educational needs of
25 individuals with disabilities.

26 (d) The HOPE council shall coordinate the dissemi-
27 nation of information about programs, services and
28 activities for individuals with disabilities and shall
29 make recommendations to facilitate the development
30 of a public relations program regarding services
31 available for individuals with disabilities.

32 (e) The HOPE council shall recommend funding
33 sources for services and equipment for individuals
34 with disabilities and shall facilitate written agreements
35 between or among agencies and foundations that
36 provide direct or support services to individuals with
37 disabilities.

38 (f) The Hope Council shall examine and make
39 recommendations for the modification of existing
40 enrollment procedures to better facilitate timely
41 identification of students with disabilities who should
42 be provided the opportunity of higher and other
43 postsecondary education and the resources necessary
44 to meet that objective.

45 (g) The HOPE council shall encourage the develop-
46 ment of an orientation program for education profes-
47 sionals, students and parents concerning student
48 disabilities and availability of services.

49 (h) The HOPE council shall encourage education
50 personnel to assist students with disabilities by moni-
51 toring the performance of students; making referrals
52 for counseling and services, and developing a system
53 that provides students on probation with counseling
54 and assessment services.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-1. Officers of governing boards; employment of chancellors and senior administrator; offices.

1 (a) At its annual meeting in June of each year, each
2 governing board shall elect from its members appoint-
3 ed by the governor a president and such other officers
4 as it may deem necessary or desirable: *Provided*, That
5 the initial annual meeting shall be held during July,
6 one thousand nine hundred eighty-nine. The president
7 and such other officers shall be elected for a one-year
8 term commencing on the first day of July following
9 the annual meeting and ending on the thirtieth day of
10 June of the following year. The president of the board
11 shall serve no more than two consecutive terms.

12 (b) Each governing board shall employ a chancellor
13 who shall serve at the will and pleasure of the
14 employing board and shall assist the governing board
15 in the performance of its duties and responsibilities.
16 No chancellor may hold or retain any other adminis-
17 trative position within the system of higher education
18 while employed as chancellor. Each chancellor is
19 responsible for carrying out the directives of the
20 governing board by which employed and shall work
21 with such board in developing policy options. For the
22 purpose of developing or evaluating policy options, the
23 chancellors may request the assistance of the presi-
24 dents of the institutions under their jurisdiction and
25 their staffs. The respective chancellors shall jointly
26 agree to, and shall hire, one senior administrator who
27 shall serve at their will and pleasure in accordance
28 with section two of this article.

29 (c) The director of health shall serve as the vice
30 chancellor for health affairs, who shall coordinate the
31 West Virginia university school of medicine, the
32 Marshall university school of medicine, and the West
33 Virginia school of osteopathic medicine. The vice
34 chancellor for health affairs shall conduct a special
35 study of the West Virginia university school of medi-
36 cine, the Marshall university school of medicine and
37 the West Virginia school of osteopathic medicine to
38 determine the role and mission of said institutions in
39 the reorganized system of higher education in the
40 state. The special study shall include, but is not limited
41 to, coordinating medical education, training and

42 delivery of health services in the state; preparing
43 nurse midwives, nurse practitioners, medical technol-
44 ogists and other members of the allied health profes-
45 sions; and providing for rural health care. The vice
46 chancellor shall submit a report on said study to the
47 governor and to the Legislature by the first day of
48 December, one thousand nine hundred eighty-nine.

49 (d) Suitable offices for the senior administrator and
50 other staff shall be provided in Charleston.

**§18B-4-2. Senior administrator's powers and duties
generally.**

1 (a) The senior administrator has a ministerial duty,
2 in consultation with and under direction of the
3 chancellors, to perform such functions, tasks and
4 duties as may be necessary to carry out the policy
5 directives of the governing boards and such other
6 duties as may be prescribed by law.

7 (b) The senior administrator may employ and dis-
8 charge, and shall supervise, such professional, admin-
9 istrative, clerical and other employees as may be
10 necessary to these duties and shall delineate staff
11 responsibilities as deemed desirable and appropriate.
12 The senior administrator shall fix the compensation
13 and emoluments of such employees: *Provided*, That
14 effective the first day of July, one thousand nine
15 hundred ninety, those employees whose job duties
16 meet criteria listed in the system of job classifications
17 as stated in article nine of this chapter shall be
18 accorded the job title, compensation and rights estab-
19 lished in said article as well as all other rights and
20 privileges accorded classified employees by the provi-
21 sions of this code.

22 (c) The senior administrator shall follow state and
23 national educational trends and gather data on higher
24 educational needs.

25 (d) The senior administrator, in accordance with
26 established guidelines and in consultation with and
27 under the direction of the chancellors, shall adminis-
28 ter, oversee or monitor all state and federal student

29 assistance and support programs administered on the
30 state level, including those provided for in chapter
31 eighteen-c of this code.

32 (e) The senior administrator has a fiduciary respon-
33 sibility to administer the tuition and registration fee
34 capital improvement revenue bond accounts of the
35 governing boards.

36 (f) The senior administrator shall administer the
37 purchasing system or systems of the governing boards.

38 (g) The senior administrator shall be responsible for
39 the management of the West Virginia network for
40 educational telecomputing (WVNET). The senior
41 administrator shall establish a computer policy board,
42 which shall be representative of both the university
43 system and the college system. It shall be the respon-
44 sibility of the computer policy board to recommend to
45 the secretary of the department of education and the
46 arts policies for a statewide shared computer system.

47 (h) Any program or service authorized or required
48 to be performed by the governing boards and not
49 specifically assigned to the board of trustees or the
50 board of directors may be administered by the senior
51 administrator. Such program or service may include,
52 but shall not be limited to, telecommunications activ-
53 ities and other programs and services provided for
54 under grants and contracts from federal and other
55 external funding sources.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

§18B-5-2. Resource allocation model and policies; allocation of appropriations.

1 (a) To promote the missions and achieve the goals
2 and objectives of the systems under their jurisdiction
3 and to provide information and guidance for the
4 allocation of funding between the two systems in an
5 equitable manner, the governing boards, through the
6 central office, shall develop a resource allocation
7 model for the allocation of general revenue funds
8 appropriated for the state system of higher education.
9 In developing the resource allocation model, the

10 boards shall consider such factors as peer institution
11 information, enrollment information, and such other
12 data as shall further an equitable distribution of
13 general revenue funds for higher education. The
14 governing boards, through the central office, shall
15 develop the model prior to the first day of July, one
16 thousand nine hundred ninety-three, and may modify
17 the model thereafter: *Provided*, That such modifica-
18 tions are subject to the provisions of article three-a,
19 chapter twenty-nine-a of this code.

20 At such time as budget information for the next
21 fiscal year shall be due, each year the governing
22 boards shall make allocation decisions for the upcom-
23 ing fiscal year in accordance with the model then in
24 effect and shall inform the secretary of education and
25 the arts of the division of the recommended appropri-
26 ation for higher education for submission to the
27 appropriate state agency for incorporation in the
28 executive budget. The governing boards shall provide
29 such other information as may be requested by the
30 secretary of education and the arts to support the
31 allocation division. Prior to the first day of January of
32 each year the governing boards shall present this and
33 any other appropriate information to the Legislature
34 to support the proposed allocation of appropriation as
35 between the governing boards.

36 (b) To promote the missions and achieve the goals
37 and objectives of the institutions under the jurisdic-
38 tion of the board of trustees and board of directors and
39 to provide information and guidance for the allocation
40 of funding among the institutions in the separate
41 systems in an equitable manner in relation to their
42 missions, goals and objectives, the board of trustees
43 and the board of directors shall each develop a
44 resource allocation policy based on comparative infor-
45 mation which includes the following factors:

46 (1) Full-time equivalent enrollment;

47 (2) Average state appropriations per full-time-
48 equivalent student at similar institutions in the
49 southern regional education board; and

50 (3) Other relevant factors.

51 The Legislature finds that an emergency situation
52 exists and therefore, the governing boards are hereby
53 authorized to establish by emergency rule a resource
54 allocation policy for each governing board prior to the
55 first day of January, one thousand nine hundred
56 ninety-four. Either governing board may modify its
57 policy thereafter, such modification to be submitted to
58 the legislative oversight commission on education
59 accountability subject to the provisions of article
60 three-a, chapter eighteen-a of this code.

61 Upon approval of the resource allocation policy, each
62 governing board, prior to the first day of January of
63 each year, shall present information to the secretary of
64 education and the arts and the Legislature which sets
65 forth the allocation decisions made by the respective
66 governing boards for the then current fiscal year
67 based on the policy then in effect, and the allocation
68 decisions proposed for the next year, based on the
69 policy in effect for the next succeeding fiscal year.

70 (c) From appropriations to the institutional control
71 accounts of the respective governing boards for alloca-
72 tion to the state institutions of higher education under
73 their jurisdiction, the governing boards shall allocate
74 all such funds above the amounts actually allocated
75 from appropriations for fiscal year one thousand nine
76 hundred ninety-three to their respective institutions
77 proportional to such amounts as are indicated by
78 application of the resource allocation policy then in
79 effect.

80 For fiscal year one thousand nine hundred ninety-
81 four, all funds that are in excess of the funds received
82 by the governing boards for expenditure by the state
83 institutions of higher education for fiscal year one
84 thousand nine hundred ninety-three shall be allocated
85 in accordance with the governing boards' resource
86 allocation model and each governing board's institu-
87 tional resource allocation policy to the extent that a
88 policy is in place, whether or not the policy has been
89 approved in accordance with the provisions of subsec-

90 tion (b) of this section.

91 (d) Beginning with fiscal year one thousand nine
92 hundred ninety-five, each governing board shall apply
93 its resource allocation policy to existing base budgets
94 in order to effect an equalization of the institutional
95 state funding differences at twenty percent per year
96 over a five year period until such time as the percen-
97 tage of institutional differences as determined by the
98 resource allocation policy for that system are equal-
99 ized. After a five year phase-in period, all appropri-
100 ations to the institutional accounts of the respective
101 governing boards shall be allocated to their respective
102 institutions proportional to such amounts as are
103 indicated by application of the resource allocation
104 policy for that system.

105 (e) From appropriations for the higher education
106 governing boards, the governing boards shall jointly
107 allocate funds for the operation of the central office
108 under the senior administrator and shall share equally
109 the cost of suitable offices for the senior administrator
110 and other staff in Charleston.

111 (f) Any tuition and registration fee collections paid
112 into tuition and registration fee special capital
113 improvement funds and special revenue bond funds
114 which accrue in excess of the amounts necessary to
115 protect the interests of all holders of obligations for
116 which such fees were pledged by the board of regents
117 and shall remain pledged under the governing boards,
118 shall be allocated to each governing board in propor-
119 tion to the amounts of such fees collected through the
120 institutions under its jurisdiction and shall be deposit-
121 ed in special capital improvement funds in the state
122 treasury under the name of the governing board for
123 expenditure for capital improvements at the institu-
124 tions under the appropriate board's jurisdiction.

**§18B-5-2a. Authorizing certain transfers within and among
general and special revenue accounts of state
institutions of higher education.**

1 (a) In accordance with the provisions of section
2 seventeen, article two, chapter five-a of this code, the

3 transfer of amounts between items of appropriations,
4 or the transfer of moneys in a special account estab-
5 lished for a particular purpose into another account
6 for expenditure for another purpose, are specifically
7 authorized for a spending unit under the jurisdiction
8 of the governing boards subject to the following
9 conditions:

10 (1) The president or other administrative head of a
11 state institution of higher education submits a written
12 request to the appropriate governing board. The
13 appropriate governing board approves the request for
14 the transfer and submits a written request for the
15 transfer to the secretary of education and the arts. The
16 legislative auditor and the legislative oversight com-
17 mission on education accountability are to be fur-
18 nished a copy of the request;

19 (2) The secretary of education and the arts, after
20 consultation with the appropriate governing board,
21 gives written approval to a request for a transfer and
22 follows such procedures as may be required by the
23 secretary of administration, the auditor and the
24 treasurer to effect the transfer prior to any expendi-
25 ture of the moneys so transferred;

26 (3) Such a transfer does not:

27 (A) Expand a program, establish a new program, or
28 provide capital for an expense that cannot be paid
29 during the current fiscal year; or

30 (B) Increase the moneys allocated or appropriated to
31 personal services unless:

32 (i) Such transfer to personal services is made on an
33 emergency basis for the employment of personnel for
34 summer school, and then only in such amounts as
35 mandated for salary purposes by articles eight and
36 nine of this chapter: *Provided*, That moneys trans-
37 ferred for the employment of personnel for summer
38 school shall be separately accounted for to indicate
39 which of the accounts appropriated by the Legislature
40 are increased or reduced as a result of the transfer; or

41 (ii) A quarterly allotment of funds pursuant to

42 section fifteen, article two, chapter five-a of this code
43 is insufficient to meet the appropriated personal
44 services budget of the spending unit in that fiscal
45 quarter, in which case a transfer may only be made to
46 meet the insufficiency and shall be accompanied by a
47 pledge to replace funds in the original accounts by the
48 end of that fiscal year;

49 (4) Not more than five percent of the total allocation
50 or appropriation in any general revenue account of a
51 state institution of higher education may be trans-
52 ferred between the items of allocation or appropriation
53 thereof or between the accounts established for such
54 institution;

55 (5) The transfer of moneys in a special account
56 established for a particular purpose into another
57 account for expenditure for another purpose shall not
58 exceed such amounts as are determined by the pres-
59 ident or other administrative head of the institution to
60 be in excess of that reasonably required to accomplish
61 the purposes for which the account was established,
62 unless such excess balances are insufficient to provide
63 the amounts necessary for a temporary transfer in the
64 case of a quarterly allotment which is insufficient to
65 meet the appropriated personal services budget;

66 (6) Funds in any general or special account estab-
67 lished for a specific state institution of higher educa-
68 tion shall not be transferred pursuant to this section
69 for use by another state institution of higher education.

70 (b) Notwithstanding the procedures and restrictions
71 set forth in subsection (a) of this section, except to the
72 extent that the section explicitly relates to transfers
73 due to quarterly allotment insufficiencies, and not-
74 withstanding any other provision of this code to the
75 contrary, if a quarterly allocation of appropriations
76 from the general revenue fund to the respective
77 governing boards is insufficient to meet the cash flow
78 needs within their respective systems to meet their
79 payroll requirements, the boards may authorize the
80 institutions to transfer funds from the various special
81 revenue accounts under their jurisdiction to meet

82 these needs, except funds whose use is governed by
83 bonding covenants: *Provided*, That the legislative
84 auditor shall be notified by the institution at the time
85 of transfer and shall be provided whatever documen-
86 tation that may be required to maintain records of the
87 amounts transferred and subsequently restored: *Pro-*
88 *vided, however*, That the amounts of funds so trans-
89 ferred shall be restored to the accounts from which
90 the transfers were made by the end of the fiscal year
91 in which the transfers occurred: *Provided further*,
92 That if the records in the office of the legislative
93 auditor indicate any amounts transferred have not
94 been restored by the end of the fiscal year, the
95 legislative auditor shall notify the secretary of admin-
96 istration, auditor and treasurer, and thereafter no
97 funds appropriated or allocated to the institution shall
98 be encumbered or expended until such amounts are
99 replaced: *And provided further*, That the respective
100 spending units have first pursued appropriate adminis-
101 trative remedies to avoid anticipated cash flow shor-
102 tages: *And provided further*, That nothing herein
103 restricts the ability of the boards to respond to
104 reductions of appropriations imposed in accordance
105 with article two, chapter five-a of this code within the
106 restoration period.

107 (c) If, due to increased efficiency in operations, a
108 state institution of higher education accumulates
109 balances in any of its accounts, or accounts established
110 for the institution by its governing board, which are in
111 excess of the amounts needed to accomplish the
112 purposes for which the accounts were established,
113 either general or special revenue, the institution may
114 employ the transfer provisions established in subsec-
115 tion (a) paragraphs (1) and (2) of this section to
116 transfer such excess balances into a special efficiency
117 surplus revolving fund which shall be created in the
118 state treasury for the institution and which shall be
119 carried forward into the subsequent fiscal years:
120 *Provided*, That expenditures from any special efficien-
121 cy surplus fund shall only be made upon line item
122 appropriation by the Legislature. In the case of such
123 transfers, the president shall, in addition to the

124 request for a transfer, also submit to the secretary of
 125 education and the arts, the appropriate governing
 126 board, the legislative auditor and the legislative
 127 oversight commission on education accountability,
 128 documentation of the efficiencies accomplished which
 129 resulted in the excess balance. Funds transferred into
 130 the special surplus fund of an institution shall be
 131 budgeted by the president or other administrative
 132 head of the institution in consultation with the faculty
 133 senate, classified staff and student government organ-
 134 ization to meet the highest academic priorities of the
 135 institution: *Provided, however,* That such funds may
 136 not be used to support a continuing operation or
 137 expense unless the efficiencies which resulted in such
 138 funds becoming available are likewise continuing:
 139 *Provided further,* That the restrictions on fund
 140 transfers set forth in subsection (a) paragraphs (3), (4)
 141 and (5) of this section shall not apply to transfers to
 142 the efficiency surplus revolving fund: *And provided*
 143 *further,* That the restriction set forth in subsection (a)
 144 paragraph (6) of this section shall apply to such
 145 transfers.

146 (d) If the Legislature finds that amounts deposited in
 147 any fund created pursuant to this section or trans-
 148 ferred to any fund exceed the amounts needed to
 149 effectuate any of the purposes set forth in this section,
 150 such amounts may be transferred to other accounts or
 151 funds and redesignated for other purposes upon
 152 appropriation by the Legislature.

153 (e) Reports setting forth the exercise of any author-
 154 ity granted by this section shall be submitted with
 155 specificity to the legislative commission on oversight
 156 accountability and the joint committee on government
 157 and finance on the first day of January of any year in
 158 which such authority was exercised during the prior
 159 twelve-month period.

ARTICLE 6. OTHER BOARDS AND ADVISORY COUNCILS.

§18B-6-1. Institutional boards of advisors.

1 (a) There shall be established at each state institu-
 2 tion of higher education, hereinafter referred to as the

3 "institution", excluding centers and branches thereof,
4 an institutional board of advisors. The board of
5 advisors shall consist of eleven members, including an
6 administrative officer of the institution appointed by
7 the president of the institution; a full-time member of
8 the faculty with the rank of instructor or above duly
9 elected by the faculty; a member of the student body
10 in good academic standing, enrolled for college credit
11 work and duly elected by the student body; a member
12 of the institutional classified staff duly elected by the
13 classified staff; and, appointed by the appropriate
14 governing board, seven lay citizens of the state who
15 have demonstrated a sincere interest in and concern
16 for the welfare of that institution and who are repre-
17 sentative of its population and fields of study, includ-
18 ing at least two alumni of the institution. Of the seven
19 lay citizen members, no more than four may be of the
20 same political party.

21 The administrative officer, faculty member, student
22 member and classified staff member shall serve for a
23 term of one year, and the seven lay citizen members
24 shall serve terms of four years each. All members,
25 except the administrative officer, shall be eligible to
26 succeed themselves for no more than one additional
27 term. A vacancy in an unexpired term of a member
28 shall be filled within sixty days of the occurrence
29 thereof in the same manner as the original appoint-
30 ment or election. Except in the case of a vacancy, all
31 elections shall be held and all appointments shall be
32 made no later than the thirtieth day of April preced-
33 ing the commencement of the term.

34 Each board of advisors shall hold a regular meeting
35 at least quarterly, commencing in July of each year.
36 Additional meetings may be held upon the call of the
37 chairman, president of the institution or upon the
38 written request of at least four members. A majority
39 of the members shall constitute a quorum for conduct-
40 ing the business of the board of advisors.

41 (b) One of the seven lay citizen members shall be
42 elected as chairman by the board of advisors in July
43 of each year: *Provided*, That no member shall serve as

44 chairman for more than two consecutive years at a
45 time.

46 The president of the institution shall make available
47 resources of the institution for conducting the business
48 of the board of advisors. The members of the board of
49 advisors shall be reimbursed for all reasonable and
50 necessary expenses actually incurred in the perfor-
51 mance of their official duties under this section upon
52 presentation of an itemized sworn statement thereof.
53 All expenses incurred by the board of advisors and the
54 institution under this section shall be paid from funds
55 allocated to the institution for such purpose.

56 (c) The board of advisors shall review, prior to the
57 submission by the president to its governing board, all
58 proposals of the institution in the areas of mission,
59 academic programs, budget, capital facilities and such
60 other matters as requested by the president of the
61 institution or its governing board or otherwise
62 assigned to it by law. The board of advisors shall
63 comment on each such proposal in writing, with such
64 recommendations for concurrence therein or revision
65 or rejection thereof as it deems proper. Such written
66 comments and recommendations shall accompany the
67 proposal to the governing board, and the governing
68 board shall include such comments and recommenda-
69 tions in its consideration of and action on the proposal.
70 The governing board shall promptly acknowledge
71 receipt of the comments and recommendations and
72 shall notify the board of advisors in writing of any
73 action taken thereon.

74 (d) The board of advisors shall review, prior to their
75 implementation by the president, all proposals regard-
76 ing institution-wide personnel policies. The board of
77 advisors may comment on such proposals in writing.

78 (e) The board of advisors shall provide advice and
79 assistance to the president in establishing closer
80 connections between higher education and business,
81 labor, government, community and economic develop-
82 ment organizations to give students greater opportun-
83 ities to experience the world of work, such as business

84 and community service internships, apprenticeships
85 and co-operative programs; to communicate better and
86 serve the current work force and work force develop-
87 ment needs of their service area, including the needs
88 of nontraditional students for college-level skills
89 upgrading and retraining and the needs of employers
90 for specific programs of limited duration; and to assess
91 the performance of institution's graduates and assist in
92 job placement. The administrative officer of the
93 institution serving on the advisory council may be
94 assigned the responsibility for coordinating the institu-
95 tion's activities related to economic development.

96 (f) Upon the occurrence of a vacancy in the office
97 of president of the institution, the board of advisors
98 shall serve as a search and screening committee for
99 candidates to fill the vacancy under guidelines estab-
100 lished by its governing board. When serving as a
101 search and screening committee, the board of advisors
102 and its governing board are each authorized to appoint
103 up to three additional persons to serve on the commit-
104 tee as long as the search and screening process is in
105 effect. The three additional appointees of the board of
106 advisors shall be faculty members of the institution.
107 Only for the purposes of the search and screening
108 process, such additional members shall possess the
109 same powers and rights as the regular members of the
110 board of advisors, including reimbursement for all
111 reasonable and necessary expenses actually incurred.
112 Following the search and screening process, the
113 committee shall submit the names of at least three
114 candidates to the governing board for consideration
115 and appointment. If the governing board rejects all
116 candidates so submitted, the committee shall submit
117 the names of at least three additional candidates, and
118 this process shall be repeated until the governing
119 board appoints one of the candidates so submitted. The
120 governing board shall provide all necessary staff
121 assistance to the board of advisors in its role as a
122 search and screening committee.

ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-1. Seniority for full-time classified personnel;

seniority to be observed in reducing work force; preferred recall list; renewal of listing; notice of vacancies.

1 (a) Definitions for terms used in this section shall be
2 in accordance with those provided in section two,
3 article nine of this chapter except that the provisions
4 of this section shall apply only to classified employees
5 whose employment, if continued, shall accumulate to
6 a minimum total of one thousand forty hours during
7 a calendar year and extend over at least nine months
8 of a calendar year.

9 (b) All decisions by the appropriate governing board
10 or their agents at state institutions of higher education
11 concerning reductions in work force of full-time
12 classified personnel, whether by temporary furlough
13 or permanent termination, shall be made in accor-
14 dance with this section. For layoffs by classification for
15 reason of lack of funds or work, or abolition of position
16 or material changes in duties or organization and for
17 recall of employees so laid off, consideration shall be
18 given to an employee's seniority as measured by
19 permanent employment in the service of the state
20 system of higher education. In the event that the
21 institution wishes to lay off a more senior employee,
22 the institution must demonstrate that the senior
23 employee cannot perform any other job duties held by
24 less senior employees of that institution in the same
25 job class, or any other equivalent or lower job class for
26 which the senior employee is qualified: *Provided*, That
27 if an employee refuses to accept a position in a lower
28 job class, such employee shall retain all rights of recall
29 hereinafter provided. If two or more employees
30 accumulate identical seniority, the priority shall be
31 determined by a random selection system established
32 by the employees and approved by the institution.

33 (c) Any employee laid off during a furlough or
34 reduction in work force shall be placed upon a pre-
35 ferred recall list and shall be recalled to employment
36 by the institution on the basis of seniority. An
37 employee's listing with an institution shall remain
38 active for a period of one calendar year from the date

39 of termination or furlough, or from the date of the
40 most recent renewal. If an employee fails to renew the
41 listing with the institution, the employee's name may
42 be removed from the list. An employee placed upon
43 the preferred list shall be recalled to any position
44 opening by the institution within the classification(s)
45 in which the employee had previously been employed
46 or to any lateral position for which the employee is
47 qualified. An employee on the preferred recall list
48 shall not forfeit the right to recall by the institution if
49 compelling reasons require such employee to refuse an
50 offer of reemployment by the institution.

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

64 (d) A non-exempt classified employee, including a
65 non-exempt employee who has not accumulated a
66 minimum total of one thousand forty hours during the
67 calendar year or whose contract does not extend over
68 at least nine months of a calendar year, who meets the
69 minimum qualifications for a job opening at the
70 institution where the employee is currently employed,
71 whether the job be a lateral transfer or a promotion,
72 and applies for same shall be transferred or promoted
73 before a new person is hired unless such hiring is
74 affected by mandates in affirmative action plans or the
75 requirements of Public Law 101-336, the Americans
76 with disabilities act. If more than one qualified, non-
77 exempt classified employee applies, the best-qualified
78 non-exempt classified employee shall be awarded the
79 position. In instances where such classified employees

80 are equally qualified, the non-exempt classified
81 employee with the greatest amount of continuous
82 seniority at that state institution of higher education
83 shall be awarded the position. A non-exempt classified
84 employee is one to whom the provisions of the federal
85 fair labor standards act, as amended, apply.

§18B-7-5. Faculty and classified employee continuing education and development program.

1 (a) Each state institution of higher education shall
2 have the authority to establish and operate a faculty
3 and classified employee continuing education and
4 development program under rules adopted by the
5 appropriate governing board. Funds allocated or made
6 available may be used to compensate and pay expenses
7 for faculty or classified employees who are pursuing
8 additional academic study or training to better equip
9 themselves for their duties at the state institutions of
10 higher education.

11 (b) Before the first day of January, one thousand
12 nine hundred ninety-four, each governing board, with
13 the advice and consent of the faculty senates, staff
14 councils, and other groups representing classified
15 employees, shall adopt policies which encourage
16 continuing education and staff development. The
17 policies shall require that selection shall be made on a
18 non-partisan basis, using fair and meaningful criteria
19 which will afford all faculty and classified employees
20 with opportunities to enhance their skills. Such
21 policies may also include reasonable provisions for the
22 continuation or return of any faculty or classified
23 employee receiving the benefits of such education or
24 training, or for reimbursement by the state for
25 expenditures incurred on behalf of such faculty or
26 classified employee.

§18B-7-6. Adjunct faculty; part-time and temporary classified employees.

1 (a) Before the first day of January, one thousand
2 nine hundred ninety-four, each governing board, with
3 the advice and assistance of the faculty senates, shall
4 establish a policy pursuant to the provisions of article

5 three-a, chapter twenty-nine-a of this code regarding
6 the role of adjunct faculty at state institutions of
7 higher education and define an appropriate balance
8 between full-time and adjunct faculty members.

9 (b) Before the first day of January, one thousand
10 nine hundred ninety-four, each governing board, with
11 the advice and consent of the staff councils and other
12 groups representing classified employees, shall estab-
13 lish a policy pursuant to the provisions of article three-
14 a, chapter twenty-nine-a of this code regarding the
15 role of part-time classified employees at state institu-
16 tions of higher education. Such policy shall discourage
17 the hiring of part-time employees solely to avoid the
18 payment of benefits or in lieu of full-time employees
19 and shall provide all qualified classified employees
20 with nine-month or ten-month contracts with the
21 opportunity to accept part-time or full-time summer
22 employment before new persons are hired for the
23 part-time or full-time employment.

§18B-7-7. Professional productivity.

1 Before the first day of January, one thousand nine
2 hundred ninety-four, each governing board, with the
3 advice and assistance of the faculty senates, shall
4 establish a policy pursuant to the provisions of article
5 three-a, chapter twenty-nine-a of this code regarding
6 productivity of faculty and administrators, which
7 policy shall require faculty productivity that is ten
8 percent more than the average of similar institutions
9 in other states by the fiscal year one thousand nine
10 hundred ninety-five, such productivity to be based on
11 the average number of student credit hours taught,
12 and administrative productivity that is ten percent
13 more than the average of similar institutions in other
14 states by the fiscal year one thousand nine hundred
15 ninety-five.

§18B-7-8. Campus administrators.

1 Before the first day of January, one thousand nine
2 hundred ninety-four, each governing board, with the
3 advice and assistance of the faculty senates, shall
4 establish a policy pursuant to the provisions of article

5 three-a, chapter twenty-nine-a of this code requiring
6 all campus administrators holding faculty rank to
7 teach at least one course during each eighteen-month
8 employment period or to perform on-going research in
9 lieu of teaching.

§18B-7-9. Employment innovations.

1 Before the first day of January, one thousand nine
2 hundred ninety-four, each governing board, with the
3 advice and consent of the staff councils and other
4 groups representing classified employees, shall estab-
5 lish a policy pursuant to the provisions of article three-
6 a, chapter twenty-nine-a of this code that discourages
7 temporary, non-emergency, institutionally-imposed
8 changes in an employee's work schedule; that main-
9 tains reasonable continuity in working schedules and
10 conditions for employees; and that requires institu-
11 tions to consider feasible and innovative ways to most
12 efficiently utilize the institution's classified employees,
13 such innovations to include flexibility in employee
14 scheduling, job-sharing and four-day work weeks.

§18B-7-10. Salary increases for cooperative extension workers.

1 (a) Subject to the availability of funds therefor, each
2 cooperative extension worker employed pursuant to
3 the provisions of section one, article eight, chapter
4 nineteen of this code who is considered to be extension
5 faculty shall be granted an annual salary increase of
6 two thousand dollars effective the first day of July,
7 one thousand nine hundred ninety-three.

8 (b) Subject to the availability of funds therefor, each
9 non-faculty cooperative extension worker employed
10 pursuant to the provisions of section one, article eight,
11 chapter nineteen of this code shall be granted an
12 annual salary increase of one thousand five hundred
13 dollars effective the first day of July, one thousand
14 nine hundred ninety-three, and the salary increases
15 authorized in section eleven, article nine of this
16 chapter, such salary increases to be prorated for part-
17 time, non-faculty cooperative extension employees.

ARTICLE 8. HIGHER EDUCATION FULL-TIME FACULTY SALARIES.

§18B-8-3. Assignment to salary schedule; actual salary.

1 (a) On or before the first day of July of each year,
2 each faculty member then employed shall be given
3 notice by the appropriate governing board of the
4 placement on the minimum salary schedule which is
5 appropriate to such faculty member's years of expe-
6 rience and to which such individual has been assigned,
7 notwithstanding the actual salary paid under the
8 provisions of this article.

9 (b) Each full-time faculty member employed as of
10 the effective date of this section shall receive for full-
11 time employment at the same academic rank during
12 the academic year one thousand nine hundred ninety-
13 three — ninety-four, and thereafter, a salary which is
14 no less than the salary being paid such faculty
15 member for the academic year one thousand nine
16 hundred ninety-two — ninety-three. No full-time
17 faculty member shall receive a salary which is less
18 than the salary for zero years of experience for the
19 appropriate academic rank as set forth in section two
20 of this article.

21 (c) Effective the first day of July, one thousand nine
22 hundred ninety-three, subject to appropriation by the
23 Legislature therefor, each full-time faculty member
24 shall receive an annual salary increase of two thou-
25 sand dollars. The Legislature may by general appropri-
26 ation, or the secretary of the department of education
27 and the arts may allocate through authority set forth
28 under the provisions of chapter five-f of this code,
29 funds to be distributed for the purpose of accommodat-
30 ing market and equity conditions within the system.
31 Any remaining funds shall be applied in accordance
32 with the provisions of subsection (d) of this section.

33 (d) Funds remaining after meeting the salary of
34 each full-time faculty member in accordance with
35 subsections (b) and (c) of this section shall be used to
36 pay that amount that is the difference between such
37 salary and the appropriate salary for each full-time
38 faculty member's appropriate placement on the sche-

39 dule: *Provided*, That such amount may be reduced
40 proportionately based upon the amount of funds
41 available for such purpose.

42 (e) The salary of any full-time faculty member shall
43 not be reduced by the provisions of this article.

44 (f) Upon promotion in rank, placement on the
45 minimum salary schedule shall be such as to provide
46 a salary increase of at least ten percent, and shall be
47 at least the amount prescribed for the appropriate
48 academic rank to which promoted at zero years of
49 experience.

**§18B-8-3a. Institutional salary policies; distribution of
faculty salary increases; distribution of non-
classified administrative salary increases.**

1 (a) Beginning with the fiscal year commencing on
2 the first day of July, one thousand nine hundred
3 ninety-four, faculty salary increases shall be distribut-
4 ed within each state institution of higher education, to
5 the extent of legislative appropriation therefor in
6 accordance with a written institutional salary policy
7 which achieves or moves toward the following goals:

8 (1) Each full-time faculty member receives at least
9 the amount indicated by the minimum salary sched-
10 ules pursuant to section two of this article;

11 (2) Each full-time faculty member within a disci-
12 pline group, receives a salary which is competitive
13 with those in similar disciplines at peer institutions;

14 (3) Faculty are recognized for outstanding per-
15 formance;

16 (4) Equity among salaries is maintained; and

17 (5) The institution's faculty are effectively involved
18 in the administration of the campus-level faculty
19 salary policy.

20 (b) To the extent funds are made available by
21 appropriation by the Legislature therefor, for the fiscal
22 year beginning with the first day of July, one thou-
23 sand nine hundred ninety-four, an amount averaging

24 one thousand dollars per full-time faculty member is
25 recommended to be appropriated and distributed in
26 that fiscal year for salaries for full-time faculty
27 members, and, for the fiscal year beginning with the
28 first day of July, one thousand nine hundred ninety-
29 five, an amount averaging two thousand dollars per
30 full-time faculty member is recommended to be
31 appropriated and distributed in that fiscal year for
32 salaries for full-time faculty members, such distribu-
33 tion to be in accordance with the resource allocation
34 policies developed pursuant to the provisions of section
35 two, article five of this chapter and the salary policies
36 required in subsection (a) of this section.

37 (c) Subject to the availability of funds therefor, each
38 full-time nonclassified administrative staff person shall
39 be granted an annual salary increase in fiscal year
40 commencing on the first day of July, one thousand
41 nine hundred ninety-three of one thousand five
42 hundred dollars; for the fiscal year commencing on the
43 first day of July, one thousand nine hundred ninety-
44 four, seven hundred fifty dollars and for the fiscal
45 year commencing on the first day of July, one thou-
46 sand nine hundred ninety-five, one thousand five
47 hundred dollars. The pro-rated amount shall be
48 granted for less than full-time employment.

**ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND
CLASSIFICATION SYSTEM.**

**§18B-9-4. Establishment of personnel classification system;
assignment to classification and to salary
schedule.**

1 (a) Before the first day of January, one thousand
2 nine hundred ninety-four, the governing boards shall
3 establish by rule and implement an equitable system
4 of job classifications, with the advice and assistance of
5 staff councils, and other groups representing classified
6 employees, each classification to consist of related job
7 titles and corresponding job descriptions for each
8 position within a classification, together with the
9 designation of an appropriate pay grade for each job
10 title, which system shall be the same for correspond-

11 ing positions in institutions under both boards: *Pro-*
12 *vided*, That before implementing the classification
13 system, each classified employee is given an opportu-
14 nity in a public hearing setting to address decisions
15 affecting his or her classification assignment and pay
16 scale. The system of job classifications shall be submit-
17 ted to the secretary of education and the arts for
18 review and approval prior to implementation.

19 By such date and with consideration to recommen-
20 dations of the institutions, the appropriate governing
21 board shall furnish each classified employee written
22 confirmation of the assignment to the appropriate
23 classification, job title and pay grade and of the proper
24 placement on a salary schedule. Such assignment may
25 be appealed in accordance with article twenty-nine of
26 chapter eighteen of this code and all agencies are
27 directed to expedite and give priority to grievances
28 regarding the employee's initial assignment under the
29 terms of this section: *Provided*, That nothing herein
30 shall nullify or void any personnel classification
31 system in effect immediately prior to the first day of
32 July, one thousand nine hundred eighty-nine.

33 (b) Funds shall be appropriated for classified staff
34 salary increases in fiscal year one thousand nine
35 hundred ninety-four. With respect to funds appropri-
36 ated, the governing boards shall grant an across-the-
37 board salary increase of fifteen hundred dollars plus
38 benefits for each full-time member of the classified
39 staff, pro rated for less than full-time employment.

40 (c) Beginning with the fiscal year one thousand nine
41 hundred ninety-five classified staff salary increases
42 distributed within each state institution of higher
43 education shall be in accordance with a uniform
44 employee classification system and salary policy which
45 is adopted by the respective governing boards and
46 approved in accordance with the provisions of article
47 three-a, chapter twenty-nine-a of this code.

48 (d) The Legislature finds that an emergency situa-
49 tion exists and therefore, the governing boards are
50 hereby authorized to establish by emergency rule,

51 under the procedures of article three-a, chapter
52 twenty-nine-a of this code, a rule to implement the
53 provisions of this article, after approval by the legisla-
54 tive oversight commission on education accountability,
55 which shall receive said proposed rule by the first day
56 of November, one thousand, nine hundred ninety-
57 three. Upon approval of such emergency rule by the
58 legislative oversight commission on education accoun-
59 tability, and the effective date of the implementation
60 of said rule, the salary schedule set out in section
61 three of this article shall be deemed null and void and
62 without the force and effect of law. Any other provi-
63 sions of this article inconsistent with said rule shall be
64 deemed null and void and without the force and effect
65 of law. Any other provisions of this article inconsistent
66 with said rule shall be deemed null and void upon
67 lawful implementation of the rule: *Provided*, That
68 nothing in this subsection shall be interpreted to
69 require that the Legislature appropriate any additional
70 funds for such implementation.

§18B-9-5. Classified employee salary.

1 (a) Each classified employee who is employed by a
2 governing board on the first day of July, one thousand
3 nine hundred ninety-three, shall receive for the same
4 employment at the same pay grade during the fiscal
5 year commencing on such date and thereafter, subject
6 to an appropriation by the Legislature therefor, and in
7 addition to the experience increment increase pro-
8 vided for in subsection (b) of this section, a monthly
9 salary which is at least one hundred twenty-five
10 dollars more than the final base monthly salary paid
11 such classified employee for the fiscal year commenc-
12 ing on the first day of July, one thousand nine
13 hundred ninety-two, to be paid in equal installments
14 within the regular pay periods and to be prorated for
15 classified employees working less than thirty-seven
16 and one-half hours per week.

17 (b) Commencing with the fiscal year beginning on
18 the first day of July, one thousand nine hundred
19 ninety-one, and each fiscal year thereafter, each
20 classified employee with three or more years of

21 experience shall receive an annual salary increase
22 equal to thirty-six dollars times the employee's years
23 of experience: *Provided*, That such annual salary
24 increase shall not exceed the amount granted for the
25 maximum of twenty years of experience. These
26 incremental increases shall be in lieu of any salary
27 increase received pursuant to section two, article five,
28 chapter five of this code; shall be in addition to any
29 across-the-board, cost-of-living or percentage salary
30 increases which may be granted in any fiscal year by
31 the Legislature; and shall be paid in like manner as
32 the annual payment to eligible state employees of the
33 incremental salary increases based on years of service
34 under the provisions of section two, article five,
35 chapter five of this code.

36 (c) Each classified employee whose monthly salary
37 under subsections (a) and (b) of this section is less than
38 the minimum monthly salary for zero years of expe-
39 rience for the appropriate pay grade as set forth in
40 section three of this article shall receive additional
41 compensation such that the monthly salary is at least
42 the minimum amount prescribed for the appropriate
43 pay grade at zero years of experience: *Provided*, That
44 such amounts may be reduced proportionately based
45 upon the amount of funds available for such purpose.

46 (d) Any funds remaining after increasing the month-
47 ly salary of each classified employee to at least the
48 minimum amount prescribed for the appropriate pay
49 grade at zero years of experience shall be used to place
50 classified employees on the salary schedule at their
51 appropriate years of experience: *Provided*, That such
52 amount may be reduced proportionately based upon
53 the amount of funds available for such purpose.

54 (e) Any classified employee may receive merit
55 increases and/or salary adjustments in accordance
56 with policies established by the board: *Provided*, That
57 funds for such increases and/or adjustments shall be
58 distributed in accordance with rules of the appropriate
59 governing board and shall be available to all state
60 institutions of higher education on an equitable basis.

61 (f) The current monthly salary of any classified
62 employee may not be reduced by the provisions of this
63 article nor by any other action inconsistent with the
64 provisions of this article, and nothing in this article
65 shall be construed to prohibit promotion of any
66 classified employee to a job title carrying a higher pay
67 grade if such promotion is in accordance with the
68 provisions of this article and the personnel classifica-
69 tion system established by the appropriate governing
70 board.

§18B-9-11. Institutional salary policies; salary increase authorization.

- 1 (a) Beginning with the fiscal year commencing on
2 the first day of July, one thousand nine hundred
3 ninety-four, classified employee salary increases shall
4 be distributed within each state institution of higher
5 education, to the extent of legislative appropriation
6 therefor, in accordance with a written institutional
7 salary policy which does not conflict with the uniform
8 employee classification system and which achieves or
9 moves toward the following goals:
- 10 (1) Each classified employee receives at least the
11 amount indicated by the minimum salary schedules
12 pursuant to section three of this article;
- 13 (2) Each classified employee within a classification
14 group receives a salary which will achieve salary
15 equity as defined in the uniform employee classifica-
16 tion system established pursuant to subsection (b) of
17 section four of this article;
- 18 (3) Classified employees are recognized for outstand-
19 ing performance;
- 20 (4) Equity among salaries is maintained; and
- 21 (5) The institution's classified employees are effec-
22 tively involved in the administration of the campus-
23 level classified employee salary policy.
- 24 (b) Subject to an appropriation by the Legislature
25 therefor, for the fiscal year commencing on the first
26 day of July, one thousand nine hundred ninety-four,

27 an amount equal to seven hundred fifty dollars per
28 full-time classified employee is recommended to be
29 appropriated and distributed in that fiscal year for
30 salaries for classified employees, and, for the fiscal
31 year beginning with the first day of July, one thou-
32 sand nine hundred ninety-five, an amount equal to
33 one thousand five hundred dollars per classified
34 employee is recommended to be appropriated and
35 distributed in that fiscal year for salaries for classified
36 employees, such distribution to be in accordance with
37 the resource allocation policies developed pursuant to
38 the provisions of section two, article five of this
39 chapter and the salary policies required in subsection
40 (a) of this section: *Provided*, That nothing in this
41 section shall be construed to prohibit future salary
42 increases for classified employees determined to be at
43 the maximum for their pay grade under any new
44 classification system promulgated in accordance with
45 subsection (b) of section four of this article and in
46 accordance with policies which shall be adopted by
47 each governing board relating to salary increases for
48 classified employees determined to be at maximum
49 salary: *Provided, however*, That such policies shall
50 provide that, when there is a system-wide, mandated
51 salary increase, those employees determined to be at
52 the maximum shall receive a percentage or across-the-
53 board salary increase in an amount equal to not less
54 than one-half of the percentage or across-the-board
55 increase granted to the employee within the same pay
56 grade receiving the smallest percentage or across-the-
57 board increase.

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

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

1 (a) Each governing board shall fix tuition and other
2 fees for each school term for the different classes or
3 categories of students enrolling at each state institu-
4 tion of higher education under its jurisdiction and may
5 include among such fees any one or more of the
6 following: (1) Health service fees; (2) infirmary fees;

7 (3) student activities, recreational, athletic and extra-
8 curricular fees, which said fees may be used to finance
9 a student's attorney to perform legal services for
10 students in civil matters at such institutions: *Provided*,
11 That such legal services shall be limited to only those
12 types of cases, programs or services approved by the
13 administrative head of such institution where such
14 legal services are to be performed; and (4) graduate
15 center fees and branch college fees, or either, if the
16 establishment and operations of graduate centers or
17 branch colleges are otherwise authorized by law. All
18 fees collected at any graduate center or at any branch
19 college shall be paid into special funds and shall be
20 used solely for the maintenance and operation of the
21 graduate center or branch college at which they were
22 collected: *Provided, however*, That the governing
23 boards shall use the median of the average tuition and
24 required fees at similarly classified institutions in
25 member states of the southern regional education
26 board as a goal in establishing tuition and required fee
27 levels for residents at state institutions of higher
28 education under their jurisdiction: *Provided further*,
29 That the governing boards shall use the actual instruc-
30 tional cost as the same shall be determined in accor-
31 dance with board rule, in establishing nonresident
32 undergraduate fees, with the goal of having tuition
33 and fees cover the actual cost by fiscal year one
34 thousand nine hundred ninety-six: *And provided*
35 *further*, That students enrolled in undergraduate
36 courses offered at off-campus locations shall pay an
37 off-campus instruction fee and shall not pay the
38 athletic fee and the student activity fee. The off-
39 campus instruction fee shall be used solely for the
40 support of off-campus courses offered by the institu-
41 tion. Off-campus locations for each institution shall be
42 defined by the appropriate governing board. The
43 schedule of all fees, and any changes therein, shall be
44 entered in the minutes of the meeting of the appro-
45 priate governing board, and the board shall file with
46 the legislative auditor a certified copy of such schedule
47 and changes.

48 (b) In addition to the fees mentioned in the preced-

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

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

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

87 (d) All fees are due and payable by the student upon
88 enrollment and registration for classes except as
89 provided for in this subsection.

90 (1) The governing boards shall permit fee payments
91 to be made in up to three installments over the course
92 of the academic term. The payments shall include
93 interest at a rate set by the governing board: *Provided*,
94 That all fees must be paid prior to the awarding of
95 course credit at the end of the academic term.

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

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

111 (e) The governing boards shall establish legislative
112 rules regarding the refund of any fees upon the
113 voluntary or involuntary withdrawal from classes of
114 any student which rules shall comply with all applica-
115 ble state and federal law and shall be uniformly
116 applied throughout the systems.

117 (f) The governing boards shall establish legislative
118 rules using the fee structure or other penalties to
119 provide a disincentive for students to register for
120 classes in excess of the typical full-time course load,
121 that being from twelve to eighteen credit hours for an
122 undergraduate student and from nine to fifteen credit
123 hours for a graduate student, and then to withdraw
124 from such excess classes after the semester has begun.

125 (g) In addition to the fees mentioned in the preced-
126 ing subsections, each governing board may impose,
127 collect and distribute a fee to be used to finance a non-
128 profit, student controlled public interest research
129 group: *Provided*, That the students at such institution

130 demonstrate support for the increased fee in a manner
131 and method established by that institution's elected
132 student government: *Provided, however,* That such
133 fees shall not be used to finance litigation against the
134 institution.

§18B-10-14. Book Stores.

1 The appropriate governing board of each state
2 institution of higher education shall have the authority
3 to establish and operate a book store at the institution.
4 The book store shall be operated for the use of the
5 institution itself, including each of its schools and
6 departments, in making purchases of books, stationery
7 and other school and office supplies generally carried
8 in college stores, and for the benefit of students and
9 faculty members in purchasing such products for their
10 own use, but no sales shall be made to the general
11 public. The prices to be charged the institution, the
12 students and the faculty for such products shall be
13 fixed by the governing board, shall not be less than the
14 prices fixed by any fair trade agreements, and shall in
15 all cases include in addition to the purchase price paid
16 by the book store a sufficient handling charge to cover
17 all expenses incurred for personal and other services,
18 supplies and equipment, storage, and other operating
19 expenses, to the end that the prices charged shall be
20 commensurate with the total cost to the state of
21 operating the book store.

22 Each governing board shall also ensure that book
23 stores operated at institutions under its jurisdiction
24 meet the additional objective of minimizing the costs
25 to students of purchasing textbooks by adopting
26 policies which may require the repurchase and resale
27 of textbooks on an institutional or a statewide basis
28 and provide for the use of certain basic textbooks for
29 a reasonable number of years.

30 All moneys derived from the operation of the store
31 shall be paid into a special revenue fund as provided
32 in section two, article two, chapter twelve of this code.
33 Each governing board shall, subject to the approval of
34 the governor, fix and from time to time change the

35 amount of the revolving fund necessary for the proper
36 and efficient operation of each book store.

37 Moneys derived from the operation of the book store
38 shall be used first to replenish the stock of goods and
39 to pay the costs of operating and maintaining the store.
40 From any balance in the Marshall university book
41 store fund not needed for operation and maintenance
42 and replenishing the stock of goods, the governing
43 board of that institution shall have authority to expend
44 a sum not to exceed two hundred thousand dollars for
45 the construction of quarters to house the book store in
46 the university center at Marshall university. Until
47 such quarters for housing the book store are complet-
48 ed, the governing board of Marshall university and the
49 governor shall take this authorization into account in
50 fixing the amount of the revolving fund for the
51 Marshall university book store.

ARTICLE 13. HIGHER EDUCATION-INDUSTRY PARTNERSHIPS.

§18B-13-1. Legislative purpose.

1 A pressing need exists for collaborative research and
2 development between institutions of higher education
3 and industry. This need also extends to assisting
4 companies to develop and adapt to new technology. A
5 commitment by the state to support cooperative
6 university-industry partnerships will preserve existing
7 jobs and create new jobs; promote development of
8 business enterprises and help them become competi-
9 tive; and enable West Virginia to achieve the goals of
10 economic growth and full employment by revitalizing
11 and diversifying the West Virginia economy. Focused
12 research and technical assistance efforts related to
13 West Virginia industry will speed such development,
14 improve technology transfer, assist companies in
15 becoming growth leaders and link basic research and
16 technological developments to economic advancement.

17 It is the purpose of the Legislature to have as the
18 state's goals the movement of the state of West
19 Virginia into the forefront of science and technology
20 by the year two thousand; the attraction of business,
21 federal contracts and industry; and the creation of jobs

22 for the people of this state, through applied science
23 and technology and partnership programs.

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

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

§18B-13-3. Powers and duties.

1 The West Virginia state development council in
2 consultation with the higher education governing
3 boards is hereby authorized and directed to develop a
4 strategic comprehensive plan and grant program to
5 attract new science and high technology industries, to
6 retain and expand current state industries through
7 technology and other processes, and to increase
8 research grants, contracts, matching funds and pro-
9 curement arrangements from the federal government,
10 private industry and other agencies. Such initial, and
11 annually updated, strategic comprehensive plan shall
12 be developed and annually filed with the governor and
13 Legislature.

14 The West Virginia state development council in
15 consultation with the higher education governing
16 boards shall review the work and projects undertaken
17 by the center of regional progress, the center for
18 economic research, the institute for international trade
19 development and the West Virginia foundation for
20 science and technology.

§18B-13-4. High-Tech 2000 research zones and parks; tax exemptions.

1 (a) The state development council shall work with
2 the county commissions, the municipalities and local
3 development authorities where state colleges and
4 universities are located and shall, develop a plan and
5 program for the establishment and operation of
6 qualifying High-Tech 2000 research zones, parks and
7 technology centers on or near the campuses of selected
8 universities and colleges to attract local business and

9 industry engaged in science and technology related
10 research.

11 The state development council shall coordinate the
12 development of such plan and program, which shall
13 include qualifications for eligible High-Tech 2000
14 research zones, parks and research centers and which
15 qualifications shall require a minimum partnership
16 commitment from the private sector either in the
17 construction, operation or location of the research
18 parks or zones or technology centers; and the West
19 Virginia economic development authority shall have
20 authority to enter into agreements with state institu-
21 tions of higher education, private developers or other
22 interested businesses or persons to acquire, finance,
23 construct, operate, own, lease or otherwise manage
24 any research park or zone and to collect rentals or
25 other forms of payment for the operation of the
26 research parks or zones or technology centers.

27 The West Virginia economic development authority
28 is hereby authorized either singularly or in conjunc-
29 tion with any county commission, municipality or local
30 development authority, to issue special High-Tech 2000
31 bonds for the purpose of this section, including, but
32 not limited to, special project revenue bonds and
33 special user bonds limited to the actual cost of con-
34 struction and start-up of any qualifying and approved
35 research park or zone or technology centers, and
36 improvements necessary thereto, pursuant to article
37 twelve-b, chapter eighteen of this code.

38 (b) Notwithstanding any other provision of this code
39 to the contrary relating to any other exemptions or
40 credits to which any business may be entitled under
41 this code, the following exemptions shall only apply to
42 qualified, approved High-Tech 2000 research park or
43 zone or technology center:

44 (1) The enterprise zone tax exemptions as provided
45 in section five, article two-b, chapter five-b of this
46 code;

47 (2) A tax credit for qualified business, in the amount
48 of the workers' compensation premium paid in accor-

49 dance with article two, chapter twenty-three of this
50 code, which credit shall be credited against any
51 corporate net income tax or personal income tax of the
52 qualified business or liability of the owners of the
53 qualified business which is a proprietorship or a
54 partnership;

55 (3) The deferral for qualified business of all state
56 corporate net income tax, business and occupation tax,
57 telecommunications tax, severance tax, business fran-
58 chise tax, or other state income tax liability for the
59 start-up period of the business not to exceed three
60 years, and qualified business shall be entitled to an
61 exemption from any such deferred tax if such business
62 both employs at least seven persons on a full-time
63 basis as of the due date of the deferred tax liability,
64 and the qualified business maintains an average
65 employment of at least seven full-time employees over
66 the last two years of the three year start-up period.

67 Notwithstanding any other provision herein to the
68 contrary, the amount of total credits and deferrals
69 allowable under this section or section five, article
70 two-b, chapter five-b of this code, shall not exceed two
71 and one-half million dollars in any one fiscal year for
72 all eligible businesses: *Provided*, That the credits
73 allowed by this section are non-refundable so that a
74 taxpayer shall not claim a total credit amount that
75 reduces the taxpayer's tax liability to less than zero.

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

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

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

13 qualifying business.

14 (c) The Legislature finds that cooperation, commun-
15 ication and coordination are integral components of
16 higher education's involvement in economic develop-
17 ment. In order to proceed in a manner that is cost
18 effective and time efficient, it shall be the duty of the
19 governing boards to review and coordinate such
20 aspects of the programs administered by the governing
21 boards. Such review and coordination shall not operate
22 so as to adversely affect sources of funding nor shall it
23 affect any statutory characterization of any program as
24 an independent entity. The governing boards shall
25 report on an annual basis to the Legislature and the
26 governor. The report shall contain the following
27 information:

28 (1) The number of seminars and workshops
29 conducted;

30 (2) The subject matter addressed in each seminar
31 and workshop;

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

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

36 (5) The extent to which the authority provided for in
37 subsection (b) of this section has been exercised, with
38 specificity as to the institution and faculty member
39 involved in the program.

ARTICLE 14. MISCELLANEOUS.

**§18B-14-3. Southern West Virginia Community College
authorization to sell property; use of net
proceeds.**

1 Notwithstanding the provisions of article one-a,
2 chapter twenty of this code, Southern West Virginia
3 Community College, with the approval of the board of
4 directors, is hereby authorized and empowered to sell
5 any surplus real property and deposit the net proceeds
6 into a special revenue account to be utilized for the
7 purchase of additional real property or for capital

8 improvements: *Provided*, That prior to such action the
9 board of directors shall have the property appraised by
10 two licensed appraisers and shall not sell the property
11 for less than the average of the two appraisals:
12 *Provided, however*, That the net proceeds which
13 exceed the funds needed for the purchase of real
14 property or for capital improvements may be trans-
15 ferred to other accounts or funds and redesignated for
16 other purposes by appropriation of the Legislature.

ARTICLE 17. LEGISLATIVE RULES.

§18B-17-2. Board of trustees.

1 (a) The legislative rules filed in the state register on
2 the third day of December, one thousand nine
3 hundred ninety-one, modified by the board of trustees
4 to meet the objections of the legislative oversight
5 commission on education accountability and refiled in
6 the state register on the twenty-first day of January,
7 one thousand nine hundred ninety-two, relating to the
8 board of trustees (report card), are authorized.

9 (b) The legislative rules filed in the state register on
10 the thirteenth day of July, one thousand nine hundred
11 ninety-one, relating to the board of trustees (equal
12 opportunity and affirmative action), are authorized.

13 (c) The legislative rules filed in the state register on
14 the eighth day of September, one thousand nine
15 hundred ninety-two, relating to the board of trustees
16 (holidays), are authorized.

17 (d) The legislative rules filed in the state register on
18 the third day of April, one thousand nine hundred
19 ninety-two, relating to the board of trustees (alcoholic
20 beverages on campuses), are authorized.

§18B-17-3. Board of directors.

1 (a) The legislative rules filed in the state register on
2 the sixteenth day of December, one thousand nine
3 hundred ninety-one, modified by the board of direc-
4 tors to meet the objections of the legislative oversight
5 commission on education accountability and refiled in
6 the state register on the twenty-first day of January,

7 one thousand nine hundred ninety-two, relating to the
8 board of directors (report card), are authorized.

9 (b) The legislative rules filed in the state register on
10 the twenty-seventh day of September, one thousand
11 nine hundred ninety-one, relating to the board of
12 directors (equal opportunity and affirmative action),
13 are authorized.

14 (c) The legislative rules filed in the state register on
15 the fourth day of December, one thousand nine
16 hundred ninety-one, relating to the board of directors
17 (holiday policy), are authorized.

18 (d) The legislative rules filed in the state register on
19 the nineteenth day of March, one thousand nine
20 hundred ninety-two, as modified and refiled in the
21 state register on the tenth day of July, one thousand
22 nine hundred ninety-two, relating to the board of
23 directors (presidential appointments, responsibilities
24 and evaluations), are authorized.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 5. HIGHER EDUCATION GRANT PROGRAM.

§18C-5-1. Declaration of public need for grant assistance; establishment of grant program.

1 The Legislature declares that although enrollments
2 in institutions of higher education in this state and
3 throughout the nation continue to increase at a rapid
4 pace, and although the state now provides a limited
5 grant program for students attending an institution of
6 higher education in West Virginia, there continues to
7 exist an underdevelopment of the state's human talent
8 and resources because of the inability of many able
9 but needy students to finance a higher educational
10 program.

11 The Legislature further declares that the state can
12 achieve its full economic and social potential only if
13 every individual has the opportunity to contribute to
14 the full extent of the individual's capabilities and only
15 if the state assists in removing such financial barriers

16 to the individual's educational goals as may remain
17 after the individual has utilized all resources and work
18 opportunities available to him.

19 It is therefore the policy of the Legislature and the
20 purpose of this article to establish, within the limits of
21 appropriations made therefor from time to time by the
22 Legislature, a broad-scale state grant program
23 designed to guarantee that the most able and needy
24 students from all sectors of the state are given the
25 opportunity to continue their program of self-improve-
26 ment in an approved institution of higher education of
27 their choice located in this state.

§18C-5-2. Definitions.

1 (a) "Approved institution of higher education"
2 means a state institution of higher education as
3 defined in section two, article one, chapter eighteen-b
4 of this code, and Alderson-Broaddus College, Appala-
5 chian Bible College, Bethany College, the College of
6 West Virginia, Davis and Elkins College, Ohio Valley
7 College, Salem-Teikyo College, the University of
8 Charleston, West Virginia Wesleyan College and
9 Wheeling Jesuit College, all in West Virginia, and any
10 other institution of higher education in this state,
11 public or private, approved by the senior administrator.

12 (b) "Grant" or "grant program" means a grant or
13 the grant program authorized and established by the
14 provisions of this article.

15 (c) "Senior administrator" means the senior admin-
16 istrator defined in section two, article one, chapter
17 eighteen-b of this code.

**§18C-5-3. Grant program to be administered by senior
administrator; higher education grant fund
created.**

1 The grant program established and authorized by
2 this article shall be administered by the senior admin-
3 istrator. Moneys appropriated or otherwise available
4 for such purpose shall be allocated by line item to an
5 appropriate account.

6 In addition to an amount no less than the amount of
7 funds available for the higher education grant pro-
8 gram pursuant to the repealed sections of article
9 twenty-two-b, chapter eighteen of this code prior to
10 the effective date of this section, there may be appro-
11 priated by the Legislature by line item, to the extent
12 that funds may be available, an additional one and
13 one-half million dollars per year for the next five
14 years, beginning with the fiscal year beginning on the
15 first day of July, one thousand nine hundred ninety-
16 three.

§18C-5-4. Powers and duties of senior administrator.

1 Subject to the provisions of this article and within
2 the limits of appropriations made by the Legislature,
3 the senior administrator is authorized and empowered:
4 (1) To prepare and supervise the issuance of public
5 information concerning the grant program; (2) to
6 prescribe the form and regulate the submission of
7 applications for grants; (3) administer or contract for
8 the administration of such examinations as may be
9 prescribed by the senior administrator; (4) select
10 qualified recipients of grants; (5) award grants; (6)
11 accept grants, gifts, bequests and devises of real and
12 personal property for the purposes of the grant
13 program; (7) administer federal and state financial
14 loan programs; (8) cooperate with approved institu-
15 tions of higher education in the state and their
16 governing boards in the administration of the grant
17 program; (9) make the final decision pertaining to
18 residency of an applicant for grant or renewal of
19 grant; (10) employ or engage such professional and
20 administrative employees as may be necessary to assist
21 the senior administrator in the performance of the
22 duties and responsibilities, who shall serve at the will
23 and pleasure and under the direction and control of
24 the senior administrator; (11) employ or engage such
25 clerical and other employees as may be necessary to
26 assist the senior administrator in the performance of
27 the duties and responsibilities, who shall be under the
28 direction and control of the senior administrator; (12)
29 prescribe the duties and fix the compensation of all

30 such employees; and (13) promulgate reasonable rules
31 and regulations not inconsistent with the provisions of
32 this article relating to the administration of the grant
33 program.

§18C-5-5. Eligibility for a grant.

1 A person shall be eligible for consideration for a
2 grant if the person:

3 (1) Is a citizen of the United States;

4 (2) Has been a resident of the state for one year
5 immediately preceding the date of application for a
6 grant or a renewal of a grant;

7 (3) Meets the admission requirements of the
8 approved institution of higher education to which
9 admission is sought, or meets the admission require-
10 ments of a three-year registered nurse diploma pro-
11 gram which is offered by a nonprofit West Virginia
12 hospital and approved by the West Virginia board of
13 examiners for registered professional nurses and is
14 subsequently admitted;

15 (4) Satisfactorily meets the qualifications of financial
16 need and academic promise, as well as academic
17 achievement, as established by the senior
18 administrator.

**§18C-5-6. Recipients, awards and distribution of awards of
grants; authority of senior administrator to
enter into reciprocal agreements with other
states concerning grants.**

1 The grant recipient shall be free to attend any
2 approved institution of higher education in this state
3 or any three-year registered nurse diploma program
4 which is approved by the West Virginia board of
5 examiners for registered professional nurses and
6 which is offered at a nonprofit West Virginia hospital.

7 The institution is not required to accept the grant
8 recipient for enrollment, but is free to exact com-
9 pliance with its own admission requirements, stand-
10 ards and policies.

11 Grants shall only be made to undergraduate stu-
12 dents and to students enrolled in approved three-year
13 registered nurse diploma programs, as provided in this
14 article.

15 Each grant is renewable until the course of study is
16 completed, but not to exceed an additional three
17 academic years beyond the first year of the award.
18 These may not necessarily be consecutive years, and
19 the grant will be terminated if the student receives a
20 degree in a shorter period of time. Qualifications for
21 renewal will include maintaining satisfactory academ-
22 ic standing, making normal progress toward comple-
23 tion of the course of study and continued eligibility, as
24 determined by the senior administrator.

25 Grant awards shall be made without regard to the
26 applicant's race, creed, color, sex, national origin or
27 ancestry; and in making grant awards, the senior
28 administrator shall treat all approved institutions of
29 higher education in a fair and equitable manner.

30 The senior administrator from time to time shall
31 identify areas of professional, vocational and technical
32 expertise that are, or will be, of critical need in this
33 state and, to the extent feasible, may direct grants to
34 students that are pursuing instruction in those areas.

35 The senior administrator may enter into reciprocal
36 agreements with state grant and grant program
37 agencies in other states which provide financial
38 assistance to their residents attending institutions of
39 higher education located in West Virginia. In connec-
40 tion therewith, the senior administrator may authorize
41 residents of West Virginia to use financial assistance
42 under this article to attend institutions of higher
43 education in such other states. Residents of West
44 Virginia requesting financial assistance to attend
45 institutions of higher education located in any such
46 states must meet all of the eligibility standards set
47 forth in section five of this article.

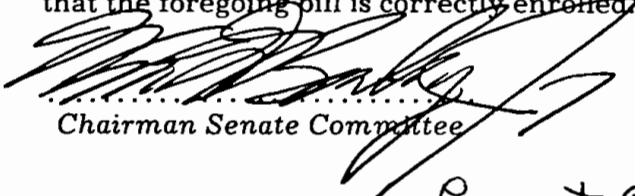
48 Grant awards shall be limited to the lesser of the
49 payment of tuition and those related compulsory fees
50 charged by an institution to all West Virginia under-

51 graduate students, or an amount equal to the average
52 state general fund support for each full-time equiva-
53 lent student at state institutions of higher education
54 for the preceding academic year as calculated by the
55 senior administrator. Payments of grants shall be
56 made directly to the institution.

57 In the event that a grant recipient transfers from
58 one approved institution of higher education or
59 approved three-year registered nurse diploma pro-
60 gram, to another approved institution of higher
61 education or approved three-year registered nurse
62 diploma program, the grant shall be transferable only
63 with the approval of the senior administrator.

64 Should the recipient terminate enrollment for any
65 reason during the academic year, the unused portion
66 of the grant shall be returned by the institution to the
67 appropriate governing board in accordance with the
68 governing board's policy for issuing refunds, for
69 transfer to the appropriate account and allocation for
70 expenditure pursuant to the provisions of this article.

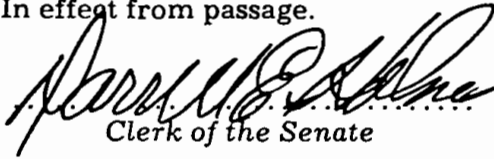
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

..... Ernest C. Moore
Chairman House Committee

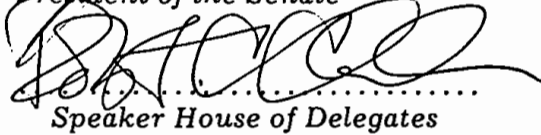
Originated in the Senate.

In effect from passage.


.....
Clerk of the Senate

..... Donald Z. Kay
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is disapproved* this the *20th*
day of *April*, 1993.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4-19-93

Time 6:30 PM

C.C.