

HB 4690

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 4690

(By Delegates Perry and Pino)



Passed March 11, 2006

In Effect Ninety Days from Passage

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AN ACT to repeal §18B-2-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-6 of said code; to amend and reenact §18B-1C-1 and §18B-1C-2 of said code; to amend said code by adding thereto a new section, designated §18B-1C-3; to amend and reenact §18B-2A-1 of said code; to amend and reenact §18B-3-1 of said code; to amend and reenact §18B-3C-4 and §18B-3C-8 of said code; to amend said code by adding thereto a new section, designated §18B-3C-13; to amend and reenact §18B-3D-2, §18B-3D-3, §18B-3D-4 and §18B-3D-5 of said code; to amend and reenact §18B-6-1 and §18B-6-1a of said code; and to amend and reenact §18B-10-1 of said code, all relating to higher education generally; higher education governance; making West Virginia University Institute of Technology a fully integrated division of West Virginia University; consolidating administrative and academic units; assigning direction and support of such units to

West Virginia University; designating certain board of advisors as board of visitors; providing that chair of West Virginia University Institute of Technology Board of Advisors serves as ex officio, voting member of West Virginia University Board of Governors; establishing legislative findings and intent regarding collaboration in engineering programs between West Virginia University Institute of Technology, Marshall University and West Virginia University; establishing legislative findings and intent; adding and clarifying definitions; providing for appointment of certain institutional presidents and officers; designating Community and Technical College of Shepherd as Blue Ridge Community and Technical College; requiring study and reports on operations of certain community and technical college; providing for continuance of certain state institutions of higher education; creating West Virginia Consortium for Undergraduate Research and Engineering; membership; purpose; requiring development of collaborative engineering strategic plan; requiring reports by certain dates; continuing Workforce Development Initiative Program under West Virginia Council for Community and Technical College Education; providing for appointment of advisory committee members; requiring report to Legislative Oversight Commission on Education Accountability; requiring plan as part of institutional compact; requiring promulgation of legislative rule; providing for continuation of current rule; deleting requirement for certain chairs of boards of governors and advisors to serve on certain boards of advisors and governors; clarifying role of boards of advisors in process to select certain institutional presidents; providing for fee increases for certain institutions under certain conditions; making technical corrections and repealing obsolete provisions.

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

That §18B-2-9 of the Code of West Virginia, 1931, as amended, be repealed; that §18B-1-2 of said code be amended and reenacted; that §18B-1B-6 of said code be amended and reenacted; that §18B-

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

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 1. GOVERNANCE.**

#### **§18B-1-2. Definitions.**

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

4       (a) Effective the first day of July, two thousand seven,  
5 “regional campus” means West Virginia University at  
6 Parkersburg.

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

10       (c) “Freestanding community and technical colleges”  
11 means Southern West Virginia Community and Technical  
12 College, West Virginia Northern Community and Technical  
13 College and Eastern West Virginia Community and Technical  
14 College which may not be operated as branches or off-campus  
15 locations of any other state institution of higher education;

16 (d) "Community college" or "community colleges" means  
17 community and technical college or colleges as those terms are  
18 defined in this section;

19 (e) "Community and technical college," in the singular or  
20 plural, means the freestanding community and technical  
21 colleges and other state institutions of higher education which  
22 deliver community and technical college education. This  
23 definition includes Southern West Virginia Community and  
24 Technical College, West Virginia Northern Community and  
25 Technical College, Eastern West Virginia Community and  
26 Technical College, New River Community and Technical  
27 College, West Virginia University at Parkersburg, The Commu-  
28 nity and Technical College at West Virginia University Institute  
29 of Technology, Blue Ridge Community and Technical College,  
30 Fairmont State Community and Technical College Marshall  
31 Community and Technical College and West Virginia State  
32 Community and Technical College;

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

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

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

43 (i) "Higher Education Policy Commission," "policy  
44 commission" or "commission" means the commission created  
45 pursuant to section one, article one-b of this chapter;

46 (j) “Chancellor for Higher Education” means the chief  
47 executive officer of the Higher Education Policy Commission  
48 employed pursuant to section five, article one-b of this chapter;

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

54 (l) “Chancellor” means the Chancellor for Higher Educa-  
55 tion where the context refers to a function of the Higher  
56 Education Policy Commission. “Chancellor” means chancellor  
57 for Community and Technical College Education where the  
58 context refers to a function of the West Virginia Council for  
59 Community and Technical College Education;

60 (m) “Institutional operating budget” or “operating budget”  
61 means for any fiscal year an institution’s total unrestricted  
62 education and general funding from all sources in the prior  
63 fiscal year, including, but not limited to, tuition and fees and  
64 legislative appropriation, and any adjustments to that funding  
65 as approved by the commission or council based on compari-  
66 sons with peer institutions or to reflect consistent components  
67 of peer operating budgets;

68 (n) “Community and technical college education program”  
69 means any college-level course or program beyond the high  
70 school level provided through a public institution of higher  
71 education resulting in or which may result in a two-year  
72 associate degree award including an associate of arts, an  
73 associate of science and an associate of applied science;  
74 certificate programs and skill sets; developmental education;  
75 continuing education; collegiate credit and noncredit workforce  
76 development programs; and transfer and baccalaureate parallel  
77 programs. All such programs are under the jurisdiction of the

78 council. Any reference to “post-secondary vocational education  
79 programs” means community and technical college education  
80 programs as defined in this subsection;

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

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

86 (q) “State college” means Bluefield State College, Concord  
87 University, Fairmont State University, Glenville State College,  
88 Shepherd University, West Liberty State College or West  
89 Virginia State University;

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

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

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

101 (u) “Institutional compact” means the compact between the  
102 commission or council and a state institution of higher educa-  
103 tion under its jurisdiction, as described in section two, article  
104 one-a of this chapter;

105 (v) “Peer institutions”, “peer group” or “peers” means  
106 public institutions of higher education used for comparison

107 purposes and selected by the commission pursuant to section  
108 three, article one-a of this chapter;

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

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

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

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

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

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

#### **ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.**

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



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

4       (1) Subject to the approval of the commission, the govern-  
5 ing board of the institution appoints a president for Bluefield  
6 State College, Concord University, Fairmont State University,  
7 Glenville State College, Marshall University, Shepherd  
8 University, West Liberty State College, West Virginia School  
9 of Osteopathic Medicine, West Virginia State University and  
10 West Virginia University.

11       (2) Subject to the approval of the council and to the  
12 provisions of article three-c of this chapter, the governing board  
13 of West Virginia University appoints the president of the  
14 regional campus known as West Virginia University at  
15 Parkersburg. The president serves at the will and pleasure of the  
16 governing board. When selecting candidates for consideration  
17 to fill the office of president, the governing board shall use the  
18 search and screening process provided in section one, article six  
19 of this chapter.

20       Until the first day of July, two thousand seven and subject  
21 to the approval of the commission, the Governing Board of  
22 West Virginia University appoints the President of the regional  
23 campus known as West Virginia University Institute of Tech-  
24 nology. The president of the regional campus serves at the will  
25 and pleasure of the appointing governing board.

26       (3) Subject to the approval of the council, the governing  
27 board of the community and technical college appoints a  
28 president for Eastern West Virginia Community and Technical  
29 College, Southern West Virginia Community and Technical  
30 College and West Virginia Northern Community and Technical  
31 College.

32       (4) Subject to the approval of the council, the governing  
33 board of the sponsoring institution appoints a president for each  
34 administratively linked community and technical college which  
35 shares a physical campus location with the sponsoring institu-  
36 tion, including Fairmont State Community and Technical  
37 College, Marshall Community and Technical College, The  
38 Community and Technical College at West Virginia University  
39 Institute of Technology and West Virginia State Community  
40 and Technical College.

41       (5) Subject to the approval of the council, the governing  
42 board of the community and technical college appoints a  
43 president for each administratively linked community and  
44 technical college which does not share a physical campus  
45 location with the sponsoring institution, including New River  
46 Community and Technical College and Blue Ridge Community  
47 and Technical College.

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

53       (c) *Evaluation of presidents.* — The appointing governing  
54 board shall conduct written performance evaluations of each  
55 institution's president, including the presidents of administra-  
56 tively linked community and technical colleges. Evaluations  
57 shall be done in every fourth year of employment as president,  
58 recognizing unique characteristics of the institution and  
59 utilizing institutional personnel, institutional boards of advisors  
60 as appropriate, staff of the appropriate governing board and  
61 persons knowledgeable in higher education matters who are not  
62 otherwise employed by a governing board. A part of the  
63 evaluation shall be a determination of the success of the

64 institution in meeting the requirements of its institutional  
65 compact.

**ARTICLE 1C. WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY**

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

1 (a) The Legislature recognizes that:

2 (1) West Virginia University Institute of Technology is a  
3 vital part of higher education in West Virginia;

4 (2) The engineering program at West Virginia University  
5 Institute of Technology plays a significant role in the continued  
6 success of the students at the institution and of the state as a  
7 whole;

8 (3) The average salaries of faculty at West Virginia  
9 University Institute of Technology are significantly lower than  
10 the average salaries of faculty at West Virginia University;

11 (4) Facilities at West Virginia University Institute of  
12 Technology are in greater disrepair and in greater need of  
13 overall capital investment than are facilities at West Virginia  
14 University; and

15 (5) Collaboration between the engineering program of West  
16 Virginia University Institute of Technology, West Virginia  
17 University, Marshall University and other private partners as  
18 appropriate would:

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

21 (B) Lead to greater opportunities for students to engage in  
22 research; and

23 (C) Result in greater opportunities for participating students  
24 to find gainful employment in future research or to continue  
25 graduate level research and study.

26 (b) It is the intent of the Legislature to encourage collabora-  
27 tion between West Virginia University Institute of Technology,  
28 West Virginia University, Marshall University and appropriate  
29 private entities to provide significant education opportunities to  
30 students.

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

32 (1) The baccalaureate engineering program offered at the  
33 West Virginia University Institute of Technology be and remain  
34 a permanent component of its curriculum;

35 (2) Collaboration in engineering and other appropriate  
36 programs occur between West Virginia University Institute of  
37 Technology, West Virginia University, Marshall University and  
38 appropriate private entities pursuant to section three of this  
39 article; and

40 (3) The West Virginia University Board of Governors  
41 develop a plan and take appropriate steps to address faculty  
42 average salary levels. In developing the plan, the board may  
43 consider the unique mission of the division and the performance  
44 expectations for faculty in meeting the goals of the institution.  
45 The plan also shall include recommendations for addressing the  
46 capital improvement needs at West Virginia University Institute  
47 of Technology.

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

1 (a) Notwithstanding any other provision of this code to the  
2 contrary by the first day of July, two thousand seven, West  
3 Virginia University Institute of Technology shall merge and

4 consolidate with West Virginia University and become a fully  
5 integrated division of West Virginia University. All administra-  
6 tive and academic units shall be consolidated with primary  
7 responsibility for direction and support assigned to West  
8 Virginia University. The advisory board previously appointed  
9 for West Virginia University Institute of Technology shall be  
10 known as the board of visitors and shall provide guidance to the  
11 division in fulfilling its mission. The chairperson of the board  
12 of visitors serves as an ex-officio, voting member of the West  
13 Virginia University Board of Governors.

14 (b) The fully integrated division formerly named West  
15 Virginia University Institute of Technology is hereafter named  
16 West Virginia University Institute of Technology. The head-  
17 quarters of West Virginia University Institute of Technology  
18 shall remain in Montgomery, West Virginia.

19 (c) The provisions of this section do not affect the inde-  
20 pendent accreditation, administrative linkage or continued  
21 operation of The Community and Technical College at West  
22 Virginia University Institute of Technology under the jurisdic-  
23 tion and authority of the council.

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

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

34 (f) By the first day of April, two thousand seven, the West  
35 Virginia University Board of Governors shall develop and

36 approve a plan to implement the provisions of this article.  
37 Beginning the first day of July, two thousand six, the board of  
38 governors may begin implementing appropriate changes in the  
39 operations of West Virginia University Institute of Technology  
40 to further the purposes of this article.

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

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

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

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

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

62 The council shall review the study findings, conclusions  
63 and recommendations and report to the Legislative Oversight  
64 Commission on Education Accountability by the first day of  
65 January, two thousand seven. The report of the council shall

66 include a determination of the need for statutory change,  
67 together with drafts of any legislation necessary to effectuate  
68 the council's recommendations. West Virginia University  
69 Institute of Technology shall develop or maintain baccalaureate  
70 degree programs as a permanent component or its curriculum.

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

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

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

8 (1) The provost or a designee from West Virginia Univer-  
9 sity Institute of Technology, Marshall University and West  
10 Virginia University;

11 (2) The director of sponsored programs from West Virginia  
12 University Institute of Technology and the vice presidents for  
13 research from Marshall University and West Virginia Univer-  
14 sity;

15 (3) The deans of engineering from West Virginia Univer-  
16 sity Institute of Technology, Marshall University and West  
17 Virginia University; and

18 (4) Four members appointed by the Governor, each of  
19 whom has demonstrated an interest in public higher education  
20 in West Virginia and each of whom possesses recognized  
21 credentials and expertise in one or more of the following fields:

- 22 (A) Engineering;
- 23 (B) Technology and computer science;
- 24 (C) Research development;
- 25 (D) Business leadership and management; and
- 26 (E) Finance.

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

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

32 (1) Increasing West Virginia's capacity for high quality  
33 engineering instruction and research;

34 (2) Increasing access throughout the state to high quality  
35 instruction and research opportunities in science, technology,  
36 engineering, and mathematics; and

37 (3) Stimulating economic development throughout West  
38 Virginia by increasing the number of professional engineers  
39 available to business and industry.

40 (d) *Collaborative Engineering Strategic Plan Required.*

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

44 (e) *Collaborative Engineering Strategic Plan Elements.*

45 (1) The Collaborative Engineering Strategic Plan shall  
46 focus on methods to use the complementary strengths of West



47 Virginia University Institute of Technology, Marshall Univer-  
48 sity and West Virginia University.

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

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

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

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

66 (A) Faculty.

67 (B) Libraries and technology resources.

68 (C) Research collaboration.

69 (D) Coordination with K-12 education.

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

72 (3) The consortium shall:

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

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

**ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.**

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

1 (a) A board of governors is continued at each of the  
2 following institutions: Bluefield State College, Blue Ridge  
3 Community and Technical College, Concord University,  
4 Eastern West Virginia Community and Technical College,  
5 Fairmont State University, Glenville State College, Marshall  
6 University, New River Community and Technical College,  
7 Shepherd University, Southern West Virginia Community and  
8 Technical College, West Liberty State College, West Virginia  
9 Northern Community and Technical College, the West Virginia  
10 School of Osteopathic Medicine, West Virginia State Univer-  
11 sity and West Virginia University.

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

17 (c) Each board of governors includes the following mem-  
18 bers:

19       (1) A full-time member of the faculty with the rank of  
20 instructor or above duly elected by the faculty of the respective  
21 institution;

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

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

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

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

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

46       (7) For each institutional board of governors which has an  
47 administratively linked community and technical college under  
48 its jurisdiction:

49 (A) Eight lay members appointed by the Governor, by and  
50 with the advice and consent of the Senate, pursuant to this  
51 section and, additionally, the chairperson of the institutional  
52 board of advisors of the administratively linked community and  
53 technical college; and

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

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

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

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

73 (g) The member representing classified employees serves  
74 for a term of two years. Each term begins on the first day of  
75 July. Members representing classified employees are eligible to  
76 succeed themselves for three additional terms, not to exceed a  
77 total of eight consecutive years.

78 (h) The appointed lay citizen members serve terms of four  
79 years each and are eligible to succeed themselves for no more  
80 than one additional term.

81 (i) A vacancy in an unexpired term of a member shall be  
82 filled for the unexpired term within thirty days of the occur-  
83 rence of the vacancy in the same manner as the original  
84 appointment or election. Except in the case of a vacancy, all  
85 elections shall be held and all appointments shall be made no  
86 later than the thirtieth day of June preceding the commence-  
87 ment of the term. Each board of governors shall elect one of its  
88 appointed lay members to be chairperson in June of each year.  
89 A member may not serve as chairperson for more than two  
90 consecutive years.

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

93 (k) A person is ineligible for appointment to membership  
94 on a board of governors of a state institution of higher educa-  
95 tion under the following conditions:

96 (1) For a baccalaureate institution or university, a person is  
97 ineligible for appointment who is an officer, employee or  
98 member of any other board of governors, a member of an  
99 institutional board of advisors of any public institution of higher  
100 education, an employee of any institution of higher education,  
101 an officer or member of any political party executive commit-  
102 tee, the holder of any other public office or public employment  
103 under the government of this state or any of its political  
104 subdivisions or a member of the council or commission. This  
105 subsection does not prevent the representative from the faculty,  
106 classified employees, students or chairpersons of the boards of  
107 advisors or the superintendent of a county board of education  
108 from being members of the governing boards.

109       (2) For a community and technical college, a person is  
110 ineligible for appointment who is an officer, employee or  
111 member of any other board of governors; a member of an  
112 institutional board of advisors of any public institution of higher  
113 education; an employee of any institution of higher education;  
114 an officer or member of any political party executive commit-  
115 tee; the holder of any other public office, other than an elected  
116 county office, or public employment, other than employment by  
117 the county board of education, under the government of this  
118 state or any of its political subdivisions; or a member of the  
119 council or commission. This subsection does not prevent the  
120 representative from the faculty, classified employees, students  
121 or chairpersons of the boards of advisors from being members  
122 of the governing boards.

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

129       (m) A member of a governing board appointed by the  
130 Governor may not be removed from office by the Governor  
131 except for official misconduct, incompetence, neglect of duty  
132 or gross immorality and then only in the manner prescribed by  
133 law for the removal of the state elective officers by the Gover-  
134 nor.

135       (n) The president of the institution shall make available  
136 resources of the institution for conducting the business of its  
137 board of governors. The members of the board of governors  
138 serve without compensation, but are reimbursed for all reason-  
139 able and necessary expenses actually incurred in the perfor-  
140 mance of official duties under this article upon presentation of  
141 an itemized sworn statement of expenses. All expenses incurred

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

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

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

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

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

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

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

25 (1) Enhancing the competitive position of Marshall  
26 University and West Virginia University in the current environ-  
27 ment for research and development;

28 (2) Providing the governing boards of these institutions  
29 with operational flexibility and autonomy, including tools to  
30 promote economic development in West Virginia;

31 (3) Encouraging the development of research expertise in  
32 areas directly beneficial to the state; and

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

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

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

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

47 (A) Until the first day of July, two thousand seven, the  
48 regional campus known as West Virginia University Institute  
49 of Technology;

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



53 (C) The regional campus known as West Virginia Univer-  
54 sity at Parkersburg.

55 (f) The governing boards of Marshall University and West  
56 Virginia University each have the power and the obligation to  
57 perform functions, tasks and duties as prescribed by law and to  
58 exercise their authority and carry out their responsibilities in a  
59 manner that is consistent with and not in conflict with the  
60 powers and duties assigned by law to the West Virginia council  
61 for Community and Technical College Education and the  
62 Higher Education Policy Commission.

63 (g) While the governing boards of Marshall University and  
64 West Virginia University, respectively, may choose to delegate  
65 powers and duties to the presidents of the state institutions of  
66 higher education known as Marshall University and West  
67 Virginia University pursuant to subsection (s), section four,  
68 article two-a of this chapter, ultimately, it is they who are  
69 accountable to the Legislature, the Governor and the citizens of  
70 West Virginia for meeting the established state goals set forth  
71 in this article and section one-a, article one of this chapter.  
72 Therefore, it is the intent of the Legislature that grants of  
73 operational flexibility and autonomy be made directly to the  
74 governing boards and are not grants of operational flexibility  
75 and autonomy to the presidents of these institutions.

**ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.**

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

1 (a) Unless otherwise designated, the president of each  
2 community and technical college facilitates the formation of  
3 community and technical college consortia in the state, which  
4 includes representatives of community and technical colleges,  
5 public vocational-technical education centers, and public

6 baccalaureate institutions offering associate degrees. The  
7 community and technical college consortium shall:

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

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

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

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

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

34 (6) Plan and implement integrated professional develop-  
35 ment activities for secondary and post-secondary faculty, staff  
36 and administrators;

37       (7) Ensure that program graduates have attained the  
38 competencies required for successful employment through the  
39 involvement of business, industry and labor in establishing  
40 student credentialing;

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

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

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

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

59       (b) The community and technical college education  
60 consortium shall cooperate with the regional workforce  
61 investment board in the district and shall participate in any  
62 development or amendment to the regional workforce invest-  
63 ment plan.

64       (c) To carry out the provisions of this section, community  
65 and technical college consortia planning districts are established  
66 and defined as follows:

67 (1) Northern Panhandle Community and Technical College  
68 District includes Hancock, Brooke, Ohio, Marshall and Wetzel  
69 counties.

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

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

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

81 (A) The facilitating institution is Fairmont State Commu-  
82 nity and Technical College.

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

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

93 (A) The facilitating institution is West Virginia University  
94 at Parkersburg.

95 (B) Participating institutions includes West Virginia  
96 University at Parkersburg; West Virginia Northern Community  
97 and technical College; Roane-Jackson Technical Center; Gaston  
98 Caperton Center; Wood County Technical Center; and other  
99 public vocational technical schools offering post-secondary  
100 programs.

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

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

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

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

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

115 (B) Participating institutions include Blue Ridge Commu-  
116 nity and Technical College; James Rumsey Technical Institute;  
117 and other public vocational technical schools offering  
118 post-secondary programs.

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

122 (A) The facilitating institution is Marshall Community and  
123 Technical College.

124 (B) Every five years the council shall:

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

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

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

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

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

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

150 (A) The facilitating institution is Southern West Virginia  
151 Community and Technical College.

152 (B) Participating institutions include Southern West  
153 Virginia Community and Technical College; New River  
154 Community and Technical College; Boone County Career and  
155 Technical Center; Wyoming County Vocational-Technical  
156 Center; Ralph R. Willis Career and Technical Center;  
157 McDowell County Career and Technology Center; Mingo  
158 County Vocation-Technical Center; Charles Yeager Technical  
159 Center; and other public vocational technical schools offering  
160 post-secondary programs.

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

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

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

175 (d) In the role of the facilitating institution of the commu-  
176 nity and technical college district, the college:

177 (1) Communicates to the council;

178 (2) Facilitates the delivery of comprehensive community  
179 and technical college education in the region, which includes  
180 the seven areas of comprehensive community and technical  
181 college education delivery as required by section six of this  
182 article; and

183 (3) Facilitates development of statement of commitment  
184 signed by all participating institutions in the region as to how  
185 community and technical college education will be delivered.

186 (e) Participating institutions are not subordinate to the  
187 facilitating institution but will sign the statement of commit-  
188 ment to participate.

189 (f) The council shall:

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

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

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

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

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

#### **ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.**

**§18B-3C-8. Statewide network of independently accredited  
community and technical colleges.**



1 (a) There is continued a statewide network of independently  
2 accredited community and technical colleges serving every  
3 region of the state. This section does not apply to the freestand-  
4 ing community and technical colleges or West Virginia  
5 University at Parkersburg.

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

10 (1) That it has as a part of its institutional compact ap-  
11 proved by the council a step-by-step plan with measurable  
12 benchmarks for developing an independently accredited  
13 community and technical college that meets the essential  
14 conditions set forth in section three of this article;

15 (2) That it is able to offer evidence to the satisfaction of the  
16 council that it is making progress toward accomplishing the  
17 benchmarks established in its institutional compact for develop-  
18 ing an independently accredited community and technical  
19 college; and

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

23 (c) The statewide network of independently accredited  
24 community and technical colleges is comprised of the free-  
25 standing community and technical colleges, West Virginia  
26 University at Parkersburg, and the following state institutions  
27 of higher education:

28 (1) *New River Community and Technical College.* —

29 (A) There is continued the multicampus entity known as  
30 New River Community and Technical College, administratively

31 linked to Bluefield State College. New River Community and  
32 Technical College is headquartered in the Beckley Higher  
33 Education Center and incorporates the campuses of Greenbrier  
34 Community College Center of New River Community and  
35 Technical College and Nicholas Community College Center of  
36 New River Community and Technical College. New River  
37 Community and Technical College is an independently accred-  
38 ited community and technical college.

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

55 (C) Bluefield State College may continue the associate of  
56 science degree in nursing which is an existing nationally  
57 accredited associate degree program in an area of particular  
58 institutional strength and which is closely articulated to the  
59 baccalaureate program and mission. The program is of a high-  
60 cost nature and can best be provided through direct administra-  
61 tion by a baccalaureate institution. This program may not be  
62 transferred to New River Community and Technical College or  
63 any other community and technical college as long as the

64 program maintains national accreditation and is seamlessly  
65 coordinated into the baccalaureate program at the institution.

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

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

83 (2) *Fairmont State Community and Technical College.* —  
84 Fairmont State Community and Technical College is an  
85 independently accredited community and technical college. The  
86 community and technical college is developed on the base of  
87 the component community and technical college of Fairmont  
88 state college. Subject to the provisions of this section, the  
89 president and the governing board of Fairmont state college are  
90 responsible, according to a plan approved by the council, for  
91 step-by-step implementation of the independently accredited  
92 community and technical college which adheres to the essential  
93 conditions pursuant to section three of this article. Subject to  
94 the provisions of section twelve of this article, the community  
95 and technical college will remain administratively linked to  
96 Fairmont State College. Fairmont State College may continue

97 associate degree programs in areas of particular institutional  
98 strength which are closely articulated to their baccalaureate  
99 programs and missions or which are of a high-cost nature and  
100 can best be provided in direct coordination with a baccalaureate  
101 institution. Any such program shall be delivered under the  
102 authority of the council and through contract with the commu-  
103 nity and technical college. The terms of the contract shall be  
104 negotiated between the council and the governing board of the  
105 sponsoring institution. The final contract is approved by the  
106 council. Such a program shall be evaluated according to the  
107 benchmarks and indicators for community and technical college  
108 education developed by the council. If the council determines  
109 that the program is making insufficient progress toward  
110 accomplishing the benchmarks, the program shall thereafter be  
111 delivered by the community and technical college.

112       (3) *Marshall Community and Technical College.* —  
113 Marshall Community and Technical College is an independ-  
114 ently accredited community and technical college. The new  
115 community and technical college is developed on the base of  
116 the component community and technical college of Marshall  
117 university. Subject to the provisions of this section, the presi-  
118 dent and the governing board of Marshall University are  
119 responsible, according to a plan approved by the council, for  
120 step-by-step implementation of the new independently accred-  
121 ited community and technical college which adheres to the  
122 essential conditions pursuant to section three of this article.  
123 Subject to the provisions of section twelve of this article, the  
124 community and technical college remains administratively  
125 linked to Marshall University. Marshall University may  
126 continue associate degree programs in areas of particular  
127 institutional strength which are closely articulated to its  
128 baccalaureate programs and missions or which are of a  
129 high-cost nature and can best be provided in direct coordination  
130 with a baccalaureate institution. Any such program shall be  
131 delivered under the authority of the council and through

132 contract with the community and technical college. The terms  
133 of the contract shall be negotiated between the council and the  
134 governing board of the sponsoring institution. The final contract  
135 is approved by the council. Such a program shall be evaluated  
136 according to the benchmarks and indicators for community and  
137 technical college education developed by the council. If the  
138 council determines that the program is making insufficient  
139 progress toward accomplishing the benchmarks, the program  
140 shall thereafter be delivered by the community and technical  
141 college.

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

163       (5) *West Virginia State Community and Technical College.*  
164 — West Virginia State Community and Technical College is an  
165 independently accredited community and technical college. The

166 new community and technical college is developed on the base  
167 of the component community and technical college of West  
168 Virginia state college. Subject to the provisions of this section,  
169 the president and the governing board of West Virginia state  
170 college are responsible, according to a plan approved by the  
171 council, for step-by-step implementation of the new independ-  
172 ently accredited community and technical college which  
173 adheres to the essential conditions pursuant to section three of  
174 this article. Subject to the provisions of section twelve of this  
175 article, the community and technical college remains adminis-  
176 tratively linked to West Virginia State University. West  
177 Virginia State University may continue associate degree  
178 programs in areas of particular institutional strength which are  
179 closely articulated to its baccalaureate programs and missions  
180 or which are of a high-cost nature and can best be provided in  
181 direct coordination with a baccalaureate institution. Any such  
182 program shall be delivered under the authority of the council  
183 and through contract with the community and technical college.  
184 The terms of the contract shall be negotiated between the  
185 council and the governing board of the sponsoring institution.  
186 The final contract is approved by the council. Such a program  
187 shall be evaluated according to the benchmarks and indicators  
188 for community and technical college education developed by  
189 the council. If the council determines that the program is  
190 making insufficient progress toward accomplishing the  
191 benchmarks, the program shall thereafter be delivered by the  
192 community and technical college.

193       (6) *The Community and Technical College at West Virginia*  
194 *University Institute of Technology.* — The Community and  
195 Technical College at West Virginia University Institute of  
196 Technology is an independently accredited community and  
197 technical college. The new community and technical college is  
198 developed on the base of the component community and  
199 technical college of West Virginia University Institute of  
200 Technology. Subject to the provisions of this section, the

201 president and the governing board of West Virginia University  
202 are responsible, according to a plan approved by the council, for  
203 step-by-step implementation of the new independently accred-  
204 ited community and technical college which adheres to the  
205 essential conditions pursuant to section three of this article.  
206 Subject to the provisions of section twelve of this article, the  
207 community and technical college remains administratively  
208 linked to West Virginia University Institute of Technology.  
209 West Virginia University Institute of Technology may continue  
210 associate degree programs in areas of particular institutional  
211 strength which are closely articulated to its baccalaureate  
212 programs and missions or which are of a high-cost nature and  
213 can best be provided in direct coordination with a baccalaureate  
214 institution. Any such program shall be delivered under the  
215 authority of the council and through contract with the commu-  
216 nity and technical college. The terms of the contract shall be  
217 negotiated between the council and the governing board of the  
218 sponsoring institution. The final contract is approved by the  
219 council. Such a program shall be evaluated according to the  
220 benchmarks and indicators for community and technical college  
221 education developed by the council. If the council determines  
222 that the program is making insufficient progress toward  
223 accomplishing the benchmarks, the program shall thereafter be  
224 delivered by the community and technical college.

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

### **§18B-3C-13. Blue Ridge Community and Technical College.**

1 The Community and Technical College of Shepherd is  
2 hereafter named "Blue Ridge Community and Technical  
3 College". Any reference in this code to The Community and

4 Technical College of Shepherd means Blue Ridge Community  
5 and Technical College.

**ARTICLE 3D. WORKFORCE DEVELOPMENT INITIATIVE.**

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

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

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

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

17 (1) To aid in decision making, the chancellor appoints an  
18 advisory committee consisting of the Executive Director of the  
19 West Virginia Development Office or designee; the Secretary  
20 of Education and the Arts or designee; the Assistant State  
21 Superintendent for Technical and Adult Education; the Chair of  
22 the West Virginia Council for Community and Technical  
23 College Education; the Chair of the West Virginia Workforce  
24 Investment Council, the Executive Director of Workforce West  
25 Virginia, two members representing business and industry and



26 one member representing labor. The advisory committee shall  
27 review all applications for workforce development initiative  
28 grants and make recommendations for distributing grant funds  
29 to the council. The advisory committee also shall make recom-  
30 mendations on methods to share among the community and  
31 technical colleges any curricula developed as a result of a  
32 workforce development initiative grant.

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

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

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

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

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

55 (g) Nothing in this article requires a specific level of  
56 appropriation by the Legislature.

**§18B-3D-3. Mission of the Workforce Development Initiative Program.**

1       (a) The statewide mission of the Workforce Development  
2 Initiative Program is to develop a strategy to strengthen the  
3 quality of the state's workforce by linking the existing  
4 post-secondary education capacity to the needs of business,  
5 industry and other employers. Available funding will be used to  
6 provide explicit incentives for partnerships between employers  
7 and community and technical colleges to develop comprehen-  
8 sive workforce development services. Funds will be granted on  
9 the basis of proposals developed according to criteria estab-  
10 lished by the council.

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

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

15       (2) Involve and collaborate with employers in the develop-  
16 ment of programs;

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

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

25       (5) Establish cooperative arrangements with the public  
26 school system for the seamless progression of students through  
27 programs of study that begin at the secondary level and  
28 conclude at the community and technical college level, particu-

29 larly with respect to career and technical education certificates,  
30 associate of applied science and selected associate of science  
31 degree programs for students seeking immediate employment,  
32 individual entrepreneurship skills, occupational development,  
33 skill enhancement and career mobility; and

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

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

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

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

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

16 (3) Establish a special revolving fund under the jurisdiction  
17 of the community and technical college dedicated solely to  
18 workforce development initiatives for the purposes provided in  
19 this article. Any fees or revenues generated from workforce  
20 development initiatives funded by a competitive grant are  
21 deposited into this fund.

22 (b) To be eligible to receive a workforce development  
23 initiative grant, a community and technical college shall  
24 provide at least the following information in its application:

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

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

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

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

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

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

50 (4) A specific plan showing how the community and  
51 technical college will collaborate with local post-secondary

52 vocational institutions to maximize the use of existing facilities,  
53 personnel and equipment; and

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

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

**§18B-3D-5. Legislative rules.**

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

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

**ARTICLE 6. ADVISORY COUNCILS.**

**§18B-6-1. Institutional boards of advisors for regional campuses  
and certain administratively linked community  
and technical colleges.**

1 (a) There are continued institutional boards of advisors as  
2 follows:

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

7 (2) For administratively linked community and technical  
8 colleges which share a physical location with the sponsoring  
9 institution. This category includes Fairmont State Community  
10 and Technical College, Marshall Community and Technical  
11 College, West Virginia State Community and Technical  
12 College and The Community and Technical College at West  
13 Virginia University Institute of Technology. The chairperson of  
14 the board of advisors of each administratively linked commu-  
15 nity and technical college serves as an ex officio, voting  
16 member of the sponsoring institution's board of governors, or,  
17 in the case of The Community and Technical College at West  
18 Virginia University Institute of Technology, the chairperson of  
19 the board of advisors serves as an ex officio voting member of  
20 the governing board of West Virginia University;

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

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

28 (d) The board of advisors consists of fifteen members,  
29 including a full-time member of the faculty with the rank of  
30 instructor or above duly elected by the faculty of the respective  
31 institution; a member of the student body in good academic

32 standing, enrolled for college credit work and duly elected by  
33 the student body of the respective institution; a member from  
34 the institutional classified employees duly elected by the  
35 classified employees of the respective institution; and twelve  
36 lay persons appointed pursuant to this section who have  
37 demonstrated a sincere interest in and concern for the welfare  
38 of that institution and who are representative of the population  
39 of its responsibility district and fields of study. At least eight of  
40 the twelve lay persons appointed shall be residents of the state.  
41 Of the lay members who are residents of the state, at least two  
42 shall be alumni of the respective institution and no more than a  
43 simple majority may be of the same political party.

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

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

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

60 (f) Each board of advisors shall hold a regular meeting at  
61 least quarterly, commencing in May of each year. Additional  
62 meetings may be held upon the call of the chairperson, presi-  
63 dent of the institution or upon the written request of at least five

64 members. A majority of the members constitutes a quorum for  
65 conducting the business of the board of advisors.

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

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

79 (i) Prior to the submission by the president to its governing  
80 board, the board of advisors shall review all proposals of the  
81 institution in the areas of mission, academic programs, budget,  
82 capital facilities and such other matters as requested by the  
83 president of the institution or its governing board or otherwise  
84 assigned to it by law. The board of advisors shall comment on  
85 each such proposal in writing, with such recommendations for  
86 concurrence therein or revision or rejection thereof as it  
87 considers proper. The written comments and recommendations  
88 shall accompany the proposal to the governing board and the  
89 governing board shall include the comments and recommenda-  
90 tions in its consideration of and action on the proposal. The  
91 governing board shall promptly acknowledge receipt of the  
92 comments and recommendations and shall notify the board of  
93 advisors in writing of any action taken thereon.

94 (j) Prior to their implementation by the president, the board  
95 of advisors shall review all proposals regarding institution-wide



96 personnel policies. The board of advisors may comment on the  
97 proposals in writing.

98 (k) The board of advisors shall provide advice and assis-  
99 tance to the president and the governing board in areas includ-  
100 ing, but not limited to, the following:

101 (1) Establishing closer connections between higher educa-  
102 tion and business, labor, government and community and  
103 economic development organizations to give students greater  
104 opportunities to experience the world of work. Examples of  
105 such experiences include business and community service  
106 internships, apprenticeships and cooperative programs;

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

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

114 (l) When a vacancy occurs in the office of president of the  
115 institution, the board of advisors shall serve as a search and  
116 screening committee for candidates to fill the vacancy under  
117 guidelines established by the council. When serving as a search  
118 and screening committee, the board of advisors and its govern-  
119 ing board are each authorized to appoint up to three additional  
120 persons to serve on the committee as long as the search and  
121 screening process is in effect. The three additional appointees  
122 of the board of advisors shall be faculty members of the  
123 institution. For the purposes of the search and screening process  
124 only, the additional members shall possess the same powers and  
125 rights as the regular members of the board of advisors, includ-  
126 ing reimbursement for all reasonable and necessary expenses

127 actually incurred. Following the search and screening process,  
128 the committee shall submit the names of at least three candi-  
129 dates to the appropriate governing board. If the governing board  
130 rejects all candidates submitted, the committee shall submit the  
131 names of at least three additional candidates and this process  
132 shall be repeated until the governing board approves one of the  
133 candidates submitted. In all cases, the governing board shall  
134 make the appointment with the approval of the council or the  
135 commission in the case of West Virginia University Institute of  
136 Technology. The governing board or the council shall provide  
137 all necessary staff assistance to the board of advisors in its role  
138 as a search and screening committee.

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

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

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

157 (3) Documentation of the involvement of the commission,  
158 institutional constituency groups, clientele of the institution and

159 the general public in the development of all segments of the  
160 institutional master plan.

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

**§18B-6-1a. Definitions.**

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

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

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

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

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

20 (e) “Community and technical college” means Eastern West  
21 Virginia Community and Technical College, Fairmont State

22 Community and Technical College, Marshall Community and  
23 Technical College, New River Community and Technical  
24 College, West Virginia Northern Community and Technical  
25 College, Blue Ridge Community and Technical College,  
26 Southern West Virginia Community and Technical College,  
27 West Virginia State Community and Technical College, The  
28 Community and Technical College at West Virginia University  
29 Institute of Technology, West Virginia University at  
30 Parkersburg and any other community and technical college so  
31 designated by the Legislature.

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

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

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

43 (i) "State institution of higher education", in the singular or  
44 plural, means the institutions as defined in section two, article  
45 one of this chapter and, additionally, Fairmont State Commu-  
46 nity and Technical College, Marshall Community and Techni-  
47 cal College, New River Community and Technical College,  
48 Potomac State Campus of West Virginia University, Robert C.  
49 Byrd Health Sciences Charleston Division of West Virginia  
50 University, Blue Ridge Community and Technical College,  
51 West Virginia State Community and Technical College, West  
52 Virginia University at Parkersburg, West Virginia University  
53 Institute of Technology, The Community and Technical College

54 at West Virginia University Institute of Technology, the Higher  
55 Education Policy Commission, the West Virginia Council for  
56 Community and Technical College Education, the West  
57 Virginia Network for Educational Telecomputing and any other  
58 institution so designated by the Legislature.

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

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

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

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

8 (2) Auxiliary and auxiliary capital fees; and

9 (3) Required educational and general capital fees.

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

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

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

15 (3) All required educational and general capital fees  
16 collected to support existing systemwide and institutional debt  
17 service and future systemwide and institutional debt service,  
18 capital projects and campus renewal for educational and general  
19 facilities.

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

26       (c) The purposes for which tuition and fees may be ex-  
27 pended include, but are not limited to, health services, student  
28 activities, recreational, athletic and extracurricular activities.  
29 Additionally, tuition and fees may be used to finance a stu-  
30 dent's attorney to perform legal services for students in civil  
31 matters at the institutions: *Provided*, That the legal services are  
32 limited only to those types of cases, programs or services  
33 approved by the administrative head of the institution where the  
34 legal services are to be performed.

35       (d) The commission and council jointly shall propose a rule  
36 for legislative approval in accordance with the provisions of  
37 article three-a, chapter twenty-nine-a of this code to govern the  
38 fixing, collection and expenditure of tuition and other fees.

39       (e) The Legislature finds that an emergency exists and,  
40 therefore, the commission and council jointly shall file the rule  
41 required by subsection (d) of this section as an emergency rule  
42 pursuant to the provisions of article three-a, chapter  
43 twenty-nine-a of this code, subject to the prior approval of the  
44 Legislative Oversight Commission on Education Accountabil-  
45 ity.

46       (f) The schedule of all tuition and fees, and any changes  
47 therein, shall be entered in the minutes of the meeting of the  
48 appropriate governing board and the board shall file with the  
49 commission or council, or both, as appropriate, and the Legisla-  
50 tive Auditor a certified copy of such schedule and changes.

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

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

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

64 (h) All fees are due and payable by the student upon  
65 enrollment and registration for classes except as provided in  
66 this subsection:

67 (1) The governing boards shall permit fee payments to be  
68 made in installments over the course of the academic term. All  
69 fees shall be paid prior to the awarding of course credit at the  
70 end of the academic term.

71 (2) The governing boards also shall authorize the accep-  
72 tance of credit cards or other payment methods which may be  
73 generally available to students for the payment of fees. The  
74 governing boards may charge the students for the reasonable  
75 and customary charges incurred in accepting credit cards and  
76 other methods of payment.

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

81 case-by-case basis if the finances of a student are affected  
82 adversely.

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

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

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

98 (j) Institutions shall retain tuition and fee revenues not  
99 pledged for bonded indebtedness or other purposes in accor-  
100 dance with the tuition rule proposed by the commission and  
101 council jointly pursuant to this section. The tuition rule shall:

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

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

106 (3) Provide that a board of governors may propose to the  
107 commission, council or both, as appropriate, a mandatory  
108 auxiliary fee under the following conditions:



109 (A) The fee shall be approved by the commission, council  
110 or both, as appropriate, and either the students below the senior  
111 level at the institution or the Legislature before becoming  
112 effective;

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

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

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

122 (E) The commission, council or both, as appropriate, shall  
123 certify to the Legislature by the first day of October in the fiscal  
124 year following implementation of the fee, and annually thereaf-  
125 ter, the amount of fees collected for each of the five years;

126 (4) Establish methodology, where applicable, to ensure that,  
127 within the appropriate time period under the compact, commu-  
128 nity and technical college tuition rates for community and  
129 technical college students in all independently accredited  
130 community and technical colleges will be commensurate with  
131 the tuition and fees charged by their peer institutions.

132 (k) A penalty may not be imposed by the commission or  
133 council upon any institution based upon the number of nonresi-  
134 dents who attend the institution unless the commission or  
135 council determines that admission of nonresidents to any  
136 institution or program of study within the institution is imped-  
137 ing unreasonably the ability of resident students to attend the  
138 institution or participate in the programs of the institution. The  
139 institutions shall report annually to the commission or council

140 on the numbers of nonresidents and such other enrollment  
141 information as the commission or council may request.

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

149 (1) Subject to the provisions of subdivision (4) of this  
150 subsection, a governing board of an institution under the  
151 jurisdiction of the commission may propose tuition and fee  
152 increases of up to nine and one-half percent for undergraduate  
153 resident students for any fiscal year. The nine and one-half  
154 percent total includes the amount of increase over existing  
155 tuition and fees, combined with the amount of any newly  
156 established, specialized fee which may be proposed by a  
157 governing board.

158 (2) A governing board of an institution under the jurisdic-  
159 tion of the council may propose tuition and fee increases of up  
160 to four and three quarters percent for undergraduate resident  
161 students for any fiscal year. The four and three-quarters percent  
162 total includes the amount of increase over existing tuition and  
163 fees, combined with the amount of any newly established,  
164 specialized fee which may be proposed by a governing board.

165 (3) The commission or council, as appropriate, shall  
166 examine individually each request from a governing board for  
167 an increase.

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

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

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

178 (C) The provisions of this subdivision do not apply to  
179 tuition and fee rates of the administratively linked institution  
180 known as Marshall Community and Technical College, the  
181 administratively linked institution known as The Community  
182 and Technical College at West Virginia University Institute of  
183 Technology, the regional campus known as West Virginia  
184 University at Parkersburg and, until the first day of July, two  
185 thousand seven, the regional campus known as West Virginia  
186 University Institute of Technology.

187 (5) Any proposed tuition and fee increase for state institu-  
188 tions of higher education other than the state institutions of  
189 higher education known as Marshall University and West  
190 Virginia University requires the approval of the commission or  
191 council, as appropriate. In determining whether to approve or  
192 deny the governing board's request, the commission or council  
193 shall determine the progress the institution has made toward  
194 meeting the conditions outlined in this subdivision and shall  
195 make this determination the predominate factor in its decision.  
196 The commission or council shall consider the degree to which  
197 each institution has met the following conditions:

198 (A) Has maximized resources available through nonresident  
199 tuition and fee charges to the satisfaction of the commission or  
200 council;

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

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

207 (D) Has demonstrated to the satisfaction of the commission  
208 or council that an increase will be used to maintain high-quality  
209 programs at the institution;

210 (E) Has demonstrated to the satisfaction of the commission  
211 or council that the institution is making adequate progress  
212 toward achieving the goals for education established by the  
213 southern regional education board; and

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

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

219 (7) The commission and council shall report to the Legisla-  
220 tive Oversight commission on Education Accountability  
221 regarding the basis for each approval or denial as determined  
222 using the criteria established in subdivision (5) of this subsec-  
223 tion.

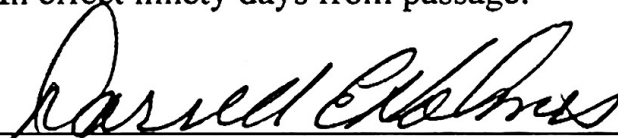
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman Senate Committee


  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 4<sup>th</sup>  
day of April, 2006.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 3 0 2006

Time 2:55 pm