

ENROLLED
COMMITTEE SUBSTITUTE
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.

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

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

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

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

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

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

(f) "Higher education institution" means any institution as defined by Sections

401(f), (g) and (h) of the federal Higher Education Facilities Act of 1963, as amended;

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

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

(i) "Chancellor for Community and Technical College Education" means the chief executive officer of the West Virginia Council for Community and Technical College Education employed pursuant to section three, article two-b of this chapter;

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

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

(l) "Community and technical college education program" means any college-level course or program beyond the high school level provided through a public institution of higher education resulting in or which may result in a two-year associate degree award including an associate of arts, an associate of science and an associate of applied science; certificate programs and skill sets; developmental education;

continuing education; collegiate credit and noncredit workforce development programs; and transfer and baccalaureate parallel programs. All programs are under the jurisdiction of the Council. Any reference to "post-secondary vocational education programs" means community and technical college education programs as defined in this subsection;

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

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

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

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

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

(r) "Institutional compact" means the compact between the Commission or Council and a state institution of higher education under its jurisdiction, as described in

section six, article one-d of this chapter;

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

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

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

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

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

(x) "Council" means the West Virginia Council for Community and Technical

College Education created pursuant to article two-b of this chapter;

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

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

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

(bb) “Independent community and technical college” means a state institution of higher education under the jurisdiction of the Council which is independently accredited or seeking independent accreditation, is governed by its own independent governing board, and may not be operated as a branch or off-campus location of any other state institution of higher education. This definition includes Blue Ridge Community and Technical College, The Community and Technical College at West Virginia University Institute of Technology, Eastern West Virginia Community and Technical College, Marshall Community and Technical College, New River Community and Technical

College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, West Virginia State Community and Technical College, and West Virginia University at Parkersburg.

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

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

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

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

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

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

(a) *Appointment of institutional presidents.* -- Appointment of presidents of the

state institutions of higher education shall be made as follows:

(1) The initial contract term for a president of a state institution of higher education may not exceed two years. At the end of the initial contract period, and subject to the provisions of subsection (c) of this section, the governing board may offer the president a contract of longer duration, but not to exceed five years.

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

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

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

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

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

(5) Subject to the approval of the Council, the governing board of the community and technical college appoints a president for Blue Ridge Community and Technical

College, The Community and Technical College at West Virginia University Institute of Technology, Eastern West Virginia Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, West Virginia State Community and Technical College, and West Virginia University at Parkersburg.

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

(c) *Evaluation of presidents.* --

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

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

of this section.

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

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

(a) West Virginia University Institute of Technology is a fully integrated division of West Virginia University. All administrative and academic units are consolidated with primary responsibility for direction and support assigned to West Virginia University. The advisory board previously appointed for West Virginia University Institute of Technology is known as the board of visitors and shall provide guidance to the division in fulfilling its mission. The chairperson of the board of visitors serves as an ex-officio,

voting member of the West Virginia University Board of Governors.

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

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

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

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

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

(g) By the first day of November, two thousand six, and annually thereafter for a

period of four years, the West Virginia University Board of Governors shall prepare and submit a report to the Commission and Legislative Oversight Commission on Education Accountability on progress being made to implement the provisions of this article.

(h) West Virginia University Institute of Technology shall develop or maintain baccalaureate degree programs as 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.

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

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

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

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

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

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

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

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

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

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

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

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

Board of Visitors of West Virginia University Institute of Technology.

(6) For each institutional board of governors of the other state institutions of

higher education, nine lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section.

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

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

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

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

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

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

(j) A vacancy in an unexpired term of a member shall be filled for the unexpired

term within thirty days of the occurrence of the vacancy in the same manner as the original appointment or election. Except in the case of a vacancy, all elections shall be held and all appointments shall be made no later than the thirtieth day of June preceding the commencement of the term. Each board of governors shall elect one of its appointed lay members to be chairperson in June of each year except for the fiscal year beginning on the first day of July, two thousand eight only, when the board shall elect the chairperson in July. A member may not serve as chairperson for more than four consecutive years.

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

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

(1) For a baccalaureate institution or university, a person is ineligible for appointment who is an officer, employee or member of any other board of governors, an employee of any institution of higher education; an officer or member of any political party executive committee; the holder of any other public office or public employment under the government of this state or any of its political subdivisions; an employee of any affiliated research corporation created pursuant to article twelve of this chapter; an employee of any affiliated foundation organized and operated in support of one or more state institutions of higher education; or a member of the Council or Commission. This subsection does not prevent the representative from the faculty, classified employees,

students, or the superintendent of a county board of education from being members of the governing boards.

(2) For a community and technical college, a person is ineligible for appointment who is an officer, employee or member of any other board of governors; a member of a board of visitors of any public institution of higher education; an employee of any institution of higher education; an officer or member of any political party executive committee; the holder of any other public office, other than an elected county office, or public employment, other than employment by the county board of education, under the government of this state or any of its political subdivisions; an employee of any affiliated research corporation created pursuant to article twelve of this chapter; an employee of any affiliated foundation organized and operated in support of one or more state institutions of higher education; or a member of the Council or Commission. This subsection does not prevent the representative from the faculty, classified employees, students, or chairpersons of the boards of advisors from being members of the governing boards.

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

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

(o) The president of the institution shall make available resources of the

institution for conducting the business of its board of governors. The members of the board of governors serve without compensation, but are reimbursed for all reasonable and necessary expenses actually incurred in the performance of official duties under this article upon presentation of an itemized sworn statement of expenses. All expenses incurred by the board of governors and the institution under this section are paid from funds allocated to the institution for that purpose.

§18B-2A-2. Meetings.

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

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

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

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

Each governing board separately has the following powers and duties:

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

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

(1) The ultimate responsibility for developing and updating the master plans at

the institutional level resides with the board of governors, but the ultimate responsibility for approving the final version of the institutional master plans, including periodic updates, resides with the Commission or Council, as appropriate.

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

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

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

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

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

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

(d) Direct the preparation of a budget request for the institution under its

jurisdiction, which relates directly to missions, goals and projections as found in the institutional master plan and the institutional compact;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) Delegate, with prescribed standards and limitations, the part of its power and control over the business affairs of the institution to the president in any case where it considers the delegation necessary and prudent in order to enable the institution to function in a proper and expeditious manner and to meet the requirements of its master plan and institutional compact. If a governing board elects to delegate any of its power and control under the provisions of this subsection, it shall enter the delegation in the minutes of the meeting when the decision was made and shall notify the Commission or Council, as appropriate. Any delegation of power and control may be rescinded by the appropriate governing board, the Commission or Council, as appropriate, at any time, in whole or in part, except that the Commission may not revoke delegations of authority made by the governing boards of Marshall University or West Virginia University as they

relate to the state institutions of higher education known as Marshall University and West Virginia University;

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

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

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

(w) Notwithstanding any other provision of this code to the contrary, transfer funds from any account specifically appropriated for its use to any corresponding line

item in a general revenue account at any agency or institution under its jurisdiction as long as such transferred funds are used for the purposes appropriated;

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

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

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

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

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

(1) Marshall Community and Technical College;

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

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

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

(5) West Virginia University at Parkersburg.

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

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

(d) Each newly established board of governors and each appropriate institution formerly sponsoring a community and technical college shall jointly agree on a division of all assets and liabilities. If the boards of governors are unable to reach agreement concerning a division of assets and liabilities on or before the first day of December, two thousand eight, the boards of governors shall submit a summary of issues in dispute to

the Commission and the Council which shall jointly resolve all outstanding issues concerning the division of assets and liabilities.

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

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

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

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

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

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

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

(g) Each former sponsoring institution and community and technical college shall

enter into a comprehensive agreement to address the division of assets and liabilities and the allocation of revenues and expenditures between former sponsoring institutions and newly independent community and technical colleges.

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

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

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

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

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

(3) The institutions shall agree to allocate educational and general and auxiliary capital fees in excess of those needed to cover bonded indebtedness to ensure that assets of both institutions are maintained in proper repair and that the institutions

assume responsibility for a reasonable share of the total costs of maintaining the facilities.

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

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

(B) If certain community and technical college students were required to live in institution housing consistent with rules or policies in effect on the effective date of this section, the former sponsoring institution may continue to require these students to live in institution housing for at least one year.

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

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

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

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

(4) The adequacy of the transition plan.

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

(a) The Council is the sole agency responsible for administration of vocational-technical-occupational education and community and technical college education in the state. The Council has jurisdiction and authority over the community and technical colleges and the statewide network of independently accredited community and technical colleges as a whole, including community and technical college education programs as defined in section two, article one of this chapter.

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

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

(2) The rules pertaining to financing policy and benchmarks and indicators required by this section shall be filed with the Legislative Oversight Commission on Education Accountability by the first day of October, two thousand eight. Nothing in

this subsection requires other rules of the Council to be promulgated again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless such rules are rescinded, revised, altered or amended; and

(3) The Legislature finds that an emergency exists and, therefore, the Council shall propose an emergency rule or rules to implement the provisions of this section relating to the financing policy and benchmarks and indicators in accordance with section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code by the first day of October, two thousand eight. The emergency rule or rules may not be implemented without prior approval of the Legislative Oversight Commission on Education Accountability.

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

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

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

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

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

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

the following criteria:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Fulfill the mandates of the accountability system established in article one-d

of this chapter and report on progress in meeting established goals, objectives, and priorities to the elected leadership of the state;

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

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

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

(B) In carrying out institutional missions; and

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

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

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

The annual report shall address at least the following:

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

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

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

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

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

(13) Acquire legal services that are considered necessary, including representation of the Council, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the Council may, but is not required to, call upon the attorney general for legal assistance and representation as provided by law;

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

(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the Council consistent with the provisions of section two, article four of

this chapter;

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

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

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

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

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

(21) Seek out and attend regional and national meetings and forums on education and workforce development-related topics, as Council members consider critical for the performance of their duties. The Council shall keep abreast of national

and regional community and technical college education trends and policies to aid members in developing the policies for this state that meet the education goals and objectives established in articles one and one-d of this chapter;

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

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

(24) Assume the prior authority of the Commission in examining and approving tuition and fee increase proposals submitted by community and technical college governing boards as provided in section one, article ten of this chapter.

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

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

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

(C) Considers the progress of each institution toward meeting the goals objectives, and priorities established in article one-d of this chapter and its approved

institutional compact;

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

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

(28) Foster coordination among all state-level, regional and local entities providing post-secondary vocational education or workforce development and coordinate all public institutions and entities that have a community and technical college mission;

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

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

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

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

- (A) Defining faculty roles and personnel policies;
 - (B) Delivering high-cost technical education programs across the state;
 - (C) Providing one-stop service for workforce training to be delivered by multiple institutions; and
 - (D) Providing opportunities for resource-sharing and collaborative ventures;
- (33) Provide support and technical assistance to develop, coordinate, and deliver effective and efficient community and technical college education programs and services in all regions of the state;
- (34) Assist the community and technical colleges in establishing and promoting links with business, industry and labor in the geographic areas for which each community and technical college is responsible;
- (35) Develop alliances among the community and technical colleges for resource sharing, joint development of courses and courseware, and sharing of expertise and staff development;
- (36) Serve aggressively as an advocate for development of a seamless curriculum;
- (37) Cooperate with all providers of education services in the state to remove barriers relating to a seamless system of public and higher education and to transfer and articulation between and among community and technical colleges, state colleges and universities and public education, preschool through grade twelve;
- (38) Encourage the most efficient use of available resources;
- (39) Coordinate with the Commission in informing public school students, their parents and teachers of the academic preparation that students need in order to be prepared adequately to succeed in their selected fields of study and career plans,

including presentation of academic career fairs;

(40) Jointly with the Commission, approve and implement a uniform standard, as developed by the chancellors, to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which the governing boards shall communicate to the State Board of Education and the State Superintendent of Schools;

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

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

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

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

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

rules;

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

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

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

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

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

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

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

In distributing funds the Council shall use the following guidelines:

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

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

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

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

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

(54) Promote the delivery of vocational-technical-occupational education, adult basic education and community and technical college education programs in the state which emphasize the involvement of business, industry and labor organizations;

(55) Promote public participation in the provision of

vocational-technical-occupational education, adult basic education and community and technical education at the local level, emphasizing programs which involve the participation of local employers and labor organizations;

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

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

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

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

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

(61) Determine when a joint rule among the governing boards of the community

and technical colleges is necessary or required by law and, in those instances and in consultation with the governing boards, promulgate the joint rule;

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

- (A) Comparisons with peer institutions;
- (B) Differences among institutional missions;
- (C) Strategies for promoting student access;
- (D) Consideration of charges to out-of-state students; and
- (E) Any other policies the Commission and Council consider appropriate;

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

(64) Implement a policy jointly with the Commission whereby any course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement.

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

(1) Planning and policy leadership including a distinct and visible role in setting the state's policy agenda for the delivery of community and technical college education

and in serving as an agent of change;

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

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

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

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

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

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

(8) Jointly with the Commission, development, establishment and implementation of policies for licensing and oversight of both public and private degree-granting and

nondegree-granting institutions that provide post-secondary education courses or programs.

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

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

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

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

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

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

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

(f) In addition to the powers and duties provided for in subsections (a), (b), (c) and (d) of this section and any others assigned to it by law, the Council has those

powers and duties necessary or expedient to accomplish the purposes of this article;
and

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

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

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

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

ARTICLE 2C. WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE.

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

(a) *Legislative findings.* --

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

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

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

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

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

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

(F) Enrolled House Bill 2224, passed during the regular session of two thousand three, created New River Community and Technical College of Bluefield State College

as a multi-campus institution from existing community and technical college components, branches and off-campus delivery sites in order to give greater cohesiveness, emphasis and priority to meeting the essential conditions pursuant to section three, article three-c of this chapter and to provide greater access to high-quality programs in the institution's expanded service district.

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

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

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

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

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

(3) To authorize the Council to create the West Virginia Community and Technical College to serve the interests of the people of West Virginia by advancing the public policy agenda developed pursuant to article two-b of this chapter. If the Council makes a determination under the provisions of this section that it is necessary or expedient to create the statewide community and technical college, the following goals are the specific focus of the college and its governing board:

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

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

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

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

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

(b) The analysis required in subsection (a) of this section shall be based, in

whole or in part, upon the findings made pursuant to the rule establishing benchmarks and indicators promulgated by the Council pursuant to section six, article two-b of this chapter.

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

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

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

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

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

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

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

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

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

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

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

(2) The primary responsibility of the Commission is to work collaboratively with the governing boards to research, develop and propose policy that will achieve the

established goals and objectives set forth in this chapter and chapter eighteen-c of this code; and

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

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

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

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

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

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

(c) The governing boards shall work collaboratively with the Commission, the Council and their staff to provide any and all information requested by the Commission or the 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.

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

(b) Any individual employed as provost, president, or divisional administrative head of a community and technical college on the thirtieth day of June, two thousand eight, which institution becomes independent on the effective date of this section, continues as the administrative head of the institution and becomes the community and technical college president on the first day of July, two thousand eight, subject 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.

(a) *Legislative findings.* --

(1) The Legislature has enacted legislation, beginning with Enrolled Senate Bill No. 653, passed during the two thousand regular session, and continuing with Enrolled Senate Bill No. 703, passed during the two thousand one regular session, Enrolled House Bill No. 2224, passed during the two thousand three regular session, and Enrolled Senate Bill No. 448, passed during the two thousand four regular session, the purpose of which is to strengthen the state's community and technical colleges, clarify their core mission and establish essential conditions to be met, and ensure the most

effective delivery of services to business, industry, and West Virginia citizens in every region of the state.

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

(3) A necessary precedent to accomplishing the legislative goal is to change the way that leaders at all levels of education, including institutional governing boards, view community and technical colleges. Specifically, that the mission of community and technical colleges is different from that of traditional four-year colleges in what they seek to accomplish and how they can achieve it effectively and that the state can not compete successfully in today's information-driven, technology-based economy if community and technical colleges continue to be viewed as add-ons or afterthoughts attached to the baccalaureate institutions.

(b) Legislative intent. --

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

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

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

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

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

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

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

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

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

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

(C) Providing workforce development programs by implementing the Adult

Career Pathways Model, which provides opportunities for the following:

- (i) Adults to earn certifications through the completion of skill-sets;
 - (ii) Ordered progression from skill-sets and certifications to one-year certificate programs and progression from one-year certificate degrees to Associate of Applied Science Degree programs, and
 - (iii) Students to exit at any stage of completion in order to enter employment with the option of continuing the pathway progression at a later time and/or on a part-time basis.
- (D) Offering programs in various time frames other than the traditional semester delivery model and at different locations, including work sites, convenient to working adults;
- (E) Providing technical programs in modules or “chunks”, defined in competencies required for employment, and tied to certification and licensing requirements.
- (F) Entering into collaborative programs that recognize high-quality training programs provided through labor unions, registered apprenticeships, and industry-sponsored training programs with the goal of enabling more adults to earn a college credential;
- (G) Developing innovative approaches to improve the basic and functional literacy rates of West Virginians in all regions of the state;
- (H) Developing “bridge programs” for disadvantaged youth and adults to enable them to acquire the skills necessary to be successful in education and training programs that lead to high-skills, high-wage jobs; and
- (I) Providing access to post-secondary education through the delivery of

developmental education for those individuals academically under-prepared for college-level work.

(c) In fulfillment of the purposes and intent defined in subsections (a) and (b) of this section, there is continued a statewide network of independently accredited community and technical colleges serving every region of the state. Each free-standing and independent community and technical college is strongly encouraged to serve as a higher education center for its region by brokering with other colleges, universities and providers, in-state and out-of-state, both public and private, to afford the most coordinated access to needed programs and services by students, employers and other clients, to achieve the goals, objectives, and essential conditions established in articles one, one-d, and three-c of this chapter, and to ensure the most efficient use of scarce resources.

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

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

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

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

Blue Ridge Community and Technical College is an independently accredited state institution of higher education. The president and the governing board of the community and technical college are responsible for maintaining independent accreditation and adhering to the essential conditions pursuant to section three of this article.

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

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

(ii) West Virginia University Institute of Technology may continue associate degree programs in areas of particular institutional strength which are closely articulated to its baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the Council and through contract with the community and technical college. The terms of the contract shall be negotiated between the governing boards of the community and technical college and West Virginia University Institute of Technology or directly with West Virginia University, as

appropriate. The final contract may not be implemented until approved by the Council except that any contract between the community and technical college and West Virginia University Institute of Technology or West Virginia University related to program delivery under the terms of this section in effect on the first day of July, two thousand eight, shall continue in effect until the first day of July, two thousand nine, unless amended or revoked before that date by mutual agreement of the contract parties with approval by the Council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the Council. If the Council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by the community and technical college.

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

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

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

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

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

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

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

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

(ii) Marshall University may continue associate degree programs in areas of particular institutional strength which are closely articulated to its baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the Council and through contract with Marshall Community and Technical College. The terms of the contract shall be negotiated between the governing boards of the community and technical college and Marshall University. The final contract may not be implemented until approved by the Council except that any contract between the community and technical college and Marshall University related to program delivery under the terms of this section in effect on the first day of July, two thousand eight, shall continue in effect until the first day of July, two

thousand nine, unless amended or revoked before that date by mutual agreement of the contract parties with approval by the Council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the Council. If the Council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by Marshall Community and Technical College.

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

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

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

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

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

(i) New River Community and Technical College is an independently accredited state institution of higher education which may maintain an association with Bluefield State College subject to the provisions of section twelve of this article. The community and technical college is headquartered in Beckley and incorporates the campuses of Greenbrier Community College Center of New River Community and Technical College

and Nicholas Community College Center of New River Community and Technical College.

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

(iii) Bluefield State College may continue associate degree programs in areas of particular institutional strength which are closely articulated to its baccalaureate programs and missions or which are of a high-cost nature and can best be provided through direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the Council and through contract with the community and technical college. The terms of the contract shall be negotiated between the governing boards of the community and technical college and Bluefield State College. The final contract may not be implemented until approved by the Council except that any contract between the community and technical college and Bluefield State College related to program delivery under the terms of this section in effect on the first day of July, two thousand eight, shall continue in effect until the first day of July, two thousand nine, unless amended or revoked before that date by mutual agreement of the contract parties with approval by the Council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the Council. If the Council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by New River Community and Technical College.

(iv) Bluefield State College may continue the associate of science degree in nursing which is an existing nationally accredited associate degree program in an area

of particular institutional strength and which is closely articulated to the baccalaureate program and mission. The program is of a high-cost nature and can best be provided through direct administration by a baccalaureate institution. This program may not be transferred to New River Community and Technical College or any other community and technical college as long as the program maintains national accreditation and is seamlessly coordinated into the baccalaureate program at the institution.

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

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

(i) Pierpont Community and Technical College is an independent state institution of higher education seeking independent accreditation. The president and the governing board of Pierpont Community and Technical College, assisted by the president and governing board of Fairmont State University, are responsible for the community and technical college achieving independent accreditation and adhering to the essential conditions pursuant to sections three and thirteen of this article.

(ii) Fairmont State University may continue associate degree programs in areas of particular institutional strength which are closely articulated to their baccalaureate programs and missions or which are of a high-cost nature and can best be provided in

direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the Council and through contract with the community and technical college. The terms of the contract shall be negotiated between the Council and the governing board of Fairmont State University. The final contract may not be implemented until approved by the Council except that any contract between the community and technical college and Fairmont State University related to program delivery under the terms of this section in effect on the first day of July, two thousand eight, shall continue in effect until the first day of July, two thousand nine, unless amended or revoked before that date by mutual agreement of the contract parties with approval by the Council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the Council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the Council. If the Council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by the community and technical college.

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

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

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

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

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

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

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

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

(ii) West Virginia State University may continue associate degree programs in

areas of particular institutional strength which are closely articulated to its baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution. Any such program shall be delivered under the authority of the Council and through contract with the community and technical college. The terms of the contract shall be negotiated between the governing boards of the community and technical college and West Virginia State University. The final contract may not be implemented until approved by the Council except that any contract between the community and technical college and West Virginia State University related to program delivery under the terms of this section in effect on the first day of July, two thousand eight, shall continue in effect until the first day of July, two thousand nine, unless amended or revoked before that date by mutual agreement of the contract parties with approval by the Council. Such a program shall be evaluated according to the benchmarks and indicators for community and technical college education developed by the Council. If the Council determines that the program is making insufficient progress toward accomplishing the benchmarks, the program shall thereafter be delivered by the community and technical college.

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

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

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

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

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

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

(ii) Any contract between the community and technical college and West Virginia University related to program delivery under the authority of the Council or related to delivery of baccalaureate programs, in effect on the first day of July, two thousand eight, shall continue in effect unless amended or revoked by mutual agreement of the contract parties with approval by the Council.

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

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

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

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

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

(a) *Intent and purposes.* --

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

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

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

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

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

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

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

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

(C) Any contract between a community and technical college and its former sponsoring institution related to provision of services pursuant to subsection (c) of this section in effect on the first day of July, two thousand eight, shall continue in effect until the first day of July, two thousand nine, unless amended or revoked before that date by mutual agreement of the contracting parties.

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

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

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

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

(1) Personnel management;

(2) Recordkeeping;

(3) Payroll;

(4) Accounting;

(5) Legal services;

(6) Registration;

(7) Student aid;

(8) Student records; and

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

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

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

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

(3) If the Commission and Council jointly cannot reach a resolution following their first regularly scheduled meeting or within sixty days, whichever is sooner, the

chairpersons of the Commission and Council respectively shall establish a three-person panel to hear the matters and issue a decision within thirty days:

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

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

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

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

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

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

(1) The cost of the academic services;

(2) The quality of the academic services;

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

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

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

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

(c) Effective the first day of July, two thousand eight, the board of advisors for Pierpont Community and Technical College is the governing board for that institution subject to the provisions of article two-a of this chapter. The administrative head of

Pierpont Community and Technical College on the thirtieth day of June, two thousand eight, is the president of the independent community and technical college subject to the provisions of section five of this article.

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

(e) Pierpont Community and Technical College shall pursue independent accreditation status and the board of governors of the community and technical college shall provide through contractual arrangement for the administration and operation of Pierpont Community and Technical College by Fairmont State University while the community and technical college seeks appropriate independent accreditation. The contractual arrangement may not be implemented until approved by the Council and shall include provisions to ensure that the programs offered at Pierpont Community and Technical College are accredited while independent accreditation is being sought. Fairmont State University shall continue to provide services to the community and technical college which the community and technical college or the Council considers necessary or expedient in carrying out its mission under the terms of an agreement between the two institutions pursuant to the provisions of section twelve of this article.

(f) The Council has the authority and the duty to take all steps necessary to assure that the institution acquires independent accreditation status as quickly as possible. If the community and technical college fails to achieve independent accreditation by the first day of July, two thousand eleven, the Council shall sever any

contractual agreement between Pierpont Community and Technical College and Fairmont State University and assign the responsibility for achieving independent accreditation to another state institution of higher education.

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

(a) *Findings.* --

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

(2) The Legislature further finds that establishment of advanced technology centers will increase the capacity of West Virginia's community and technical colleges to deliver state-of-the-art technical education and training. The centers will serve as models for the most effective delivery of technician-level education and training with the potential to develop programs of excellence that attract participants from outside the state adding to their value as an economic stimulus. The centers serve as catalysts for

state and regional economic development by educating and training a highly skilled technical workforce capable of meeting both the current and emerging needs of West Virginia employers.

(b) *Legislative intent.* --

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

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

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

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

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

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

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

(2) It is further the intent of the Legislature that programming offered by the centers be driven by the needs of state and local employers and economic development considerations. Centers shall be constructed with the flexibility to accommodate

various programs simultaneously and to react quickly to adjust programming as employer and economic development demands change. They are furnished with state-of-the-art equipment conducive to delivering advanced technology programs and to providing students with real-world experiences that reflect industry standards. Education and training at the centers includes delivery of credit and non-credit instruction, seminars, skill sets, industry recognized certifications, certificates and associate degree programs. Curricula is designed in modular and other innovative formats allowing for open entry and open exit, compressed time frames, skill upgrades, and easy transfer from career-technical centers and other education providers. Centers shall embrace and promote collaborative programming among community and technical colleges and other providers of education and training programs and serve as receiving sites for programs to be delivered by community and technical colleges utilizing distance education, simulation and other collaborative, innovative approaches to increase the capacity of the community and technical college network to deliver technical education.

(c) *Boards of Advisors.* --

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

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

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

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

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

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

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

(ii) Members of an advisory board serve staggered terms of up to four years beginning on the first day of September, two thousand eight, except that five of the initial appointments to an advisory board are for terms of two years and six of the initial appointments are for terms of four years. Each member who qualifies under the provisions of this section may serve for no more than one additional term. The Council shall fill a vacancy in an unexpired term of a member for the unexpired term within thirty

days of the occurrence of the vacancy in the same manner as the original appointment.

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

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

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

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

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

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

§18B-3C-15. Transition oversight.

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

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

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

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

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

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

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

(c) The provisions of this section expire the thirtieth day 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.

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

quality faculty.

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

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