

HB 3215

FILED

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OFFICE OF THE CLERK
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2008



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 3215

(By Delegates Doyle, Wysong and Tabb)



Passed March 8, 2008

In Effect July 1, 2008

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FOR

H. B. 3215

(BY DELEGATES DOYLE, WYSONG AND TABB)

[Passed March 8, 2008; in effect July 1, 2008.]

AN ACT to repeal §18B-1-7 of the Code of West Virginia, 1931, as amended; to repeal §18B-1A-7 of said code; to repeal §18B-1B-11 of said code; to repeal §18B-2B-6a of said code; to repeal §18B-6-1 of said code; to repeal §18B-14-8 of said code; to amend and reenact §18B-1-2 and §18B-1-8 of said code; to amend and reenact §18B-1B-6 of said code; to amend and reenact §18B-1C-2 of said code; to amend and reenact §18B-2A-1, §18B-2A-2 and §18B-2A-4 of said code; to amend said code by adding thereto a new section, designated §18B-2A-7a; to amend and reenact §18B-2B-6 of said code; to amend and reenact §18B-2C-1 and §18B-2C-3 of said code; to amend and reenact §18B-3-3 of said code; to amend and reenact §18B-3C-5, §18B-3C-8, §18B-3C-12, §18B-3C-13 and §18B-3C-14; to amend said code by adding thereto a new section, designated §18B-3C-15; and to amend and reenact §18B-8-3 of said code, all relating to higher education generally; state institutions of higher education; statewide network of independently accredited community and technical colleges; modifying

certain powers and duties of West Virginia Council for Community and Technical College Education, Higher Education Policy Commission and institutional boards of governors; defining terms; designating certain community and technical colleges as independent state institutions of higher education and removing administrative link to former sponsoring institutions; clarifying student rights under certain circumstances; providing for appointment of institutional presidents; specifying contract terms and evaluation procedures; modifying title of certain institutional employees; providing for continuation in office; abolishing institutional boards of advisors and establishing boards of governors for certain community and technical colleges; providing for initial appointments to boards of governors; quorums; establishing eligibility criteria and defining membership; requiring institutional master plans and compacts focused on achieving state goals, objectives and priorities; providing for transfer of certain orders, resolutions, rules and obligations from former sponsoring institutions to certain boards of governors; requiring division of assets and liabilities by date certain; providing guidelines for division of assets and liabilities; providing mechanism and time lines for resolution of disputes; prohibiting challenge of certain decisions in state courts; modifying requirements for certain rules; requiring certain legislative and emergency rules; specifying approval procedure for emergency rules; clarifying certain reporting requirements; modifying procedure for establishing priorities for certain capital projects; modifying specifications for development of certain budgets; clarifying and redefining relationships between and among certain higher education boards and institutions; making legislative findings and specifying legislative intent; defining statewide network of independently accredited community and technical colleges; establishing core mission, objectives and priorities for independent community and technical colleges; authorizing certain governing boards to change institutional name by date certain; modifying number

of lay members on certain governing boards; authorizing certain governing boards to maintain association with former sponsoring institutions under certain circumstances; continuing certain contracts related to program delivery and provision of certain services; making certain governing boards responsible for maintaining or achieving independent accreditation and essential conditions; requiring former sponsoring institutions to provide certain services for specified period; modifying fee requirements and limitations; specifying contract terms; providing for contract modification under certain circumstances; establishing Pierpont Community and Technical College as an independent state institution of higher education; defining institutional mission and duties and responsibilities of governing boards; requiring independent accreditation by date certain; providing for program accreditation by Fairmont State University under contract until certain date and requiring approval of contract terms by Council for Community and Technical College Education; directing Council to take steps necessary to achieve independent accreditation status; providing for severing accreditation contract between institutions under certain circumstances; establishing advanced technology centers; defining mission, goals and objectives; establishing boards of advisors; specifying membership and terms of office; providing for transition oversight and implementation by Legislative Oversight Commission on Education Accountability; providing for salary increase when faculty member is promoted in rank; making technical corrections; and deleting obsolete provisions.

Be it enacted by the Legislature of West Virginia:

That §18B-1-7 of the Code of West Virginia, 1931, as amended, be repealed; that §18B-1A-7 of said code be repealed; that §18B-1B-11 of said code be repealed; that §18B-2B-6a of said code be repealed; that §18B-6-1 of said code be repealed; that §18B-14-8 of said code be repealed; that §18B-1-2 and §18B-1-8 of said code

be amended and reenacted; that §18B-1B-6 of said code be amended and reenacted; that §18B-1C-2 of said code be amended and reenacted; that §18B-2A-1, §18B-2A-2 and §18B-2A-4 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-2A-7a; that §18B-2B-6 of said code be amended and reenacted; that §18B-2C-1 and §18B-2C-3 of said code be amended and reenacted; that §18B-3-3 of said code be amended and reenacted; that §18B-3C-5, §18B-3C-8, §18B-3C-12, §18B-3C-13 and §18B-3C-14 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-3C-15; and that §18B-8-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GOVERNANCE.

§18B-1-2. Definitions.

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

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

7 (b) "Free-standing community and technical colleges"
8 means Southern West Virginia Community and Technical
9 College, West Virginia Northern Community and Technical
10 College, and Eastern West Virginia Community and
11 Technical College, which may not be operated as branches or
12 off-campus locations of any other state institution of higher
13 education;

14 (c) "Community and technical college", in the singular or
15 plural, means the free-standing community and technical
16 colleges and other state institutions of higher education which

17 deliver community and technical college education. This
18 definition includes Southern West Virginia Community and
19 Technical College, West Virginia Northern Community and
20 Technical College, Eastern West Virginia Community and
21 Technical College, New River Community and Technical
22 College, West Virginia University at Parkersburg, The
23 Community and Technical College at West Virginia
24 University Institute of Technology, Blue Ridge Community
25 and Technical College, Marshall Community and Technical
26 College, West Virginia State Community and Technical
27 College and Pierpont Community and Technical College;

28 (d) "Community and technical college education" means
29 the programs, faculty, administration and funding associated
30 with the delivery of community and technical college
31 education programs;

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

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

38 (g) "Higher Education Policy Commission", "Policy
39 Commission" or "Commission" means the Commission
40 created pursuant to section one, article one-b of this chapter;

41 (h) "Chancellor for Higher Education" means the chief
42 executive officer of the Higher Education Policy Commission
43 employed pursuant to section five, article one-b of this
44 chapter;

45 (i) "Chancellor for Community and Technical College
46 Education" means the chief executive officer of the West

47 Virginia Council for Community and Technical College
48 Education employed pursuant to section three, article two-b
49 of this chapter;

50 (j) "Chancellor" means the Chancellor for Higher
51 Education where the context refers to a function of the
52 Higher Education Policy Commission. "Chancellor" means
53 Chancellor for Community and Technical College Education
54 where the context refers to a function of the West Virginia
55 Council for Community and Technical College Education;

56 (k) "Institutional operating budget" or "operating budget"
57 means for any fiscal year an institution's total unrestricted
58 education and general funding from all sources in the prior
59 fiscal year, including, but not limited to, tuition and fees and
60 legislative appropriation, and any adjustments to that funding
61 as approved by the Commission or Council based on
62 comparisons with peer institutions or to reflect consistent
63 components of peer operating budgets;

64 (l) "Community and technical college education
65 program" means any college-level course or program beyond
66 the high school level provided through a public institution of
67 higher education resulting in or which may result in a
68 two-year associate degree award including an associate of
69 arts, an associate of science and an associate of applied
70 science; certificate programs and skill sets; developmental
71 education; continuing education; collegiate credit and
72 noncredit workforce development programs; and transfer and
73 baccalaureate parallel programs. All programs are under the
74 jurisdiction of the Council. Any reference to "post-secondary
75 vocational education programs" means community and
76 technical college education programs as defined in this
77 subsection;

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

80 (n) "Vice Chancellor for Administration" means the
81 person employed in accordance with section two, article four
82 of this chapter. Any reference in this chapter or chapter
83 eighteen-c of this code to "Senior Administrator" means Vice
84 Chancellor for Administration;

85 (o) "State college" means Bluefield State College,
86 Concord University, Fairmont State University, Glenville
87 State College, Shepherd University, West Liberty State
88 College or West Virginia State University;

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

93 (q) "Board of visitors" means the advisory board
94 previously appointed for the West Virginia Graduate College
95 and the advisory board previously appointed for West
96 Virginia University Institute of Technology, which provide
97 guidance to the Marshall University Graduate College and
98 West Virginia University Institute of Technology,
99 respectively;

100 (r) "Institutional compact" means the compact between
101 the Commission or Council and a state institution of higher
102 education under its jurisdiction, as described in section six,
103 article one-d of this chapter;

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

108 (t) "Administratively linked community and technical
109 college" means a state institution of higher education
110 delivering community and technical college education and
111 programs which has maintained a contractual agreement to
112 receive essential services from another accredited state
113 institution of higher education prior to the first day of July,
114 two thousand eight;

115 (u) "Sponsoring institution" means a state institution of
116 higher education that maintained an administrative link to a
117 community and technical college providing essential services
118 prior to the first day of July, two thousand eight. This
119 definition includes institutions whose governing boards had
120 under their jurisdiction a community and technical college,
121 regional campus or a division delivering community and
122 technical college education and programs;

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

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

133 (x) "Council" means the West Virginia Council for
134 Community and Technical College Education created
135 pursuant to article two-b of this chapter;

136 (y) "West Virginia Consortium for Undergraduate
137 Research and Engineering" or "West Virginia CURE" means
138 the collaborative planning group established pursuant to
139 article one-c of this chapter;

140 (z) “Advanced technology center” means a facility
141 established under the direction of an independent community
142 and technical college for the purpose of implementing and
143 delivering education and training programs for high-skill,
144 high-performance Twenty-first Century workplaces;

145 (aa) “Statewide network of independently accredited
146 community and technical colleges” or “community and
147 technical college network” means the state institutions of
148 higher education under the jurisdiction of the West Virginia
149 Council for Community and Technical College Education
150 which are independently accredited or are seeking
151 independent accreditation by the regional accrediting agency,
152 each governed by its own independent governing board, and
153 each having a core mission of providing affordable access to
154 and delivering high quality community and technical
155 education in every region of the state; and

156 (bb) “Independent community and technical college”
157 means a state institution of higher education under the
158 jurisdiction of the Council which is independently accredited
159 or seeking independent accreditation, is governed by its own
160 independent governing board, and may not be operated as a
161 branch or off-campus location of any other state institution of
162 higher education. This definition includes Blue Ridge
163 Community and Technical College, The Community and
164 Technical College at West Virginia University Institute of
165 Technology, Eastern West Virginia Community and
166 Technical College, Marshall Community and Technical
167 College, New River Community and Technical College,
168 Pierpont Community and Technical College, Southern West
169 Virginia Community and Technical College, West Virginia
170 Northern Community and Technical College, West Virginia
171 State Community and Technical College, and West Virginia
172 University at Parkersburg.

173 (cc) "Dual credit course" or "dual enrollment course" is
174 a credit-bearing college-level course offered in a high school
175 by a state institution of higher education for high school
176 students in which the students are concurrently enrolled and
177 receiving credit at the secondary level.

**§18B-1-8. Student rights when institutional affiliations or
governance structures change.**

1 (a) When a conflict exists between academic program
2 requirements at an institution to be consolidated, merged,
3 separated from, or administratively linked to another state
4 institution of higher education, the requirements of the
5 institution at which the student initially enrolled prevail. A
6 student may not be required to earn additional credits toward
7 the degree pursued, or to take additional courses, that were
8 not included in the program of study at the time the student
9 declared that major at the enrolling institution.

10 (b) A student enrolled in an institution to be consolidated,
11 merged, separated from, or administratively linked to another
12 state institution of higher education shall continue to receive
13 any state-funded student financial aid for which he or she
14 would otherwise be eligible.

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

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

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

4 (1) The initial contract term for a president of a state
5 institution of higher education may not exceed two years. At

6 the end of the initial contract period, and subject to the
7 provisions of subsection (c) of this section, the governing
8 board may offer the president a contract of longer duration,
9 but not to exceed five years.

10 (A) The provisions relating to initial contract periods do
11 not affect the terms of a current contract for any person
12 holding a multi-year contract and serving as president of a
13 state institution of higher education or division of a state
14 institution of higher education delivering community and
15 technical education on the thirtieth day of June, two thousand
16 eight;

17 (B) At the end of the current contract period and
18 thereafter, the governing board shall make presidential
19 appointments in accordance with the provisions of this
20 section.

21 (2) The person who is president, provost, or divisional
22 administrative head of the community and technical college
23 on the thirtieth day of June, two thousand eight, becomes the
24 president of the institution on the effective date of this
25 section.

26 (3) The president of a state institution of higher education
27 serves at the will and pleasure of the appointing governing
28 board.

29 (4) Subject to the approval of the Commission, the
30 governing board of the institution appoints a president for
31 Bluefield State College, Concord University, Fairmont State
32 University, Glenville State College, Marshall University,
33 Shepherd University, West Liberty State College, West
34 Virginia School of Osteopathic Medicine, West Virginia
35 State University and West Virginia University.

36 (5) Subject to the approval of the Council, the governing
37 board of the community and technical college appoints a
38 president for Blue Ridge Community and Technical College,
39 The Community and Technical College at West Virginia
40 University Institute of Technology, Eastern West Virginia
41 Community and Technical College, Marshall Community
42 and Technical College, New River Community and Technical
43 College, Pierpont Community and Technical College,
44 Southern West Virginia Community and Technical College,
45 West Virginia Northern Community and Technical College,
46 West Virginia State Community and Technical College, and
47 West Virginia University at Parkersburg.

48 (b) *Other appointments.* -- The institutional president
49 appoints a provost to be the administrative head of the
50 Potomac campus of West Virginia University and a provost
51 to be the administrative head of West Virginia University
52 Institute of Technology.

53 (c) *Evaluation of presidents.* --

54 (1) The appointing governing board shall conduct written
55 performance evaluations of the institution's president.
56 Evaluations shall be done at the end of the initial two-year
57 contract period and in every third year of employment as
58 president thereafter, recognizing unique characteristics of the
59 institution and using institutional personnel, boards of
60 advisors as appropriate, staff of the appropriate governing
61 board and persons knowledgeable in higher education matters
62 who are not otherwise employed by a governing board. A
63 part of the evaluation shall be a determination of the success
64 of the institution in meeting the requirements of its
65 institutional compact and in achieving the goals, objectives
66 and priorities established in articles one and one-d of this
67 chapter.

68 (2) After reviewing the evaluations, the board of
69 governors shall make a determination by majority vote of its
70 members on continuing employment and the compensation
71 level for the president in accordance with the provisions of
72 subsection (a) of this section.

73 (d) The Commission and Council each shall propose a
74 rule for legislative approval in accordance with the provisions
75 of section six, article one of this chapter and article three-a,
76 chapter twenty-nine-a of this code by the first day of
77 September, two thousand eight, to provide guidance for the
78 institutional governing boards in filling vacancies in the
79 office of president in accordance with the provisions of this
80 chapter. The rule shall include, but is not limited to,
81 clarifying the powers, duties and roles of the governing
82 boards, the Commission, the Council, and the chancellors in
83 the presidential appointment process.

84 (e) The Legislature finds that an emergency exists and,
85 therefore, the Commission and the Council each shall file a
86 rule to implement the provisions of this section as an
87 emergency rule by the first day of September, two thousand
88 eight, pursuant to the provisions of article three-a, chapter
89 twenty-nine-a of this code. The emergency rule may not be
90 implemented without prior approval of the Legislative
91 Oversight Commission on Education Accountability.

ARTICLE 1C. WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY.

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

1 (a) West Virginia University Institute of Technology is a
2 fully integrated division of West Virginia University. All
3 administrative and academic units are consolidated with

4 primary responsibility for direction and support assigned to
5 West Virginia University. The advisory board previously
6 appointed for West Virginia University Institute of
7 Technology is known as the board of visitors and shall
8 provide guidance to the division in fulfilling its mission. The
9 chairperson of the board of visitors serves as an ex-officio,
10 voting member of the West Virginia University Board of
11 Governors.

12 (b) The fully integrated division is named West Virginia
13 University Institute of Technology. The headquarters of
14 West Virginia University Institute of Technology remains in
15 Montgomery, West Virginia.

16 (c) The provisions of this section do not affect the
17 independent accreditation or continued operation of The
18 Community and Technical College at West Virginia
19 University Institute of Technology. Effective the first day of
20 July, two thousand eight, the institution becomes an
21 independent community and technical college administered
22 by its own governing board under the jurisdiction and
23 authority of the Council and is subject to all applicable
24 provisions of this chapter and chapter eighteen-c of this code.

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

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

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

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

49 (h) West Virginia University Institute of Technology
 50 shall develop or maintain baccalaureate degree programs as
 51 a permanent component of its curriculum.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

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

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
 8 and Technical College, West Liberty State College, West
 9 Virginia Northern Community and Technical College, the

10 West Virginia School of Osteopathic Medicine, West
11 Virginia State University and West Virginia University.

12 (b) *Independent community and technical colleges*
13 *established --*

14 (1) Effective the first day of July, two thousand eight, the
15 board of advisors is abolished and a board of governors is
16 established for Marshall Community and Technical College;
17 Pierpont Community and Technical College, formerly a
18 division of Fairmont State University; The Community and
19 Technical College at West Virginia University Institute of
20 Technology; West Virginia State Community and Technical
21 College; and West Virginia University at Parkersburg.

22 (A) In making the initial appointments to these boards of
23 governors, the Governor shall appoint those persons who are
24 lay members of the boards of governors by the thirtieth day
25 of June, two thousand eight.

26 (B) At the end of the initial term, and thereafter, an
27 appointment to fill a vacancy on the board or reappointment
28 of a member who is eligible to serve an additional term is
29 made in accordance with the provisions of this section.

30 (c) The institutional boards of governors for Marshall
31 University and West Virginia University consist of sixteen
32 persons. The boards of governors of the other state
33 institutions of higher education consist of twelve persons.

34 (d) Each board of governors includes the following
35 members:

36 (1) A full-time member of the faculty with the rank of
37 instructor or above duly elected by the faculty of the
38 respective institution;

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

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

45 (4) For the institutional Board of Governors at Marshall
46 University, thirteen lay members appointed by the Governor,
47 by and with the advice and consent of the Senate, pursuant to
48 this section.

49 (5) For the institutional Board of Governors at West
50 Virginia University, twelve lay members appointed by the
51 Governor, by and with the advice and consent of the Senate,
52 pursuant to this section and, additionally, the chairperson of
53 the

54 Board of Visitors of West Virginia University Institute of
55 Technology.

56 (6) For each institutional board of governors of the other
57 state institutions of higher education, nine lay members
58 appointed by the Governor, by and with the advice and
59 consent of the Senate, pursuant to this section.

60 (e) Of the nine members appointed by the Governor, no
61 more than five may be of the same political party. Of the
62 thirteen members appointed by the Governor to the governing
63 board of Marshall University, no more than eight may be of
64 the same political party. Of the twelve members appointed
65 by the Governor to the governing board of West Virginia
66 University, no more than seven may be of the same political
67 party. Of the nine members appointed by the Governor, at
68 least six shall be residents of the state. Of the thirteen

69 members appointed by the Governor to the governing board
70 of Marshall University, at least eight shall be residents of the
71 state. Of the twelve members appointed by the Governor to
72 the governing board of West Virginia University, at least
73 eight shall be residents of the state.

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

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

80 (h) The member representing classified employees serves
81 for a term of two years. Each term begins on the first day of
82 July. Members representing classified employees are eligible
83 to succeed themselves for three additional terms, not to
84 exceed a total of eight consecutive years.

85 (i) The appointed lay citizen members serve terms of up
86 to four years each and are eligible to succeed themselves for
87 no more than one additional term.

88 (j) A vacancy in an unexpired term of a member shall be
89 filled for the unexpired term within thirty days of the
90 occurrence of the vacancy in the same manner as the original
91 appointment or election. Except in the case of a vacancy, all
92 elections shall be held and all appointments shall be made no
93 later than the thirtieth day of June preceding the
94 commencement of the term. Each board of governors shall
95 elect one of its appointed lay members to be chairperson in
96 June of each year except for the fiscal year beginning on the
97 first day of July, two thousand eight only, when the board
98 shall elect the chairperson in July. A member may not serve
99 as chairperson for more than four consecutive years.

100 (k) The appointed members of the institutional boards of
101 governors serve staggered terms of up to four years except
102 that four of the initial appointments to the governing boards
103 of community and technical colleges which become
104 independent on the first day of July, two thousand eight are
105 for terms of two years and five of the initial appointments are
106 for terms of four years.

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

110 (1) For a baccalaureate institution or university, a person
111 is ineligible for appointment who is an officer, employee or
112 member of any other board of governors, an employee of any
113 institution of higher education; an officer or member of any
114 political party executive committee; the holder of any other
115 public office or public employment under the government of
116 this state or any of its political subdivisions; an employee of
117 any affiliated research corporation created pursuant to article
118 twelve of this chapter; an employee of any affiliated
119 foundation organized and operated in support of one or more
120 state institutions of higher education; or a member of the
121 Council or Commission. This subsection does not prevent
122 the representative from the faculty, classified employees,
123 students, or the superintendent of a county board of education
124 from being members of the governing boards.

125 (2) For a community and technical college, a person is
126 ineligible for appointment who is an officer, employee or
127 member of any other board of governors; a member of a
128 board of visitors of any public institution of higher education;
129 an employee of any institution of higher education; an officer
130 or member of any political party executive committee; the
131 holder of any other public office, other than an elected county
132 office, or public employment, other than employment by the

133 county board of education, under the government of this state
134 or any of its political subdivisions; an employee of any
135 affiliated research corporation created pursuant to article
136 twelve of this chapter; an employee of any affiliated
137 foundation organized and operated in support of one or more
138 state institutions of higher education; or a member of the
139 Council or Commission. This subsection does not prevent
140 the representative from the faculty, classified employees,
141 students, or chairpersons of the boards of advisors from being
142 members of the governing boards.

143 (m) Before exercising any authority or performing any
144 duties as a member of a governing board, each member shall
145 qualify as such by taking and subscribing to the oath of office
146 prescribed by section five, article IV of the Constitution of
147 West Virginia and the certificate thereof shall be filed with
148 the Secretary of State.

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

155 (o) The president of the institution shall make available
156 resources of the institution for conducting the business of its
157 board of governors. The members of the board of governors
158 serve without compensation, but are reimbursed for all
159 reasonable and necessary expenses actually incurred in the
160 performance of official duties under this article upon
161 presentation of an itemized sworn statement of expenses. All
162 expenses incurred by the board of governors and the
163 institution under this section are paid from funds allocated to
164 the institution for that purpose.

§18B-2A-2. Meetings.

1 (a) The boards of governors shall hold at least six
2 meetings in every fiscal year, including an annual meeting
3 each June for the purpose of electing officers.

4 Of the sixteen voting members of the boards of governors
5 of Marshall University and West Virginia University, nine
6 shall constitute a quorum. Of the twelve voting members of
7 the boards of governors of the other state institutions of
8 higher education, seven shall constitute a quorum. A
9 majority vote of the quorum shall be necessary to pass upon
10 matters before the institutional board of governors.

11 (b) The boards of governors may set aside time as they
12 consider appropriate to afford administrators, faculty,
13 students and classified staff an opportunity to discuss issues
14 affecting these groups.

§18B-2A-4. Powers and duties of governing boards generally.

1 Each governing board separately has the following
2 powers and duties:

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

6 (b) Develop a master plan for the institution under its
7 jurisdiction.

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

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

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

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

25 (C) Document the involvement of the Commission or
26 Council, as appropriate, institutional constituency groups,
27 clientele of the institution and the general public in the
28 development of all segments of the institutional master plan.

29 (3) The plan shall be established for periods of not less
30 than three nor more than five years and shall be revised
31 periodically as necessary, including the addition or deletion
32 of degree programs as, in the discretion of the appropriate
33 governing board, are necessary;

34 (c) Prescribe for the institution under its jurisdiction, in
35 accordance with its master plan and compact, specific
36 functions and responsibilities to achieve the goals, objectives
37 and priorities established in articles one and one-d of this
38 chapter to meet the higher education needs of its area of
39 responsibility and to avoid unnecessary duplication;

40 (d) Direct the preparation of a budget request for the
41 institution under its jurisdiction, which relates directly to
42 missions, goals and projections as found in the institutional
43 master plan and the institutional compact;

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

47 (f) Review, at least every five years, all academic
48 programs offered at the institution under its jurisdiction. The
49 review shall address the viability, adequacy and necessity of
50 the programs in relation to established state goals, objectives
51 and priorities, the institutional master plan, the institutional
52 compact and the education and workforce needs of its
53 responsibility district. As a part of the review, each
54 governing board shall require the institution under its
55 jurisdiction to conduct periodic studies of its graduates and
56 their employers to determine placement patterns and the
57 effectiveness of the education experience. Where
58 appropriate, these studies should coincide with the studies
59 required of many academic disciplines by their accrediting
60 bodies;

61 (g) Ensure that the sequence and availability of academic
62 programs and courses offered by the institution under its
63 jurisdiction is such that students have the maximum
64 opportunity to complete programs in the time frame normally
65 associated with program completion. Each governing board
66 is responsible to see that the needs of nontraditional
67 college-age students are appropriately addressed and, to the
68 extent it is possible for the individual governing board to
69 control, to assure core course work completed at the
70 institution under its jurisdiction is transferable to any other
71 state institution of higher education for credit with the grade
72 earned;

73 (h) Subject to the provisions of article one-b of this
74 chapter, approve the teacher education programs offered in
75 the institution under its control. In order to permit graduates
76 of teacher education programs to receive a degree from a

77 nationally accredited program and in order to prevent
78 expensive duplication of program accreditation, the
79 Commission may select and use one nationally recognized
80 teacher education program accreditation standard as the
81 appropriate standard for program evaluation;

82 (i) Use faculty, students and classified employees in
83 institutional-level planning and decisionmaking when those
84 groups are affected;

85 (j) Subject to the provisions of federal law and pursuant
86 to the provisions of article nine of this chapter and to rules
87 adopted by the Commission and the Council, administer a
88 system for the management of personnel matters, including,
89 but not limited to, personnel classification, compensation and
90 discipline for employees at the institution under its
91 jurisdiction;

92 (k) Administer a system for hearing employee grievances
93 and appeals. Notwithstanding any other provision of this
94 code to the contrary, the procedure established in article two,
95 chapter six-c of this code is the exclusive mechanism for
96 hearing prospective employee grievances and appeals;

97 (l) Solicit and use or expend voluntary support, including
98 financial contributions and support services, for the
99 institution under its jurisdiction;

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

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

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

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

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

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

125 (s) Delegate, with prescribed standards and limitations,
126 the part of its power and control over the business affairs of
127 the institution to the president in any case where it considers
128 the delegation necessary and prudent in order to enable the
129 institution to function in a proper and expeditious manner and
130 to meet the requirements of its master plan and institutional
131 compact. If a governing board elects to delegate any of its
132 power and control under the provisions of this subsection, it
133 shall enter the delegation in the minutes of the meeting when
134 the decision was made and shall notify the Commission or
135 Council, as appropriate. Any delegation of power and
136 control may be rescinded by the appropriate governing board,

137 the Commission or Council, as appropriate, at any time, in
138 whole or in part, except that the Commission may not revoke
139 delegations of authority made by the governing boards of
140 Marshall University or West Virginia University as they
141 relate to the state institutions of higher education known as
142 Marshall University and West Virginia University;

143 (t) Unless changed by the Commission or the Council, as
144 appropriate, continue to abide by existing rules setting forth
145 standards for acceptance of advanced placement credit for the
146 institution under its jurisdiction. Individual departments at a
147 state institution of higher education may, upon approval of
148 the institutional faculty senate, require higher scores on the
149 advanced placement test than scores designated by the
150 governing board when the credit is to be used toward meeting
151 a requirement of the core curriculum for a major in that
152 department;

153 (u) Consult, cooperate and work with the State Treasurer
154 and the State Auditor to update as necessary and maintain an
155 efficient and cost-effective system for the financial
156 management and expenditure of special revenue and
157 appropriated state funds at the institution under its
158 jurisdiction that ensures that properly submitted requests for
159 payment be paid on or before due date but, in any event,
160 within fifteen days of receipt in the State Auditor's office;

161 (v) In consultation with the appropriate chancellor and
162 the Secretary of the Department of Administration, develop,
163 update as necessary and maintain a plan to administer a
164 consistent method of conducting personnel transactions,
165 including, but not limited to, hiring, dismissal, promotions
166 and transfers at the institution under its jurisdiction. Each
167 personnel transaction shall be accompanied by the
168 appropriate standardized system or forms which shall be
169 submitted to the respective governing board and the
170 Department of Finance and Administration;

171 (w) Notwithstanding any other provision of this code to
172 the contrary, transfer funds from any account specifically
173 appropriated for its use to any corresponding line item in a
174 general revenue account at any agency or institution under its
175 jurisdiction as long as such transferred funds are used for the
176 purposes appropriated;

177 (x) Transfer funds from appropriated special revenue
178 accounts for capital improvements under its jurisdiction to
179 special revenue accounts at agencies or institutions under its
180 jurisdiction as long as such transferred funds are used for the
181 purposes appropriated;

182 (y) Notwithstanding any other provision of this code to
183 the contrary, acquire legal services that are necessary,
184 including representation of the governing board, its
185 institution, employees and officers before any court or
186 administrative body. The counsel may be employed either on
187 a salaried basis or on a reasonable fee basis. In addition, the
188 governing board may, but is not required to, call upon the
189 Attorney General for legal assistance and representation as
190 provided by law; and

191 (z) Contract and pay for disability insurance for a class or
192 classes of employees at a state institution of higher education
193 under its jurisdiction.

**§18B-2A-7a. Transfer of orders, resolutions, policies and rules,
obligations, etc.**

1 (a) Effective the first day of July, two thousand eight, a
2 governing board is established for the following state
3 institutions of higher education pursuant to section one of this
4 article:

5 (1) Marshall Community and Technical College;

6 (2) Pierpont Community and Technical College, formerly
7 a division of Fairmont State University;

8 (3) The Community and Technical College at West
9 Virginia University Institute of Technology;

10 (4) West Virginia State Community and Technical
11 College; and

12 (5) West Virginia University at Parkersburg.

13 (b) All orders, resolutions, policies and rules adopted or
14 promulgated by a governing board of a former
15 administratively linked community and technical college,
16 regional campus, or division within an accredited institution
17 on behalf of an institution named in subsection (a) of this
18 section relating to the community and technical college or
19 community and technical college education, or which the
20 newly-established board of governors finds necessary or
21 expedient for the exercise of its lawful powers and duties
22 pursuant to the provisions of this chapter, shall continue in
23 effect until rescinded, revised, altered or amended by the
24 newly-established board of governors. Nothing in this
25 section requires the initial rules or policies of a community
26 and technical college to be promulgated again under the rule
27 adopted by the Council pursuant to section six, article one of
28 this chapter unless such rules or policies are rescinded,
29 revised, altered or amended.

30 (c) Each valid agreement and obligation, undertaken or
31 agreed to by the former sponsoring institution or governing
32 board of a division, regional campus or administratively-
33 linked community and technical college before the first day
34 of July, two thousand eight, on behalf of a community and
35 technical college named in subsection (a) of this section is
36 hereby transferred to the board of governors of that
37 community and technical college.

38 (d) Each newly established board of governors and each
39 appropriate institution formerly sponsoring a community and
40 technical college shall jointly agree on a division of all assets
41 and liabilities. If the boards of governors are unable to reach
42 agreement concerning a division of assets and liabilities on or
43 before the first day of December, two thousand eight, the
44 boards of governors shall submit a summary of issues in
45 dispute to the Commission and the Council which shall
46 jointly resolve all outstanding issues concerning the division
47 of assets and liabilities.

48 (e) For purposes of generating audited financial
49 statements for inclusion in the higher education fund and
50 state single audits, the division of all assets and liabilities
51 shall be effective retroactively to the first day of July, two
52 thousand eight.

53 (f) Any other disputes between an independent
54 community and technical college and its former sponsoring
55 institution, regarding their respective rights and
56 responsibilities under this chapter of the code, which cannot
57 be resolved by the governing boards, shall

58 be resolved as follows:

59 (1) The matters in dispute shall be summarized in writing
60 and submitted to the chancellors jointly for resolution;

61 (2) If the matters in dispute cannot be resolved by the
62 chancellors within thirty days, they shall be submitted to the
63 Council and Commission for resolution;

64 (3) If the Commission and Council jointly cannot reach
65 a resolution following their first regularly scheduled meeting
66 or within sixty days, whichever is sooner, the chairpersons of
67 the Commission and Council respectively shall establish a

68 three-person panel to hear the matters and issue a decision
69 within thirty days:

70 (A) The three-person panel is comprised of one person
71 appointed by the chairperson of the Commission, one person
72 appointed by the chairperson of the Council, and one person
73 appointed jointly by the two chairpersons.

74 (B) The decision rendered by the three-person panel is
75 binding on the governing boards, Commission and Council,
76 and may not be challenged in the courts of this state.

77 (g) Each former sponsoring institution and community
78 and technical college shall enter into a comprehensive
79 agreement to address the division of assets and liabilities and
80 the allocation of revenues and expenditures between former
81 sponsoring institutions and newly independent community
82 and technical colleges.

83 (h) Absent manifest injustice as determined jointly by the
84 Council and Commission, the following general principles
85 apply to the division of assets and liabilities and allocation of
86 revenues and expenditures between former sponsoring
87 institutions and the newly independent community and
88 technical colleges:

89 (1) For accounting purposes, the institution that assumes
90 responsibility for any asset also shall assume responsibility
91 for any associated liabilities.

92 (2) Although one institution may assume responsibility
93 for an asset and associated liabilities for accounting purposes,
94 both institutions shall agree on their respective
95 responsibilities for reducing and ultimately eliminating the
96 liability over time if the asset was originally acquired and/or
97 is being used for the benefit of both institutions.

98 (A) Any agreement to allocate system and institution
99 educational and general and auxiliary debt service payments
100 shall be consistent with the provisions of all applicable bond
101 covenants.

102 (B) Absent a controlling bond covenant or other
103 agreement, debt service payments associated with bonded
104 indebtedness presumptively shall be allocated based on the
105 relative full-time equivalent student enrollment of the two
106 institutions either as a whole or on the campus where the
107 asset is located and may be adjusted annually to reflect
108 enrollment changes at the two institutions.

109 (3) The institutions shall agree to allocate educational and
110 general and auxiliary capital fees in excess of those needed
111 to cover bonded indebtedness to ensure that assets of both
112 institutions are maintained in proper repair and that the
113 institutions assume responsibility for a reasonable share of
114 the total costs of maintaining the facilities.

115 (4) The institutions shall develop a plan that ensures the
116 financial stability of auxiliary enterprises, including, but not
117 limited to, student housing, student centers, dining services,
118 parking, and athletics through fiscal year two thousand
119 twelve.

120 (A) If community and technical college students pay a
121 mandatory athletics fee for the benefit of a former sponsoring
122 institution, but receive no direct benefit from that fee, the
123 community and technical college may phase out that fee over
124 a five-year period.

125 (B) If certain community and technical college students
126 were required to live in institution housing consistent with
127 rules or policies in effect on the effective date of this section,
128 the former sponsoring institution may continue to require

129 these students to live in institution housing for at least one
130 year.

131 (i) If either institution proposes to reduce the services that
132 it provides or purchases from the other institution by more
133 than ten percent in any one year and the reduction exceeds
134 two hundred thousand dollars, the institution shall obtain the
135 approval of both the Council and the Commission before
136 doing so. In evaluating the proposal, the Council and
137 Commission shall consider the following:

138 (1) The benefit to be obtained for the institution seeking
139 to reduce the services it provides or purchases;

140 (2) The impact of the proposed reduction on the
141 institution currently providing the services;

142 (3) Any additional costs that might be incurred as a result
143 of the reduction in services; and

144 (4) The adequacy of the transition plan.

145 (j) To the extent practicable, state financial systems shall
146 be set up for higher education institutions which participate
147 in shared services agreements to facilitate ease of processing
148 while ensuring that data from the two institutions are readily
149 segregable at the state level.

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

§18B-2B-6. Powers and duties of the Council.

1 (a) The Council is the sole agency responsible for
2 administration of vocational-technical-occupational education

3 and community and technical college education in the state.
4 The Council has jurisdiction and authority over the
5 community and technical colleges and the statewide network
6 of independently accredited community and technical
7 colleges as a whole, including community and technical
8 college education programs as defined in section two, article
9 one of this chapter.

10 (b) The Council shall propose rules pursuant to section
11 six, article one of this chapter and article three-a, chapter
12 twenty-nine-a of this code to implement the provisions of this
13 section and applicable provisions of article one-d of this
14 chapter:

15 (1) To implement the provisions of article one-d of this
16 chapter relevant to community and technical colleges, the
17 Council may propose rules jointly with the Commission or
18 separately and may choose to address all components of the
19 accountability system in a single rule or may propose
20 additional rules to cover specific components;

21 (2) The rules pertaining to financing policy and
22 benchmarks and indicators required by this section shall be
23 filed with the Legislative Oversight Commission on
24 Education Accountability by the first day of October, two
25 thousand eight. Nothing in this subsection requires other
26 rules of the Council to be promulgated again under the
27 procedure set forth in article three-a, chapter twenty-nine-a of
28 this code unless such rules are rescinded, revised, altered or
29 amended; and

30 (3) The Legislature finds that an emergency exists and,
31 therefore, the Council shall propose an emergency rule or
32 rules to implement the provisions of this section relating to
33 the financing policy and benchmarks and indicators in
34 accordance with section six, article one of this chapter and

35 article three-a, chapter twenty-nine-a of this code by the first
36 day of October, two thousand eight. The emergency rule or
37 rules may not be implemented without prior approval of the
38 Legislative Oversight Commission on Education
39 Accountability.

40 (c) The Council has the following powers and duties
41 relating to the authority established in subsection (a) of this
42 section:

43 (1) Develop, oversee and advance the public policy
44 agenda for community and technical college education for the
45 purpose of accomplishing the mandates of this section,
46 including, but not limited to, the following:

47 (A) Achieving the goals and objectives established in
48 articles one and one-d of this chapter;

49 (B) Addressing the goals and objectives contained in the
50 institutional compacts created pursuant to section seven,
51 article one-d of this chapter; and

52 (C) Developing and implementing the master plan
53 described in section five, article one-d of this chapter;;

54 (2) Propose a legislative rule pursuant to subsection (b)
55 of this section and article three-a, chapter twenty-nine-a of
56 this code to develop and implement a financing policy for
57 community and technical college education in West Virginia.
58 The rule shall meet the following criteria:

59 (A) Provide an adequate level of education and general
60 funding for institutions pursuant to section five, article one-a
61 of this chapter;

62 (B) Serve to maintain institutional assets, including, but
63 not limited to, human and physical resources and deferred
64 maintenance;

65 (C) Establish a plan for strategic funding to strengthen
66 capacity for support of community and technical college
67 education; and

68 (D) Establish a plan that measures progress and provides
69 performance-based funding to institutions which make
70 significant progress in the following specific areas:

71 (i) Achieving the objectives and priorities established in
72 article one-d of this chapter;

73 (ii) Serving targeted populations, especially working age
74 adults twenty-five years of age and over;

75 (iii) Providing access to high cost, high demand technical
76 programs in every region of the state;

77 (iv) Increasing the percentage of functionally literate
78 adults in every region of the state; and

79 (v) Providing high quality community and technical
80 college education services to residents of every region of the
81 state.

82 (3) Create a policy leadership structure relating to
83 community and technical college education capable of the
84 following actions:

85 (A) Developing, building public consensus around and
86 sustaining attention to a long-range public policy agenda. In
87 developing the agenda, the Council shall seek input from the
88 Legislature and the governor and specifically from the State

89 Board of Education and local school districts in order to
90 create the necessary linkages to assure smooth, effective and
91 seamless movement of students through the public education
92 and post-secondary education systems and to ensure that the
93 needs of public school courses and programs can be fulfilled
94 by the graduates produced and the programs offered;

95 (B) Ensuring that the governing boards of the institutions
96 under the Council's jurisdiction carry out their duty
97 effectively to govern the individual institutions of higher
98 education; and

99 (C) Holding each community and technical college and
100 the statewide network of independently accredited
101 community and technical colleges as a whole accountable for
102 accomplishing their missions and achieving the goals and
103 objectives established in articles one, one-d, and three-c of
104 this chapter;

105 (4) Develop for inclusion in the statewide public agenda,
106 a plan for raising education attainment, increasing adult
107 literacy, promoting workforce and economic development
108 and ensuring access to advanced education for the citizens of
109 West Virginia;

110 (5) Provide statewide leadership, coordination, support,
111 and technical assistance to the community and technical
112 colleges and to provide a focal point for visible and effective
113 advocacy for their work and for the public policy agendas
114 approved by the Commission and Council.

115 (6) Review and adopt annually all institutional compacts
116 for the community and technical colleges pursuant to the
117 provisions of section seven, article one-d of this chapter;

118 (7) Fulfill the mandates of the accountability system
119 established in article one-d of this chapter and report on
120 progress in meeting established goals, objectives, and
121 priorities to the elected leadership of the state;

122 (8) Propose a legislative rule pursuant to subsection (b)
123 of this section and article three-a, chapter twenty-nine-a of
124 this code to establish benchmarks and indicators in
125 accordance with the provisions of this subsection;

126 (9) Establish and implement the benchmarks and
127 performance indicators necessary to measure institutional
128 progress:

129 (A) In meeting state goals, objectives, and priorities
130 established in articles one and one-d of this chapter;

131 (B) In carrying out institutional missions; and

132 (C) In meeting the essential conditions established in
133 article three-c of this chapter;

134 (10) Collect and analyze data relating to the performance
135 of community and technical colleges in every region of West
136 Virginia and report periodically or as directed to the
137 Legislative Oversight Commission on Education
138 Accountability on the progress in meeting the goals and
139 objectives established in articles one and one-d of this
140 chapter.

141 Additionally, the Council shall report annually during the
142 January interim meetings on a date and at a time and location
143 to be determined by the President of the Senate and the
144 Speaker of the House of Delegates.

145 The annual report shall address at least the following:

146 (A) The performance of the community and technical
147 college network during the previous fiscal year, including,
148 but not limited to, progress in meeting goals stated in the
149 compacts and progress of the institutions and the network as
150 a whole in meeting the goals and objectives established in
151 articles one and one-d of this chapter;

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

155 (C) Recommendations of the Council for statutory
156 changes necessary or expedient to achieve established state
157 goals and objectives;

158 (11) Establish a formal process for identifying needs for
159 capital investments and for determining priorities for these
160 investments for consideration by the Governor and the
161 Legislature as part of the appropriation request process.
162 Notwithstanding the language in subdivision eleven,
163 subsection a, section four, article one-b of this chapter, the
164 Commission is not a part of the process for identifying needs
165 for capital investments for the Statewide network of
166 independently accredited community and technical colleges.

167 (12) Draw upon the expertise available within the
168 Governor's Workforce Investment Office and the West
169 Virginia Development Office as a resource in the area of
170 workforce development and training;

171 (13) Acquire legal services that are considered necessary,
172 including representation of the Council, its institutions,
173 employees and officers before any court or administrative

174 body, notwithstanding any other provision of this code to the
175 contrary. The counsel may be employed either on a salaried
176 basis or on a reasonable fee basis. In addition, the Council
177 may, but is not required to, call upon the attorney general for
178 legal assistance and representation as provided by law;

179 (14) Employ a chancellor for community and technical
180 college education pursuant to section three of this article;

181 (15) Employ other staff as necessary and appropriate to
182 carry out the duties and responsibilities of the Council
183 consistent with the provisions of section two, article four of
184 this chapter;

185 (16) Employ other staff as necessary and appropriate to
186 carry out the duties and responsibilities of the Council who
187 are employed solely by the Council;

188 (17) Provide suitable offices in Charleston for the
189 chancellor and other staff;

190 (18) Approve the total compensation package from all
191 sources for presidents of community and technical colleges,
192 as proposed by the governing boards. The governing boards
193 must obtain approval from the Council of the total
194 compensation package both when presidents are employed
195 initially and subsequently when any change is made in the
196 amount of the total compensation package;

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

204 (20) Establish and implement policies and programs,
205 jointly with the community and technical colleges, through
206 which students who have gained knowledge and skills
207 through employment, participation in education and training
208 at vocational schools or other education institutions, or
209 internet-based education programs, may demonstrate by
210 competency-based assessment that they have the necessary
211 knowledge and skills to be granted academic credit or
212 advanced placement standing toward the requirements of an
213 associate degree or a bachelor's degree at a state institution
214 of higher education;

215 (21) Seek out and attend regional and national meetings
216 and forums on education and workforce development-related
217 topics, as Council members consider critical for the
218 performance of their duties. The Council shall keep abreast
219 of national and regional community and technical college
220 education trends and policies to aid members in developing
221 the policies for this state that meet the education goals and
222 objectives established in articles one and one-d of this
223 chapter;

224 (22) Assess community and technical colleges for the
225 payment of expenses of the Council or for the funding of
226 statewide services, obligations or initiatives related
227 specifically to the provision of community and technical
228 college education;

229 (23) Promulgate rules allocating reimbursement of
230 appropriations, if made available by the Legislature, to
231 community and technical colleges for qualifying noncapital
232 expenditures incurred in the provision of services to students
233 with physical, learning or severe sensory disabilities;

234 (24) Assume the prior authority of the Commission in
235 examining and approving tuition and fee increase proposals

236 submitted by community and technical college governing
237 boards as provided in section one, article ten of this chapter.

238 (25) Develop and submit to the Commission, a single
239 budget for community and technical college education that
240 reflects recommended appropriations for community and
241 technical colleges and that meets the following conditions:

242 (A) Incorporates the provisions of the financing rule
243 mandated by this section to measure and provide
244 performance funding to institutions which achieve or make
245 significant progress toward achieving established state
246 objectives and priorities;

247 (B) Considers the progress of each institution toward
248 meeting the essential conditions set forth in section three,
249 article three-c of this chapter, including independent
250 accreditation; and

251 (C) Considers the progress of each institution toward
252 meeting the goals objectives, and priorities established in
253 article one-d of this chapter and its approved institutional
254 compact;

255 (26) Administer and distribute the independently
256 accredited community and technical college development
257 account;

258 (27) Establish a plan of strategic funding to strengthen
259 capacity for support and assure delivery of high quality
260 community and technical college education in all regions of
261 the state;

262 (28) Foster coordination among all state-level, regional
263 and local entities providing post-secondary vocational
264 education or workforce development and coordinate all

265 public institutions and entities that have a community and
266 technical college mission;

267 (29) Assume the principal responsibility for oversight of
268 those community and technical colleges seeking independent
269 accreditation and for holding governing boards accountable
270 for meeting the essential conditions pursuant to article three-c
271 of this chapter;

272 (30) Advise and consent in the appointment of the
273 presidents of the community and technical colleges pursuant
274 to section six, article one-b of this chapter. The role of the
275 Council in approving a president is to assure through
276 personal interview that the person selected understands and
277 is committed to achieving the goals and objectives
278 established in the institutional compact and in articles one,
279 one-d, and three-c of this chapter;

280 (31) Provide a single, statewide link for current and
281 prospective employers whose needs extend beyond one
282 locality;

283 (32) Provide a mechanism capable of serving two or
284 more institutions to facilitate joint problem-solving in areas
285 including, but not limited to the following:

286 (A) Defining faculty roles and personnel policies;

287 (B) Delivering high-cost technical education programs
288 across the state;

289 (C) Providing one-stop service for workforce training to
290 be delivered by multiple institutions; and

291 (D) Providing opportunities for resource-sharing and
292 collaborative ventures;

293 (33) Provide support and technical assistance to develop,
294 coordinate, and deliver effective and efficient community and
295 technical college education programs and services in all
296 regions of the state;

297 (34) Assist the community and technical colleges in
298 establishing and promoting links with business, industry and
299 labor in the geographic areas for which each community and
300 technical college is responsible;

301 (35) Develop alliances among the community and
302 technical colleges for resource sharing, joint development of
303 courses and courseware, and sharing of expertise and staff
304 development;

305 (36) Serve aggressively as an advocate for development
306 of a seamless curriculum;

307 (37) Cooperate with all providers of education services in
308 the state to remove barriers relating to a seamless system of
309 public and higher education and to transfer and articulation
310 between and among community and technical colleges, state
311 colleges and universities and public education, preschool
312 through grade twelve;

313 (38) Encourage the most efficient use of available
314 resources;

315 (39) Coordinate with the Commission in informing public
316 school students, their parents and teachers of the academic
317 preparation that students need in order to be prepared
318 adequately to succeed in their selected fields of study and
319 career plans, including presentation of academic career fairs;

320 (40) Jointly with the Commission, approve and
321 implement a uniform standard, as developed by the

322 chancellors, to determine which students shall be placed in
323 remedial or developmental courses. The standard shall be
324 aligned with college admission tests and assessment tools
325 used in West Virginia and shall be applied uniformly by the
326 governing boards throughout the public higher education
327 system. The chancellors shall develop a clear, concise
328 explanation of the standard which the governing boards shall
329 communicate to the State Board of Education and the State
330 Superintendent of Schools;

331 (41) Develop and implement strategies and curriculum
332 for providing developmental education which shall be
333 applied by any state institution of higher education providing
334 developmental education.

335 (42) Develop a statewide system of community and
336 technical college programs and services in every region of
337 West Virginia for competency-based certification of
338 knowledge and skills, including a statewide
339 competency-based associate degree program;

340 (43) Review and approve all institutional master plans for
341 the community and technical colleges pursuant to section
342 four, article two-a of this chapter;

343 (44) Propose rules for promulgation pursuant to
344 subsection (b) of this section and article three-a, chapter
345 twenty-nine-a of this code that are necessary or expedient for
346 the effective and efficient performance of community and
347 technical colleges in the state;

348 (45) In its sole discretion, transfer any rule under its
349 jurisdiction, other than a legislative rule, to the jurisdiction of
350 the governing boards who may rescind, revise, alter or amend
351 any rule transferred pursuant to rules adopted by the Council
352 and provide technical assistance to the institutions under its
353 jurisdiction to aid them in promulgating rules;

354 (46) Develop for inclusion in the higher education report
355 card, as defined in section eight, article one-d of this chapter,
356 a separate section on community and technical colleges. This
357 section shall include, but is not limited to, evaluation of the
358 institutions based upon the benchmarks and indicators
359 developed in subdivision (9) of this subsection;

360 (47) Facilitate continuation of the Advantage Valley
361 Community College Network under the leadership and
362 direction of Marshall Community and Technical College;

363 (48) Initiate and facilitate creation of other regional
364 networks of affiliated community and technical colleges that
365 the Council finds to be appropriate and in the best interests of
366 the citizens to be served;

367 (49) Develop with the State Board of Education plans for
368 secondary and post-secondary vocational-technical-occupational
369 and adult basic education, including, but not limited to the
370 following:

371 (A) Policies to strengthen vocational-technical-occupational
372 and adult basic education; and

373 (B) Programs and methods to assist in the improvement,
374 modernization and expanded delivery of
375 vocational-technical- occupational and adult basic education
376 programs;

377 (50) Distribute federal vocational education funding
378 provided under the Carl D. Perkins Vocational and Technical
379 Education Act of 1998, PL 105-332, with an emphasis on
380 distributing financial assistance among secondary and
381 post-secondary vocational- technical-occupational and adult
382 basic education programs to help meet the public policy
383 agenda.

384 In distributing funds the Council shall use the following
385 guidelines:

386 (A) The State Board of Education shall continue to be the
387 fiscal agent for federal vocational education funding;

388 (B) The percentage split between the State Board of
389 Education and the Council shall be determined by rule
390 promulgated by the Council under the provisions of article
391 three-a, chapter twenty-nine-a of this code. The Council
392 shall first obtain the approval of the State Board of Education
393 before proposing a rule;

394 (51) Collaborate, cooperate and interact with all secondary
395 and post-secondary vocational-technical-occupational and adult
396 basic education programs in the state, including the programs
397 assisted under the federal Carl D. Perkins Vocational and
398 Technical Education Act of 1998, PL 105-332, and the
399 Workforce Investment Act of 1998, to promote the
400 development of seamless curriculum and the elimination of
401 duplicative programs;

402 (52) Coordinate the delivery of vocational-technical-
403 occupational and adult basic education in a manner designed
404 to make the most effective use of available public funds to
405 increase accessibility for students;

406 (53) Analyze and report to the State Board of Education
407 on the distribution of spending for vocational-technical-
408 occupational and adult basic education in the state and on the
409 availability of vocational-technical-occupational and adult
410 basic education activities and services within the state;

411 (54) Promote the delivery of vocational
412 -technical-occupational education, adult basic education and
413 community and technical college education programs in the

414 state which emphasize the involvement of business, industry
415 and labor organizations;

416 (55) Promote public participation in the provision of
417 vocational-technical-occupational education, adult basic
418 education and community and technical education at the local
419 level, emphasizing programs which involve the participation
420 of local employers and labor organizations;

421 (56) Promote equal access to quality vocational-
422 technical-occupational education, adult basic education and
423 community and technical college education programs to
424 handicapped and disadvantaged individuals, adults in need of
425 training and retraining, single parents, homemakers,
426 participants in programs designed to eliminate sexual bias
427 and stereotyping and criminal offenders serving in
428 correctional institutions;

429 (57) Meet annually between the months of October and
430 December with the Advisory Committee of Community and
431 Technical College Presidents created pursuant to section
432 eight of this article to discuss those matters relating to
433 community and technical college education in which
434 advisory committee members or the Council may have an
435 interest;

436 (58) Accept and expend any gift, grant, contribution,
437 bequest, endowment or other money for the purposes of this
438 article;

439 (59) Assume the powers set out in section nine of this
440 article. The rules previously promulgated by the State
441 College System Board of Directors pursuant to that section
442 and transferred to the Commission are hereby transferred to
443 the Council and shall continue in effect until rescinded,
444 revised, altered or amended by the Council;

445 (60) Pursuant to the provisions of subsection (b) of this
446 section and article three-a, chapter twenty-nine-a of this code,
447 promulgate a uniform joint legislative rule with the
448 Commission for the purpose of standardizing, as much as
449 possible, the administration of personnel matters among the
450 institutions of higher education;

451 (61) Determine when a joint rule among the governing
452 boards of the community and technical colleges is necessary
453 or required by law and, in those instances and in consultation
454 with the governing boards, promulgate the joint rule;

455 (62) Promulgate a joint rule with the Commission
456 establishing tuition and fee policy for all institutions of
457 higher education. The rule shall include, but is not limited to,
458 the following:

459 (A) Comparisons with peer institutions;

460 (B) Differences among institutional missions;

461 (C) Strategies for promoting student access;

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

463 (E) Any other policies the Commission and Council
464 consider appropriate;

465 (63) In cooperation with the West Virginia Division of
466 Highways, study a method for increasing the signage
467 signifying community and technical college locations along
468 the state interstate highways, and report to the Legislative
469 Oversight Commission on Education Accountability
470 regarding any recommendations and required costs; and

471 (64) Implement a policy jointly with the Commission
472 whereby any course credit earned at a community and

473 technical college transfers for program credit at any other
474 state institution of higher education and is not limited to
475 fulfilling a general education requirement.

476 (d) In addition to the powers and duties listed in
477 subsections (a), (b) and (c) of this section, the Council has the
478 following general powers and duties related to its role in
479 developing, articulating and overseeing the implementation
480 of the public policy agenda for community and technical
481 colleges:

482 (1) Planning and policy leadership including a distinct
483 and visible role in setting the state's policy agenda for the
484 delivery of community and technical college education and
485 in serving as an agent of change;

486 (2) Policy analysis and research focused on issues
487 affecting the community and technical college network as a
488 whole or a geographical region thereof;

489 (3) Development and implementation of each community
490 and technical college mission definition including use of
491 incentive and performance funds to influence institutional
492 behavior in ways that are consistent with achieving
493 established state goals, objectives, and priorities;

494 (4) Academic program review and approval for the
495 institutions under its jurisdiction, including the use of
496 institutional missions as a template to judge the
497 appropriateness of both new and existing programs and the
498 authority to implement needed changes;

499 (5) Development of budget and allocation of resources
500 for institutions delivering community and technical college
501 education, including reviewing and approving institutional
502 operating and capital budgets and distributing incentive and
503 performance-based funding;

504 (6) Acting as the agent to receive and disburse public
505 funds related to community and technical college education
506 when a governmental entity requires designation of a
507 statewide higher education agency for this purpose;

508 (7) Development, establishment and implementation of
509 information, assessment and internal accountability systems,
510 including maintenance of statewide data systems that
511 facilitate long-term planning and accurate measurement of
512 strategic outcomes and performance indicators for
513 community and technical colleges;

514 (8) Jointly with the Commission, development,
515 establishment and implementation of policies for licensing
516 and oversight of both public and private degree-granting and
517 nondegree-granting institutions that provide post-secondary
518 education courses or programs.

519 (9) Development, implementation and oversight of
520 statewide and regionwide projects and initiatives related
521 specifically to providing community and technical college
522 education such as those using funds from federal categorical
523 programs or those using incentive and performance-based
524 funding from any source; and

525 (10) Quality assurance that intersects with all other duties
526 of the Council particularly in the areas of planning, policy
527 analysis, program review and approval, budgeting and
528 information and accountability systems.

529 (e) The Council may withdraw specific powers of a
530 governing board under its jurisdiction for a period not to
531 exceed two years if the Council makes a determination that
532 any of the following conditions exist:

533 (1) The governing board has failed for two consecutive
534 years to develop an institutional compact as required in
535 section seven, article one-d of this chapter;

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

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

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

548 (f) In addition to the powers and duties provided for in
549 subsections (a), (b), (c) and (d) of this section and any others
550 assigned to it by law, the Council has those powers and duties
551 necessary or expedient to accomplish the purposes of this
552 article; and

553 (g) When the Council and Commission, each, is required
554 to consent, cooperate, collaborate or provide input into the
555 actions of the other the following conditions apply:

556 (1) The body acting first shall convey its decision in the
557 matter to the other body with a request for concurrence in the
558 action;

559 (2) The Commission or the Council, as the receiving
560 body, shall place the proposal on its agenda and shall take
561 final action within sixty days of the date when the request for
562 concurrence is received; and

563 (3) If the receiving body fails to take final action within
564 sixty days, the original proposal stands and is binding on both
565 the Commission and the Council.

**ARTICLE 2C. WEST VIRGINIA COMMUNITY AND
TECHNICAL COLLEGE.**

§18B-2C-1. Legislative findings; intent.

1 (a) *Legislative findings.* --

2 (1) The Legislature hereby finds that for nearly two
3 decades legislation has been enacted having as a principal
4 goal creation of a strong, effective system of community and
5 technical education capable of meeting the needs of the
6 citizens of the state. In furtherance of that goal, the
7 Legislature has passed the following major pieces of
8 legislation:

9 (A) Enrolled Senate Bill 420, passed during the regular
10 session of one thousand nine hundred eighty-nine,
11 reorganized the governance structure of public higher
12 education and created the Joint Commission for
13 Vocational-technical-occupational Education to bridge the
14 gap between secondary and post-secondary vocational,
15 technical, and occupational education;

16 (B) Enrolled Senate Bill 377, passed during the regular
17 session of one thousand nine hundred ninety-three, adopted
18 goals and objectives for public post-secondary education,
19 addressed the needs of nontraditional students, directed the
20 institutions to include an assessment of work force
21 development needs in their master plans and established the
22 resource allocation model and policies to aid governing
23 boards and institutions in meeting the established goals and
24 objectives;

25 (C) Enrolled Senate Bill 547, passed during the regular
26 session of one thousand nine hundred ninety-five, established
27 goals and funding for faculty and staff salaries, required the
28 governing boards to establish community and technical
29 education with the administrative, programmatic and
30 budgetary control necessary to respond to local needs and
31 provided that community and technical college budgets be
32 appropriated to a separate control account;

33 (D) Enrolled Senate Bill 653, passed during the regular
34 session of two thousand, established the Commission to
35 develop a public policy agenda for higher education in
36 conjunction with state leaders, set forth the essential
37 conditions that must be met by each community and technical
38 college in the state, and mandated that most component
39 community and technical colleges move to independent
40 accreditation.

41 (E) Enrolled Senate Bill 703, passed during the regular
42 session of two thousand one, authorized the creation of a
43 statewide community and technical college to provide
44 leadership and technical support to the community and
45 technical colleges to aid them in achieving independent
46 accreditation, enhance their ability to serve the interests of
47 the people of West Virginia, and focus attention on achieving
48 established state goals.

49 (F) Enrolled House Bill 2224, passed during the regular
50 session of two thousand three, created New River
51 Community and Technical College of Bluefield State College
52 as a multi-campus institution from existing community and
53 technical college components, branches and off-campus
54 delivery sites in order to give greater cohesiveness, emphasis
55 and priority to meeting the essential conditions pursuant to
56 section three, article three-c of this chapter and to provide
57 greater access to high-quality programs in the institution's
58 expanded service district.

59 (G) Enrolled Senate Bill 448, passed during the regular
60 session of two thousand four, established the West Virginia
61 Council for Community and Technical College Education as
62 a separate coordinating agency with authority over state
63 community and technical colleges, branches, centers,
64 regional centers, and other delivery sites with a community
65 and technical college mission.

66 (2) The *Market Street Report*, the *McClenney Report*, and
67 the *Implementation Board Report*, cited in article two-b of
68 this chapter, each reflects recent research and indicates that,
69 while these legislative actions cited above have helped the
70 state to make progress in certain areas of higher education,
71 they have not offered a complete solution to the problems of
72 community and technical colleges.

73 (b) *Intent.* -- Therefore, the intent of the Legislature in
74 enacting these pieces of legislation is as follows:

75 (1) To provide logical steps in the process of developing
76 strong institutions capable of delivering community and
77 technical education to meet the needs of the state. Each act
78 may be viewed as a building block added to the foundation
79 laid by earlier legislation;

80 (2) To create a mechanism whereby the Council, if
81 necessary, can assure through its own direct action that the
82 goals established in articles one, one-d, and three-c of this
83 chapter are met; and

84 (3) To authorize the Council to create the West Virginia
85 Community and Technical College to serve the interests of
86 the people of West Virginia by advancing the public policy
87 agenda developed pursuant to article two-b of this chapter.
88 If the Council makes a determination under the provisions of
89 this section that it is necessary or expedient to create the

90 statewide community and technical college, the following
91 goals are the specific focus of the college and its governing
92 board:

93 (A) To encourage development of a statewide mission
94 that raises education attainment, increases adult literacy,
95 promotes work force and economic development, and ensures
96 access to post-secondary education for every region of the
97 state;

98 (B) To provide oversight or governance of the
99 community and technical colleges, branches, centers,
100 regional centers, and other delivery sites with a community
101 and technical college mission;

102 (C) To provide leadership, support and coordination; and

103 (D) To protect and expand the local autonomy and
104 flexibility necessary for community and technical colleges to
105 succeed.

**§18B-2C-3. Authority and duty of Council to determine
progress of community and technical colleges;
conditions; authority to create West Virginia
community and technical college.**

1 (a) The Council annually shall review and analyze all the
2 state community and technical colleges, and any branches,
3 centers, regional centers or other delivery sites with a
4 community and technical college mission, to determine their
5 progress toward meeting the goals, objectives, priorities, and
6 essential conditions established in articles one, one-d and
7 three-c of this chapter.

8 (b) The analysis required in subsection (a) of this section
9 shall be based, in whole or in part, upon the findings made

10 pursuant to the rule establishing benchmarks and indicators
11 promulgated by the Council pursuant to section six, article
12 two-b of this chapter.

13 (c) Based upon their analysis in subsections (a) and (b) of
14 this section, the Council shall make a determination whether
15 any one or more of the following conditions exists:

16 (1) A community and technical college required to do so
17 has not achieved or is not making sufficient, satisfactory
18 progress toward achieving the essential conditions, including
19 independent accreditation;

20 (2) One or more of the public community and technical
21 colleges, branches, centers, regional centers and other
22 delivery sites with a community and technical college
23 mission requires financial assistance or other support to meet
24 the goals and essential conditions set forth in this chapter;

25 (3) It is in the best interests of the people of the state or
26 a region within the state to have a single, accredited
27 institution which can provide an umbrella of statewide
28 accreditation;

29 (4) One or more of the state community and technical
30 colleges, branches, centers, regional centers or other delivery
31 sites with a community and technical college mission
32 requests from the Council the type of assistance which can
33 best be delivered through implementation of the provisions
34 of section four of this article. Institutional requests that may
35 be considered by the Council include, but are not limited to,
36 assistance in seeking and/or attaining independent
37 accreditation, in meeting the goals, priorities and essential
38 conditions established in articles one, one-d and three-c of
39 this chapter, or in establishing and implementing regional
40 networks.

41 (5) One or more state community and technical colleges,
42 branches, centers, regional centers or other delivery sites with
43 a community and technical college mission has not achieved,
44 or is not making sufficient, satisfactory progress toward
45 achieving, the goals, objectives and essential conditions
46 established in articles one, one-d, and three-c of this chapter;
47 and

48 (6) The Council determines that it is in the best interests
49 of the people of the state or a region of the state to create a
50 statewide, independently accredited community and technical
51 college.

52 (d) The Council may not make a determination subject to
53 the provisions of this section that a condition does not exist
54 based upon a finding that the higher education entity lacks
55 sufficient funds to make sufficient, satisfactory progress.

56 (e) By the first day of December annually, the Council
57 shall prepare and file with the Legislative Oversight
58 Commission on Education Accountability a written report on
59 the findings and determinations required by this section,
60 together with a detailed history of any actions taken by the
61 Council under the authority of this article.

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

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

1 (a) *Relationship between the Commission and the*
2 *governing boards. —*

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

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

13 (3) The Commission has specific responsibilities which
14 include, but are not limited to, the following:

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

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

23 (b) *Relationship between the Council and the governing*
24 *boards. —*

25 (1) The Council maintains all powers and duties assigned
26 to it by law or policy relating to the institution known as
27 Marshall Community and Technical College, the institution
28 known as The Community and Technical College at West
29 Virginia University Institute of Technology and the
30 institution known as West Virginia University at
31 Parkersburg;

32 (2) The Council functions as a coordinating board for the
33 institutions under its jurisdiction which make up the
34 statewide network of independently-accredited community
35 and technical colleges. In addition to recognizing the
36 authority assigned by law to the Council and abiding by rules
37 duly promulgated by the Council relating to the community
38 and technical colleges, it is the responsibility of the
39 governing boards of Marshall University and West Virginia
40 University to exercise their authority and carry out their
41 responsibilities in a manner that is consistent with and
42 complementary to the powers and duties assigned by law or
43 policy to the community and technical colleges or to the
44 Council;

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

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-5. Appointment of community and technical college presidents.

1 (a) The administrative head of a community and technical
2 college is the president who is chosen pursuant to the terms
3 of section six, article one-b of this chapter.

4 (b) Any individual employed as provost, president, or
5 divisional administrative head of a community and technical
6 college on the thirtieth day of June, two thousand eight,
7 which institution becomes independent on the effective date
8 of this section, continues as the administrative head of the
9 institution and becomes the community and technical college

10 president on the first day of July, two thousand eight, subject
11 to the provisions of section six, article one-b of this chapter.

**§18B-3C-8. Legislative findings and intent; statewide network
of independently accredited community and
technical colleges; operations and administration.**

1 (a) *Legislative findings.* --

2 (1) The Legislature has enacted legislation, beginning
3 with Enrolled Senate Bill No. 653, passed during the two
4 thousand regular session, and continuing with Enrolled
5 Senate Bill No. 703, passed during the two thousand one
6 regular session, Enrolled House Bill No. 2224, passed during
7 the two thousand three regular session, and Enrolled Senate
8 Bill No. 448, passed during the two thousand four regular
9 session, the purpose of which is to strengthen the state's
10 community and technical colleges, clarify their core mission
11 and establish essential conditions to be met, and ensure the
12 most effective delivery of services to business, industry, and
13 West Virginia citizens in every region of the state.

14 (2) The primary goal of the Legislature is to create a
15 statewide network of independently accredited community
16 and technical colleges that focuses on technical education,
17 workforce training, and lifelong learning for the Twenty-first
18 Century, consistent with the goals, objectives, priorities and
19 essential conditions established in articles one, one-d and
20 three-c of this chapter.

21 (3) A necessary precedent to accomplishing the
22 legislative goal is to change the way that leaders at all levels
23 of education, including institutional governing boards, view
24 community and technical colleges. Specifically, that the
25 mission of community and technical colleges is different

26 from that of traditional four-year colleges in what they seek
27 to accomplish and how they can achieve it effectively and
28 that the state can not compete successfully in today's
29 information-driven, technology-based economy if community
30 and technical colleges continue to be viewed as add-ons or
31 afterthoughts attached to the baccalaureate institutions.

32 (b) *Legislative intent.* --

33 (1) Therefore, it is the intent of the Legislature that the
34 statewide network of independently-accredited community
35 and technical colleges as a whole and each independent
36 community and technical college individually provide the
37 following types of services as part of the core institutional
38 mission:

39 (A) Career and technical education certificate, associate
40 of applied science, and selected associate of science degree
41 programs for students seeking immediate employment,
42 individual entrepreneurship skills, occupational development,
43 skill enhancement and career mobility;

44 (B) Transfer education associate of arts and associate of
45 science degree programs for students whose educational goal
46 is to transfer into a baccalaureate degree program with
47 particular emphasis on reaching beyond traditional college-
48 age students to unserved or underserved adult populations;

49 (C) Developmental/remedial education courses, tutorials,
50 skills development labs, and other services for students who
51 need to improve their skills in mathematics, English, reading,
52 study skills, computers and other basic skill areas;

53 (D) Work force development education contracted with
54 business and industry to train or retrain employees;

55 (E) Continuing development assistance and education
56 credit and noncredit courses for professional and self-
57 development, certification and licensure, and literacy
58 training; and

59 (F) Community service workshops, lectures, seminars,
60 clinics, concerts, theatrical performances and other noncredit
61 activities to meet the cultural, civic and personal interests and
62 needs of the community the institution serves.

63 (2) It is further the intent of the Legislature that each
64 community and technical college focus special attention on
65 programmatic delivery of their core mission services to
66 unserved and underserved populations to achieve established
67 state objectives. These include the following as highest
68 priorities:

69 (A) Increasing the number of adults age twenty-five and
70 above who participate in post-secondary education;

71 (B) Developing technical programs that meet the
72 documented occupational needs of West Virginia's
73 employers;

74 (C) Providing workforce development programs by
75 implementing the Adult Career Pathways Model, which
76 provides opportunities for the following:

77 (i) Adults to earn certifications through the completion
78 of skill-sets;

79 (ii) Ordered progression from skill-sets and certifications
80 to one-year certificate programs and progression from one-
81 year certificate degrees to Associate of Applied Science
82 Degree programs, and

83 (iii) Students to exit at any stage of completion in order
84 to enter employment with the option of continuing the
85 pathway progression at a later time and/or on a part-time
86 basis.

87 (D) Offering programs in various time frames other than
88 the traditional semester delivery model and at different
89 locations, including work sites, convenient to working adults;

90 (E) Providing technical programs in modules or
91 “chunks”, defined in competencies required for employment,
92 and tied to certification and licensing requirements.

93 (F) Entering into collaborative programs that recognize
94 high-quality training programs provided through labor
95 unions, registered apprenticeships, and industry-sponsored
96 training programs with the goal of enabling more adults to
97 earn a college credential;

98 (G) Developing innovative approaches to improve the
99 basic and functional literacy rates of West Virginians in all
100 regions of the state;

101 (H) Developing “bridge programs” for disadvantaged
102 youth and adults to enable them to acquire the skills
103 necessary to be successful in education and training programs
104 that lead to high-skills, high-wage jobs; and

105 (I) Providing access to post-secondary education through
106 the delivery of developmental education for those individuals
107 academically under-prepared for college-level work.

108 (c) In fulfillment of the purposes and intent defined in
109 subsections (a) and (b) of this section, there is continued a
110 statewide network of independently accredited community

111 and technical colleges serving every region of the state. Each
112 free-standing and independent community and technical
113 college is strongly encouraged to serve as a higher education
114 center for its region by brokering with other colleges,
115 universities and providers, in-state and out-of-state, both
116 public and private, to afford the most coordinated access to
117 needed programs and services by students, employers and
118 other clients, to achieve the goals, objectives, and essential
119 conditions established in articles one, one-d, and three-c of
120 this chapter, and to ensure the most efficient use of scarce
121 resources.

122 (d) *Statewide network of independently accredited*
123 *community and technical colleges. --*

124 (1) By the first day of July, two thousand nine, each
125 governing board of a community and technical college which
126 became independent on the first day of July, two thousand
127 eight, shall make a determination by majority vote of the
128 board whether to keep the current name for its respective
129 institution or to select a new name. If a governing board
130 chooses to select a new name, any reference in this code to
131 that institution by a name in use prior to the first day of July,
132 two thousand nine, means the institution under the name
133 designated by its board of governors.

134 (2) The statewide network of independently accredited
135 community and technical colleges is comprised of the
136 following independent state institutions of higher education
137 under the jurisdiction of the Council:

138 (A) *Blue Ridge Community and Technical College. --*

139 Blue Ridge Community and Technical College is an
140 independently accredited state institution of higher education.

141 The president and the governing board of the community and
142 technical college are responsible for maintaining independent
143 accreditation and adhering to the essential conditions
144 pursuant to section three of this article.

145 (B) *The Community and Technical College at West*
146 *Virginia University Institute of Technology.* --

147 (i) The Community and Technical College at West
148 Virginia University Institute of Technology is an
149 independently accredited state institution of higher education
150 which may maintain an association with West Virginia
151 University Institute of Technology, a division of West
152 Virginia University, or directly with West Virginia
153 University, subject to the provisions of section twelve of this
154 article. The president and the governing board of the
155 community and technical college are responsible for
156 maintaining independent accreditation and adhering to the
157 essential conditions pursuant to section three of this article.

158 (ii) West Virginia University Institute of Technology may
159 continue associate degree programs in areas of particular
160 institutional strength which are closely articulated to its
161 baccalaureate programs and missions or which are of a
162 high-cost nature and can best be provided in direct
163 coordination with a baccalaureate institution. Any such
164 program shall be delivered under the authority of the Council
165 and through contract with the community and technical
166 college. The terms of the contract shall be negotiated
167 between the governing boards of the community and
168 technical college and West Virginia University Institute of
169 Technology or directly with West Virginia University, as
170 appropriate. The final contract may not be implemented until
171 approved by the Council except that any contract between the
172 community and technical college and West Virginia

173 University Institute of Technology or West Virginia
174 University related to program delivery under the terms of this
175 section in effect on the first day of July, two thousand eight,
176 shall continue in effect until the first day of July, two
177 thousand nine, unless amended or revoked before that date by
178 mutual agreement of the contract parties with approval by the
179 Council. Such a program shall be evaluated according to the
180 benchmarks and indicators for community and technical
181 college education developed by the Council. If the Council
182 determines that the program is making insufficient progress
183 toward accomplishing the benchmarks, the program shall
184 thereafter be delivered by the community and technical
185 college.

186 (iii) *Dual credit course delivery agreements.* --

187 (I) Nothing in this article alters or abrogates any
188 agreement in place on the effective date of this section
189 between West Virginia University Institute of Technology
190 and The Community and Technical College at West Virginia
191 University Institute of Technology relating to delivery of dual
192 credit courses as defined in section two, article one of this
193 chapter;

194 (II) The community and technical college may deliver
195 technical courses that are part of a certificate or associate
196 degree program as early entrance or dual credit courses for
197 high school students; and

198 (III) Subject to an agreement between the baccalaureate
199 institution and the community and technical college, the latter
200 may deliver early entrance and dual credit courses as defined
201 in section two, article one of this chapter to students in high
202 schools which are not served by the baccalaureate institution.

203 (C) *Eastern West Virginia Community and Technical*
204 *College.* --

205 Eastern West Virginia Community and Technical College
206 is a free-standing state institution of higher education seeking
207 independent accreditation. The president and the governing
208 board of Eastern Community and Technical College are
209 responsible for achieving independent accreditation and
210 adhering to the essential conditions pursuant to section three
211 of this article.

212 (D) *Marshall Community and Technical College.* --

213 (i) Marshall Community and Technical College is an
214 independently accredited state institution of higher education
215 which may maintain an association with Marshall University
216 subject to the provisions of section twelve of this article. The
217 president and the governing board of the community and
218 technical college are responsible for maintaining independent
219 accreditation and adhering to the essential conditions
220 pursuant to section three of this article.

221 (ii) Marshall University may continue associate degree
222 programs in areas of particular institutional strength which
223 are closely articulated to its baccalaureate programs and
224 missions or which are of a high-cost nature and can best be
225 provided in direct coordination with a baccalaureate
226 institution. Any such program shall be delivered under the
227 authority of the Council and through contract with Marshall
228 Community and Technical College. The terms of the
229 contract shall be negotiated between the governing boards of
230 the community and technical college and Marshall
231 University. The final contract may not be implemented until
232 approved by the Council except that any contract between the
233 community and technical college and Marshall University

234 related to program delivery under the terms of this section in
235 effect on the first day of July, two thousand eight, shall
236 continue in effect until the first day of July, two thousand
237 nine, unless amended or revoked before that date by mutual
238 agreement of the contract parties with approval by the
239 Council. Such a program shall be evaluated according to the
240 benchmarks and indicators for community and technical
241 college education developed by the Council. If the Council
242 determines that the program is making insufficient progress
243 toward accomplishing the benchmarks, the program shall
244 thereafter be delivered by Marshall Community and
245 Technical College.

246 (iii) *Dual credit course delivery agreements.* --

247 (I) Nothing in this article alters or abrogates any
248 agreement in place on the effective date of this section
249 between Marshall University and Marshall Community and
250 Technical College relating to delivery of dual credit courses
251 as defined in section two, article one of this chapter;

252 (II) The community and technical college may deliver
253 technical courses that are part of a certificate or associate
254 degree program as early entrance or dual credit courses for
255 high school students; and

256 (III) Subject to an agreement between the baccalaureate
257 institution and the community and technical college, the latter
258 may deliver early entrance and dual credit courses as defined
259 in section two, article one of this chapter to students in high
260 schools which are not served by the baccalaureate institution.

261 (E) *New River Community and Technical College.* --

262 (i) New River Community and Technical College is an
263 independently accredited state institution of higher education

264 which may maintain an association with Bluefield State
265 College subject to the provisions of section twelve of this
266 article. The community and technical college is
267 headquartered in Beckley and incorporates the campuses of
268 Greenbrier Community College Center of New River
269 Community and Technical College and Nicholas Community
270 College Center of New River Community and Technical
271 College.

272 (ii) The president and the governing board of New River
273 Community and Technical College are responsible for
274 maintaining independent accreditation and adhering to the
275 essential conditions pursuant to section three of this article.

276 (iii) Bluefield State College may continue associate
277 degree programs in areas of particular institutional strength
278 which are closely articulated to its baccalaureate programs
279 and missions or which are of a high-cost nature and can best
280 be provided through direct coordination with a baccalaureate
281 institution. Any such program shall be delivered under the
282 authority of the Council and through contract with the
283 community and technical college. The terms of the contract
284 shall be negotiated between the governing boards of the
285 community and technical college and Bluefield State College.
286 The final contract may not be implemented until approved by
287 the Council except that any contract between the community
288 and technical college and Bluefield State College related to
289 program delivery under the terms of this section in effect on
290 the first day of July, two thousand eight, shall continue in
291 effect until the first day of July, two thousand nine, unless
292 amended or revoked before that date by mutual agreement of
293 the contract parties with approval by the Council. Such a
294 program shall be evaluated according to the benchmarks and
295 indicators for community and technical college education
296 developed by the Council. If the Council determines that the
297 program is making insufficient progress toward

298 accomplishing the benchmarks, the program shall thereafter
299 be delivered by New River Community and Technical
300 College.

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

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

325 (F) *Pierpont Community and Technical College. --*

326 (i) Pierpont Community and Technical College is an
327 independent state institution of higher education seeking
328 independent accreditation. The president and the governing
329 board of Pierpont Community and Technical College,

330 assisted by the president and governing board of Fairmont
331 State University, are responsible for the community and
332 technical college achieving independent accreditation and
333 adhering to the essential conditions pursuant to sections three
334 and thirteen of this article.

335 (ii) Fairmont State University may continue associate
336 degree programs in areas of particular institutional strength
337 which are closely articulated to their baccalaureate programs
338 and missions or which are of a high-cost nature and can best
339 be provided in direct coordination with a baccalaureate
340 institution. Any such program shall be delivered under the
341 authority of the Council and through contract with the
342 community and technical college. The terms of the contract
343 shall be negotiated between the Council and the governing
344 board of Fairmont State University. The final contract may
345 not be implemented until approved by the Council except that
346 any contract between the community and technical college
347 and Fairmont State University related to program delivery
348 under the terms of this section in effect on the first day of
349 July, two thousand eight, shall continue in effect until the
350 first day of July, two thousand nine, unless amended or
351 revoked before that date by mutual agreement of the contract
352 parties with approval by the Council. Such a program shall
353 be evaluated according to the benchmarks and indicators for
354 community and technical college education developed by the
355 Council. Such a program shall be evaluated according to the
356 benchmarks and indicators for community and technical
357 college education developed by the Council. If the Council
358 determines that the program is making insufficient progress
359 toward accomplishing the benchmarks, the program shall
360 thereafter be delivered by the community and technical
361 college.

362 (iii) *Dual credit course delivery agreements.* --

363 (I) Nothing in this article alters or abrogates any
364 agreement in place on the effective date of this section
365 between Fairmont State University and Pierpont Community
366 and Technical College relating to delivery of dual credit
367 courses as defined in section two, article one of this chapter;

368 (II) The community and technical college may deliver
369 technical courses that are part of a certificate or associate
370 degree program as early entrance or dual credit courses for
371 high school students; and

372 (III) Subject to an agreement between the baccalaureate
373 institution and the community and technical college, the latter
374 may deliver early entrance and dual credit courses as defined
375 in section two, article one of this chapter to students in high
376 schools which are not served by the baccalaureate institution.

377 (G) *Southern West Virginia Community and Technical*
378 *College.* -- Southern West Virginia Community and
379 Technical College is an independently-accredited, free-
380 standing state institution of higher education. The president
381 and the governing board of Southern West Virginia
382 Community and Technical College are responsible for
383 maintaining independent accreditation and adhering to the
384 essential conditions pursuant to section three of this article.

385 (H) *West Virginia Northern Community and Technical*
386 *College.* -- West Virginia Northern Community and
387 Technical College is an independently-accredited, free-
388 standing state institution of higher education. The president
389 and the governing board of the community and technical
390 college are responsible for maintaining independent
391 accreditation and adhering to the essential conditions
392 pursuant to section three of this article.

393 (I) *West Virginia State Community and Technical*
394 *College.* --

395 (i) West Virginia State Community and Technical
396 College is an independently accredited state institution of
397 higher education which may maintain an association with
398 West Virginia State University subject to the provisions of
399 section twelve of this article. The president and the
400 governing board of the community and technical college are
401 responsible for maintaining independent accreditation and
402 adhering to the essential conditions pursuant to section three
403 of this article.

404 (ii) West Virginia State University may continue
405 associate degree programs in areas of particular institutional
406 strength which are closely articulated to its baccalaureate
407 programs and missions or which are of a high-cost nature and
408 can best be provided in direct coordination with a
409 baccalaureate institution. Any such program shall be
410 delivered under the authority of the Council and through
411 contract with the community and technical college. The
412 terms of the contract shall be negotiated between the
413 governing boards of the community and technical college and
414 West Virginia State University. The final contract may not
415 be implemented until approved by the Council except that
416 any contract between the community and technical college
417 and West Virginia State University related to program
418 delivery under the terms of this section in effect on the first
419 day of July, two thousand eight, shall continue in effect until
420 the first day of July, two thousand nine, unless amended or
421 revoked before that date by mutual agreement of the contract
422 parties with approval by the Council. Such a program shall
423 be evaluated according to the benchmarks and indicators for
424 community and technical college education developed by the
425 Council. If the Council determines that the program is
426 making insufficient progress toward accomplishing the
427 benchmarks, the program shall thereafter be delivered by the
428 community and technical college.

429 (iii) *(Dual credit course delivery agreements. --*

430 (I) Nothing in this article alters or abrogates any
431 agreement in place on the effective date of this section
432 between West Virginia State University and West Virginia
433 State Community and Technical College relating to delivery
434 of dual credit courses as defined in section two, article one of
435 this chapter;

436 (II) The community and technical college may deliver
437 technical courses that are part of a certificate or associate
438 degree program as early entrance or dual credit courses for
439 high school students; and

440 (III) Subject to an agreement between the baccalaureate
441 institution and the community and technical college, the latter
442 may deliver early entrance and dual credit courses as defined
443 in section two, article one of this chapter to students in high
444 schools which are not served by the baccalaureate institution.

445 (J) *West Virginia University at Parkersburg. --*

446 (i) West Virginia University at Parkersburg is an
447 independently accredited state institution of higher education
448 which may maintain an association with West Virginia
449 University subject to the provisions of section twelve of this
450 article. The president and the governing board of the
451 community and technical college are responsible for
452 maintaining independent accreditation and adhering to the
453 essential conditions pursuant to section three of this article.

454 (ii) Any contract between the community and technical
455 college and West Virginia University related to program
456 delivery under the authority of the Council or related to
457 delivery of baccalaureate programs, in effect on the first day
458 of July, two thousand eight, shall continue in effect unless

459 amended or revoked by mutual agreement of the contract
460 parties with approval by the Council.

461 (iii) In recognition of the unique and essential part West
462 Virginia University at Parkersburg plays in providing
463 education services in its region, the community and technical
464 college may continue delivering baccalaureate degree
465 programs offered at the institution on the effective date of
466 this section, may implement additional baccalaureate
467 programs with the approval of the Commission and is
468 strongly encouraged:

469 (I) To continue and expand its role as a higher education
470 center pursuant to subsection (c) of this section; and

471 (II) To broker from West Virginia University and other
472 higher education institutions, as appropriate, additional
473 baccalaureate level degree programs the community and
474 technical college determines are needed in its service region.

475 (III) Any baccalaureate degree programs offered at the
476 community and technical college shall be delivered under the
477 authority of the Commission. The program shall be
478 evaluated according to the benchmarks and indicators for
479 baccalaureate education developed by the Commission.

**§18B-3C-12. Relationship between independent community
and technical colleges and former sponsoring
institutions.**

1 (a) *Intent and purposes.* --

2 (1) It is the intent of the Legislature to establish
3 community and technical colleges in every region of the state
4 that meet the essential conditions of section three of this
5 article and focus on achieving established state goals and
6 objectives.

7 (2) This section defines the relationship between a
8 community and technical college which was administratively
9 linked to a sponsoring institution prior to the first day of July,
10 two thousand eight.

11 (b) Where an independent community and technical
12 college was linked administratively to a sponsoring state
13 college or university, or was designated as a regional campus
14 or a division of another accredited state institution of higher
15 education, prior to the first day of July, two thousand eight
16 the following conditions apply:

17 (1) The community and technical college shall be
18 accredited separately from the former sponsoring institution;

19 (2) All state funding allocations for the community and
20 technical college shall be transferred directly to the
21 community and technical college.

22 (3) The former sponsoring institution and the community
23 and technical college shall agree to the fees the former
24 sponsoring institution may charge for administrative
25 overhead costs.

26 (A) The fee schedule model agreed to by the institutions
27 shall delineate services to be provided and the fees to be
28 charged to the community and technical colleges for the
29 services;

30 (B) The fee schedule shall be based upon the reasonable
31 and customary fee for any service, shall bear a rational
32 relationship to the cost of providing the service.

33 (C) Any contract between a community and technical
34 college and its former sponsoring institution related to
35 provision of services pursuant to subsection (c) of this section

36 in effect on the first day of July, two thousand eight, shall
37 continue in effect until the first day of July, two thousand
38 nine, unless amended or revoked before that date by mutual
39 agreement of the contracting parties.

40 (D) The former sponsoring institution shall continue to
41 provide services pursuant to subsection (c) of this section as
42 the governing board of the community and technical college
43 considers appropriate under a negotiated contractual
44 arrangement until the first day of July, two thousand eleven
45 or the governing boards of both institutions mutually agree to
46 end the contract arrangement.

47 (4) An independent community and technical college and
48 the institution from which it obtains services may customize
49 the fee schedule model to fit their needs.

50 (5) Policies shall be formally established to ensure the
51 separation of academic and faculty personnel policies of the
52 community and technical college from those of the former
53 sponsoring institution. These policies include, but are not
54 limited to, appointment, promotion, workload and, if
55 appropriate, tenure; and

56 (c) The former sponsoring institution which was
57 administratively linked to a community and technical college
58 prior to the first day of July, two thousand eight, shall
59 provide the following services subject to the provisions of
60 subsection (b) of this section:

61 (1) Personnel management;

62 (2) Recordkeeping;

63 (3) Payroll;

64 (4) Accounting;

65 (5) Legal services;

66 (6) Registration;

67 (7) Student aid;

68 (8) Student records; and

69 (9) Any other services determined to be necessary and
70 appropriate by the board of governors of the former
71 sponsoring institution and the board of governors of the
72 community and technical college.

73 (d) Any disputes between an independent community and
74 technical college and its former sponsoring institution,
75 regarding their respective rights and responsibilities under
76 this chapter of the code, which cannot be resolved by the
77 governing boards, shall be resolved as follows:

78 (1) The matters in dispute shall be summarized in writing
79 and submitted to the chancellors jointly for resolution;

80 (2) If the matters in dispute cannot be resolved by the
81 chancellors within thirty days, they shall be submitted to the
82 Council and Commission for resolution;

83 (3) If the Commission and Council jointly cannot reach
84 a resolution following their first regularly scheduled meeting
85 or within sixty days, whichever is sooner, the chairpersons of
86 the Commission and Council respectively shall establish a
87 three-person panel to hear the matters and issue a decision
88 within thirty days:

89 (A) The three-person panel is comprised of one person
90 appointed by the chairperson of the Commission, one person
91 appointed by the chairperson of the Council, and one person
92 appointed jointly by the two chairpersons.

93 (B) The decision rendered by the three-person panel is
94 binding on the governing boards, Commission and Council,
95 and may not be challenged in the courts of this state.

96 (e) The governing board of the community and technical
97 college and the Council are responsible for the development
98 of the community and technical college and for compliance
99 with the essential conditions, all as required by this article.

100 (f) The president of the community and technical college
101 has such responsibilities, powers and duties in the
102 development of the community and technical college and in
103 compliance with the essential conditions, as directed by the
104 governing board or as are necessary for the proper
105 implementation of the provisions of this act.

106 (g) Notwithstanding any other provision of this code to
107 the contrary, the Commission shall take necessary steps to
108 ensure that institutional bonded indebtedness is secure and
109 that each community and technical college assumes its fair
110 share of any institutional debt acquired while it was part of
111 the baccalaureate institution.

112 (h) The community and technical college is encouraged
113 to secure academic services from the former sponsoring
114 institution when it is in their best interests and beneficial to
115 the students to be served. In determining whether or not to
116 secure services from the former sponsoring institution, the
117 community and technical college shall consider the
118 following:

119 (1) The cost of the academic services;

120 (2) The quality of the academic services;

121 (3) The availability, both as to time and place, of the
122 academic services; and

123 (4) Such other considerations as the community and
124 technical college finds appropriate taking into account the
125 best interests of the students to be served, the community and
126 technical college, and the former sponsoring institution.
127 Nothing in this article prohibits any state institution of higher
128 education from purchasing or brokering remedial or
129 developmental courses from a community and technical
130 college.

**§18B-3C-13. Legislative intent; Pierpont Community and
Technical College established as independent
state institution of higher education;
governing board; institutional organization,
structure, accreditation status.**

1 (a) The intent of the Legislature in enacting this section
2 is to provide for the most effective education delivery system
3 for community and technical education programs to the entire
4 region to be served by Pierpont Community and Technical
5 College and to focus the institutional mission on achieving
6 state goals, objectives, priorities, and essential conditions as
7 established in articles one, one-d, and three-c of this chapter.

8 (b) Pierpont Community and Technical College is
9 established as an independent state institution of higher
10 education. Any reference in this code to Fairmont State
11 Community and Technical College or to Pierpont
12 Community and Technical College, a division of Fairmont
13 State University, means the independent state institution of

14 higher education known as Pierpont Community and
15 Technical College.

16 (c) Effective the first day of July, two thousand eight, the
17 board of advisors for Pierpont Community and Technical
18 College is the governing board for that institution subject to
19 the provisions of article two-a of this chapter. The
20 administrative head of Pierpont Community and Technical
21 College on the thirtieth day of June, two thousand eight, is
22 the president of the independent community and technical
23 college subject to the provisions of section five of this article.

24 (d) In the delivery of community and technical college
25 education and programs, Pierpont Community and Technical
26 College shall adhere to all provisions set forth in this code
27 and rules promulgated by the Council for the delivery of
28 education and programs, including, but not limited to,
29 Council review and approval of academic programs,
30 institutional compacts, master plans and tuition and fee rates,
31 including capital fees.

32 (e) Pierpont Community and Technical College shall
33 pursue independent accreditation status and the board of
34 governors of the community and technical college shall
35 provide through contractual arrangement for the
36 administration and operation of Pierpont Community and
37 Technical College by Fairmont State University while the
38 community and technical college seeks appropriate
39 independent accreditation. The contractual arrangement may
40 not be implemented until approved by the Council and shall
41 include provisions to ensure that the programs offered at
42 Pierpont Community and Technical College are accredited
43 while independent accreditation is being sought. Fairmont
44 State University shall continue to provide services to the
45 community and technical college which the community and
46 technical college or the Council considers necessary or

47 expedient in carrying out its mission under the terms of an
48 agreement between the two institutions pursuant to the
49 provisions of section twelve of this article.

50 (f) The Council has the authority and the duty to take all
51 steps necessary to assure that the institution acquires
52 independent accreditation status as quickly as possible. If the
53 community and technical college fails to achieve independent
54 accreditation by the first day of July, two thousand eleven,
55 the Council shall sever any contractual agreement between
56 Pierpont Community and Technical College and Fairmont
57 State University and assign the responsibility for achieving
58 independent accreditation to another state institution of
59 higher education.

**§18B-3C-14. Findings; intent; advanced technology centers
established; administration; boards of advisors.**

1 (a) *Findings.* --

2 (1) The Legislature finds that ninety percent of the high-
3 demand, high-wage new economy occupations require
4 education and training beyond high school. Technology has
5 permeated every industry requiring higher skill levels for
6 technician-level occupations. Technician skills, learning
7 capacities and adaptability to changing technologies affect
8 the viability both of individual employers and entire
9 industries. Unless West Virginia takes immediate steps to
10 produce additional skilled workers to replace the aging and
11 retiring workforce, the state faces a critical shortage of
12 technician-level workers which it must have to ensure
13 economic growth. State employers must have access to a
14 technically proficient workforce able to keep pace with the
15 changing nature of occupations in the global economy and
16 educating and training this technician-level workforce is a
17 vital component in the state's plan for economic
18 development.

19 (2) The Legislature further finds that establishment of
20 advanced technology centers will increase the capacity of
21 West Virginia's community and technical colleges to deliver
22 state-of-the-art technical education and training. The centers
23 will serve as models for the most effective delivery of
24 technician-level education and training with the potential to
25 develop programs of excellence that attract participants from
26 outside the state adding to their value as an economic
27 stimulus. The centers serve as catalysts for state and regional
28 economic development by educating and training a highly
29 skilled technical workforce capable of meeting both the
30 current and emerging needs of West Virginia employers.

31 (b) *Legislative intent.* --

32 (1) It is the intent of the Legislature to establish advanced
33 technology centers to provide advanced instruction capable
34 of meeting the current and future demands of occupations
35 requiring technical skills including the following:

36 (A) Addressing skills sets needed for emerging and high
37 technology businesses and industries which are of vital
38 importance to expanding the economy of the State;

39 (B) Training and retraining personnel for West Virginia's
40 new and existing business and industries;

41 (C) Providing instruction in strategic technical program
42 areas that advances the economic development initiatives of
43 the state and regions within the state by providing access to
44 a skilled workforce for companies expanding or locating in
45 West Virginia;

46 (D) Providing a setting for collaboration in the delivery
47 of technical programs among community and technical
48 colleges, secondary career-technical education and
49 baccalaureate institutions;

50 (E) Invigorating teaching by providing models for
51 program delivery that can be shared and replicated at all state
52 community and technical colleges; and

53 (F) Developing student interest in pursuing technical
54 occupations through exposure to advanced technologies.

55 (2) It is further the intent of the Legislature that
56 programming offered by the centers be driven by the needs
57 of state and local employers and economic development
58 considerations. Centers shall be constructed with the
59 flexibility to accommodate various programs simultaneously
60 and to react quickly to adjust programming as employer and
61 economic development demands change. They are furnished
62 with state-of-the-art equipment conducive to delivering
63 advanced technology programs and to providing students
64 with real-world experiences that reflect industry standards.
65 Education and training at the centers includes delivery of
66 credit and non-credit instruction, seminars, skill sets, industry
67 recognized certifications, certificates and associate degree
68 programs. Curricula is designed in modular and other
69 innovative formats allowing for open entry and open exit,
70 compressed time frames, skill upgrades, and easy transfer
71 from career-technical centers and other education providers.
72 Centers shall embrace and promote collaborative
73 programming among community and technical colleges and
74 other providers of education and training programs and serve
75 as receiving sites for programs to be delivered by community
76 and technical colleges utilizing distance education, simulation
77 and other collaborative, innovative approaches to increase the
78 capacity of the community and technical college network to
79 deliver technical education.

80 (c) *Boards of Advisors.* --

81 (1) There is hereby established a board of advisors for
82 each advanced technology center in the state specifically to
83 provide advice, assistance and programmatic oversight to the
84 president of the community and technical college, director of
85 the center, and others involved in its operation in areas
86 relevant to program delivery and general operation of the
87 center. In order to be successful, each center must act
88 assertively to develop collaborative partnerships with
89 employers, community and technical colleges in its service
90 region, and local economic development entities. It is the
91 responsibility of the board of advisors to promote this vital
92 participation.

93 (A) For a center which has a single participating
94 community and technical college in its service region, the
95 board of governors of the institution is designated as the
96 board of advisors for the center.

97 (B) For a center which has more than one participating
98 community and technical college in its service region, the
99 board of advisors consists of eleven members, of which a
100 minimum of seven shall represent employers located in the
101 region served by the center.

102 (i) The advisory board provides guidance to all governing
103 boards and consists of the following members:

104 (I) Two members from the board of governors of each
105 participating community and technical college which is
106 located in the center's service region, appointed by the board
107 of governors of each institution.

108 (II) One member representing regional economic
109 development entities, appointed by the Council, with advice
110 from the governing boards of the appropriate community and
111 technical colleges; and

112 (III) Sufficient at-large members appointed by the
113 Council, with advice from the governing boards of the
114 appropriate community and technical colleges, to fill the
115 remaining seats equal to a membership of eleven.

116 (ii) Members of an advisory board serve staggered terms
117 of up to four years beginning on the first day of September,
118 two thousand eight, except that five of the initial
119 appointments to an advisory board are for terms of two years
120 and six of the initial appointments are for terms of four years.
121 Each member who qualifies under the provisions of this
122 section may serve for no more than one additional term. The
123 Council shall fill a vacancy in an unexpired term of a
124 member for the unexpired term within thirty days of the
125 occurrence of the vacancy in the same manner as the original
126 appointment.

127 (iii) The chancellor for community and technical college
128 education shall call the first meeting of the board of advisors
129 and shall serve as chairperson until a permanent chairperson
130 is elected.

131 (iv) The president of each community and technical
132 college located in the center's service region shall make
133 resources available for conducting the business of the
134 center's board of advisors. The presidents of the institutions
135 shall work collaboratively to provide support for conducting
136 board business.

137 (2) Each board of advisors, including each board of
138 governors when sitting as a board of advisors, shall hold at
139 least one regular meeting during each quarter of the fiscal
140 year including an annual meeting in June for the purpose of
141 electing a chairperson and other officers as the board
142 considers appropriate.

143 (A) Additional meetings may be held at the call of the
144 chairperson or upon written request of five or more members
145 of the advisory board.

146 (B) Officers serve a term of one year beginning on the
147 first day of July and ending on the thirtieth day of June,
148 except for the fiscal year beginning on the first day of July,
149 two thousand eight, terms begin on the first day of
150 September, two thousand eight and end on the thirtieth day of
151 June, two thousand nine.

152 (C) One of the members representing employers shall be
153 elected to serve as chairperson at the annual meeting in June
154 except, for the fiscal year beginning on the first day of July,
155 two thousand eight, the chairperson and other officers shall
156 be elected in September, two thousand eight, and their terms
157 shall expire on the thirtieth day of June, two thousand nine.
158 A member may not serve as chairperson for more than two
159 consecutive terms.

§18B-3C-15. Transition oversight.

1 (a) The Legislative Oversight Commission on Education
2 Accountability is charged with responsibility to monitor and
3 oversee implementation of the policy changes required by
4 this act.

5 (b) The responsibilities include, but are not limited to, the
6 following:

7 (1) Reviewing the overall progress of the Council, the
8 Commission and state institutions of higher education in
9 implementing the provisions of this act;

10 (2) Monitoring the development of the rules related to
11 financing policy and benchmarks and indicators pursuant to
12 section six, article two-b of this chapter;

13 (3) Monitoring the development of the statewide master
14 plan for community and technical college education and the
15 institutional compacts pursuant to sections five and seven,
16 article one-d of this chapter;

17 (4) Monitoring the development of the Council's state
18 compact pursuant to section six, article one-d of this chapter;
19 and

20 (5) Monitoring the changes in institutional relationships
21 including development or changes in contractual
22 arrangements for services pursuant to section twelve of this
23 article and delivery of dual credit and baccalaureate-level
24 courses;

25 (c) The provisions of this section expire the thirtieth day
26 of June, two thousand nine.

ARTICLE 8. HIGHER EDUCATION FULL-TIME FACULTY SALARIES.

§18B-8-3. Faculty salary policies; reductions in salary prohibited; salary increase upon promotion in rank.

1 (a) Each governing board shall establish and maintain a
2 faculty salary policy that is competitive and which furthers
3 the goals of attracting, retaining and rewarding high quality
4 faculty.

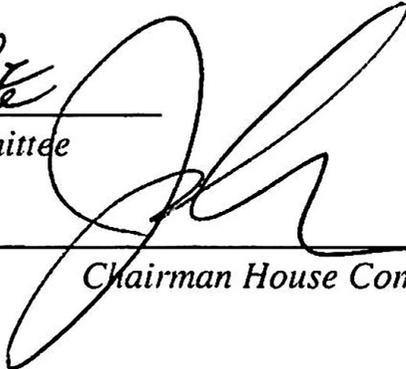
5 (b) The salary of any full-time faculty member may not
6 be reduced by the provisions of this article.

7 (c) Upon promotion in rank, each faculty member shall
8 receive a salary increase of ten percent.

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



Chairman Senate Committee



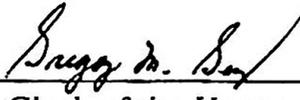
Chairman House Committee

Originating in the House.

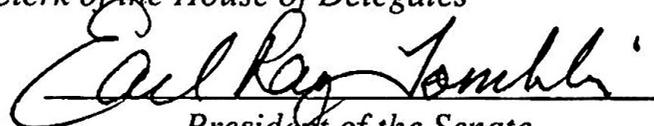
In effect July 1, 2008.



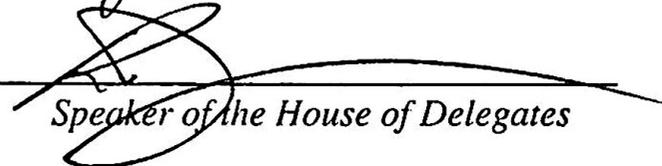
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March, 2008.



Governor

PRESENTED TO THE
GOVERNOR

MAR 20 2008

Time 2:10 pm