

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 2558**

(By Delegates Campbell, Eldridge, Longstreth,  
Marshall, Paxton, M. Poling, Stephens, Sumner and Tabb)

[Passed March 10, 2007; in effect from passage.]

AN ACT to repeal §18B-5-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-4 of said code; to amend and reenact §18B-1B-3 of said code; to amend and reenact §18B-2A-1 of said code; to amend said code by adding thereto a new section, designated §18B-2A-9; to amend and reenact §18B-2B-3 and §18B-2B-5 of said code; to amend and reenact §18B-9-4 of said code; and to amend and reenact §18C-3-1 of said code, all relating to higher education generally; Higher Education Policy Commission; West Virginia Council for Community and Technical College Education; donation of surplus computers; authorizing Chief Technology Officer to establish donation program; requiring Chief Technology Officer to consult with and assist governing boards in creating a donation program; requiring Chief Technology Officer to study the recycling of obsolete technology; exempting donated computers from certain procedures relating to disposition of surplus property; institutional boards of governors; providing for election of officers; terms of office; meetings; authorizing certain governing boards of state institutions of higher education to create computer and computer equipment donation programs; requiring the governing boards to consult with the Chief Technology Officer prior to creating programs; providing criteria for setting chancellor's salary; authorizing institutions to provide salary increases if funds are available to certain classified employees under certain circumstances; increasing portion of a medical student loan that may be cancelled under certain circumstances; and deleting obsolete language.

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

That §18B-5-8 of the Code of West Virginia, 1931, as amended, be repealed; that §5A-6-4 of said code be amended and reenacted; that §18B-1B-3 of said code be amended and reenacted; that §18B-2A-1 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-2A-9; that §18B-2B-3 and §18B-2B-5 of said code be amended and reenacted; that §18B-9-4 of said code be amended and reenacted; and that §18C-3-1 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

### **ARTICLE 6. OFFICE OF TECHNOLOGY.**

#### **§5A-6-4. Powers and duties of the Chief Technology Officer; generally.**

- (a) With respect to all state spending units the Chief Technology Officer may:
- (1) Develop an organized approach to information resource management for this state;
  - (2) Provide, with the assistance of the Information Services and Communications Division of the Department of Administration, technical assistance to the administrators of the various state spending units in the design and management of information systems;
  - (3) Evaluate, in conjunction with the Information Services and Communications Division, the economic justification, system design and suitability of information equipment and related services, and review and make recommendations on the purchase, lease or acquisition of information equipment and contracts for related services by the state spending units;
  - (4) Develop a mechanism for identifying those instances where systems of paper forms should be replaced by direct use of information equipment and those instances where applicable state or federal standards of accountability demand retention of some paper processes;
  - (5) Develop a mechanism for identifying those instances where information systems should be linked and information shared, while providing for appropriate limitations on access and the security of information;
  - (6) Create new technologies to be used in government, convene conferences and develop incentive packages to encourage the utilization of technology;
  - (7) Engage in any other activities as directed by the Governor;
  - (8) Charge a fee to the state spending units for evaluations performed and technical assistance provided under the provisions of this section. All fees collected by the Chief Technology Officer shall be deposited in a special account in the State Treasury to be known as the Chief Technology Officer Administration Fund. Expenditures from the fund shall be made by the Chief Technology Officer for the purposes set forth in this article and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code: *Provided*, That the provisions of section eighteen, article two, chapter eleven-b of this code shall not operate to permit expenditures in excess of the spending authority authorized by the Legislature. Amounts

collected which are found to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature;

(9) Monitor trends and advances in information technology and technical infrastructure;

(10) Direct the formulation and promulgation of policies, guidelines, standards and specifications for the development and maintenance of information technology and technical infrastructure, including, but not limited to:

(A) Standards to support state and local government exchange, acquisition, storage, use, sharing and distribution of electronic information;

(B) Standards concerning the development of electronic transactions, including the use of electronic signatures;

(C) Standards necessary to support a unified approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the state receive the greatest possible security, value and convenience from investments made in technology;

(D) Guidelines directing the establishment of statewide standards for the efficient exchange of electronic information and technology, including technical infrastructure, between the public and private sectors;

(E) Technical and data standards for information technology and related systems to promote efficiency and uniformity;

(F) Technical and data standards for the connectivity, priorities and interoperability of technical infrastructure used for homeland security, public safety and health and systems reliability necessary to provide continuity of government operations in times of disaster or emergency for all state, county and local governmental units; and

(G) Technical and data standards for the coordinated development of infrastructure related to deployment of electronic government services among state, county and local governmental units;

(11) Periodically evaluate the feasibility of subcontracting information technology resources and services, and subcontract only those resources that are feasible and beneficial to the state;

(12) Direct the compilation and maintenance of an inventory of information technology and technical infrastructure of the state, including infrastructure and technology of all state, county and local governmental units, which may include personnel, facilities, equipment, goods and contracts for service, wireless tower facilities, geographic information systems and any technical infrastructure or technology that is used for law enforcement, homeland security or emergency services;

(13) Develop job descriptions and qualifications necessary to perform duties related to information technology as outlined in this article; and

(14) Promulgate legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, as may be necessary to standardize and make effective the administration of the provisions of article six of this chapter.

(b) With respect to executive agencies, the Chief Technology Officer may:

(1) Develop a unified and integrated structure for information systems for all executive agencies;

(2) Establish, based on need and opportunity, priorities and time lines for addressing the information technology requirements of the various executive agencies of state

government;

(3) Exercise authority delegated by the Governor by executive order to overrule and supersede decisions made by the administrators of the various executive agencies of government with respect to the design and management of information systems and the purchase, lease or acquisition of information equipment and contracts for related services;

(4) Draw upon staff of other executive agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies;

(5) Recommend to the Governor transfers of equipment and human resources from any executive agency and the most effective and efficient uses of the fiscal resources of executive agencies, to consolidate or centralize information-processing operations ;

(6) Create and implement a program to refurbish and donate state surplus computers which are no more than four years old from state agencies to public schools and low-income school children.

(A) The Chief Technology Officer is encouraged to collaborate with other agencies including, but not limited to, the State Board of Education; the Department of Education's Division of Technical and Adult Services; Regional Education Service Agencies; the Division of Corrections; Prison Industries; and private technology industries in creating and establishing this program.

(B) Surplus computers to be donated pursuant to this subdivision are not subject to the provisions of sections forty- four and forty-five, article three of this chapter; and

(C) The Chief Technology Officer shall consult with and provide any necessary assistance to any governing board of an institution of higher education creating a computer and computer equipment donation program under section nine, article two-a, chapter eighteen-b of this code; and

(7) Study the feasibility of recycling obsolete computers, computer equipment and other technology equipment.

(c) The Chief Technology Officer may employ the personnel necessary to carry out the work of the Office of Technology and may approve reimbursement of costs incurred by employees to obtain education and training.

(d) The Chief Technology Officer shall develop a comprehensive, statewide, four-year strategic information technology and technical infrastructure policy and development plan to be submitted to the Governor and the Joint Committee on Government and Finance. The final plan shall be submitted by the first day of June, two thousand seven. The plan shall include, but not be limited to:

(A) A discussion of specific projects to implement the plan;

(B) A discussion of the acquisition, management and use of information technology by state agencies;

(C) A discussion of connectivity, priorities and interoperability of the state's technical infrastructure with the technical infrastructure of political subdivisions and encouraging the coordinated development of facilities and services regarding homeland security, law enforcement and emergency services to provide for the continuity of government operations in times of disaster or emergency;

(D) A discussion identifying potential market demand areas in which expanded resources and technical infrastructure may be expected;

(E) A discussion of technical infrastructure as it relates to higher education and health;

(F) A discussion of the use of public-private partnerships in the development of technical

infrastructure and technology services; and

(G) A discussion of coordinated initiatives in website architecture and technical infrastructure to modernize and improve government to citizen services, government to business services, government to government relations and internal efficiency and effectiveness of services, including a discussion of common technical data standards and common portals to be utilized by state, county and local governmental units.

(e) The Chief Technology Officer shall oversee telecommunications services used by state spending units for the purpose of maximizing efficiency to the fullest possible extent. The Chief Technology Officer shall establish microwave or other networks and LATA hops; audit telecommunications services and usage; recommend and develop strategies for the discontinuance of obsolete or excessive utilization; participate in the renegotiation of telecommunications contracts; and encourage the use of technology and take other actions necessary to provide the greatest value to the state.

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

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

#### **§18B-1B-3. Meetings and compensation.**

(a) The commission shall meet as needed at the time and place specified by the call of the chairperson.

(b) The commission shall hold an annual meeting at the final, regularly scheduled meeting of each fiscal year for the purpose of electing officers. At the annual meeting, the commission shall elect from its members appointed by the governor a chairperson and other officers as it may consider necessary or desirable. All officers are elected from the citizen appointees. The chairperson and other officers are elected for a one-year term commencing on the first day of July following the annual meeting and ending on the thirtieth day of June of the following year. The chairperson of the commission may serve no more than four consecutive terms as chair.

(c) Members of the commission shall be reimbursed for actual and necessary expenses incident to the performance of their duties upon presentation of an itemized sworn statement of their expenses. The reimbursement for actual and necessary expenses shall be paid from appropriations made by the Legislature to the commission.

(d) A majority of the members constitutes a quorum for conducting the business of the commission.

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

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

(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) The institutional board of governors for Marshall University consists of sixteen persons and the institutional board of governors for West Virginia University consists of eighteen persons. Each other board of governors consists of twelve persons.

(c) 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, 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 institutional board of advisors of Marshall Community and Technical College serving as an ex officio, voting member.

(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 chairpersons of the following boards serving as ex officio, voting members:

(A) The institutional board of advisors of:

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

(ii) West Virginia University at Parkersburg; and

(B) The Board of Visitors of West Virginia University Institute of Technology.

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

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

(A) Eight 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 institutional board of advisors of the administratively linked community and technical college; and

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

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

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

of July.

(f) 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.

(g) 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.

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

(i) 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. A member may not serve as chairperson for more than four consecutive years.

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

(k) 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, a member of an institutional board of advisors 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 or public employment under the government of this state or any of its political subdivisions 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 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 an institutional board of advisors 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; 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.

(l) 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.

(m) 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.

(n) 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-9. Computer and computer equipment donation program.**

(a) Notwithstanding any other provision of this code to the contrary, the governing boards may create a program to donate surplus computers and computer-related equipment to education facilities, nonprofit organizations, juvenile detention centers, municipal and county public safety offices and other public, charitable or educational enterprises or organizations in this state.

(b) Only equipment which otherwise would be transferred to the Surplus Property Unit of the Purchasing Division may be donated;

(c) Each governing board which chooses to create a computer and computer equipment donation program pursuant to this section shall:

(1) Consult with the state's Chief Technology Officer before creating the program;

(2) Keep records and accounts that clearly identify the equipment donated, the age of the equipment, the reasons for declaring it obsolete and the name of the education facility, nonprofit organization, juvenile detention center, municipal or county public safety office or other public, charitable or educational enterprise or organization to which the equipment was donated; and

(3) Promulgate a rule in accordance with the provisions of section six, article one of this chapter to implement the donation program.

The rule shall contain at least the following:

(A) Specific procedures to be used for record keeping; and

(B) Provisions for fair and impartial selection of equipment recipients.

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

**§18B-2B-3. West Virginia Council for Community and Technical  
College Education; supervision of chancellor; chief executive officer.**

(a) There is continued the West Virginia Council for Community and Technical College Education. The council has all the powers and duties assigned by law to the Joint Commission for Vocational-Technical-Occupational Education prior to the effective date of this section and such other powers and duties as may be assigned by law.

(b) *Chancellor for Community and Technical College Education.*



(1) The council shall employ a chancellor for community and technical college education. The chancellor serves as chief executive officer of the council at the will and pleasure of the council. The chancellor is compensated at a level set by the council not to exceed eighty percent of the average annual salary of chief executive officers of the state systems of higher education in the states that comprise the membership of the Southern Regional Education Board.

(2) After the initial contract period, the council shall conduct written performance evaluations of the chancellor annually and may offer the chancellor a contract not to exceed three years. At the end of each contract period, the council shall review the evaluations and make a determination by vote of its members on continuing employment and level of compensation.

(3) When a vacancy occurs in the position of chancellor, the council shall enter into an initial employment contract for one year with the candidate selected to fill the vacancy. At the end of the initial period, the council shall make a determination by vote of its members on continuing employment and compensation level for the chancellor and shall continue thereafter as set forth in subdivision (2) of this subsection.

**§18B-2B-5. Meetings and compensation.**

(a) The council shall meet as needed at the time and place specified at the call of the chairperson. One meeting each year shall be a public forum for the discussion of the goals and standards for workforce development, economic development and vocational education in the state.

(b) The council shall hold an annual meeting at its final, regularly scheduled meeting of each fiscal year for the purpose of electing officers. At the annual meeting, the council shall elect from its voting members a chairperson and other officers as it may consider necessary or desirable. The chairperson and other officers shall be elected for one-year terms commencing on the first day of July following the annual meeting and ending on the thirtieth day of June of the following year. The chairperson of the council may serve no more than four consecutive one-year terms as chair.

(c) Members of the council serve without compensation. Members shall be 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 their expenses. An ex officio member of the council who is an employee of the state shall be reimbursed by the employing agency.

(d) A majority of the voting members constitutes a quorum for conducting the business of the council. All action taken by the council shall be by majority vote of the voting members present.

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

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

(a) The commission shall implement an equitable system of job classifications, with the advice and assistance of staff councils and other groups representing classified employees, each classification to consist of related job titles and corresponding job descriptions for each position within a classification, together with the designation of an appropriate pay grade for each job title, which system shall be the same for corresponding positions of the commission and in institutions under all governing boards. The equitable system of job classification and the rules establishing it which were in effect immediately prior to the effective date of this section are hereby transferred to the jurisdiction and authority of the commission and shall remain in effect unless modified or rescinded by the commission. (b) Any classified salary increases distributed within a state institution of higher education after the first day of July, two thousand one, shall be in accordance with the uniform classification system and a uniform and equitable salary policy adopted by each individual board of governors. Each salary policy shall detail the salary goals of the institution and the process whereby the institution will achieve or progress toward achievement of placing each classified employee at his or her minimum salary on the schedule established pursuant to section three of this article. (c) A classified employee may receive a salary in excess of the salary established by the salary schedule for his or her pay grade and years of experience only if all such employees at the institution are receiving at least the minimum salary for their pay grade and years of experience as established for them by the salary schedule: *Provided*, That any salary increase must be provided in a manner that is consistent with the uniform classification system and the institution's salary policy.

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

### **ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN PROGRAMS.**

#### **§18C-3-1. Health Education Loan Program; establishment; administration; eligibility and loan cancellation; required report.**

- (a) For the purposes of this section, "vice chancellor of administration" means the person employed pursuant to section two, article four, chapter eighteen-b of this code.
- (b) There is continued a special revolving fund account under the commission in the State Treasury to be known as the Health Education Student Loan Fund which shall be used to carry out the purposes of this section. The fund consists of:
- (1) All funds on deposit in the medical student loan fund in the state treasury or which are due or become due for deposit in the fund as obligations made under the previous enactment of this section;
  - (2) Those funds provided pursuant to the provisions of section four, article ten, chapter eighteen-b of this code;
  - (3) Appropriations provided by the Legislature;
  - (4) Repayment of any loans made under this section;
  - (5) Amounts provided by medical associations, hospitals or other medical provider organizations in this state, or by political subdivisions of the state, under an agreement which requires the recipient to practice his or her health profession in this state or in the

political subdivision providing the funds for a predetermined period of time and in such capacity as set forth in the agreement; and

(6) Other amounts which may be available from external sources.

Balances remaining in the fund at the end of the fiscal year do not expire or revert. All costs associated with administering this section shall be paid from the Health Education Student Loan Fund.

(c) The vice chancellor for administration may use any funds in the Health Education Student Loan Fund for the purposes of the Medical Student Loan Program. The commission shall give priority for the loans to residents of this state, as defined by the commission. An individual is eligible for loan consideration if the individual:

(1) Demonstrates financial need;

(2) Meets established academic standards;

(3) Is enrolled or accepted for enrollment at one of the aforementioned schools of medicine in a program leading to the degree of medical doctor (M.D.) or doctor of osteopathy (D.O.);

(4) The individual has not yet received one of the degrees provided in subdivision (3) of this subsection; and

(5) Is not in default of any previous student loan.

(d) At the end of each fiscal year, any individual who has received a medical student loan and who has rendered services as a medical doctor or a doctor of osteopathy in this state in a medically underserved area or in a medical specialty in which there is a shortage of physicians, as determined by the Division of Health at the time the loan was granted, may submit to the commission a notarized, sworn statement of service on a form provided for that purpose. Upon receipt of the statement the commission shall cancel ten thousand dollars of the outstanding loan or loans for every full twelve consecutive calendar months of such service.

(e) No later than thirty days following the end of each fiscal year, the vice chancellor for administration shall prepare and submit a report to the commission for inclusion in the statewide report card required under section eight, article one-b, chapter eighteen-b of this code to be submitted to the Legislative Oversight Commission on Education Accountability established under section eleven, article three-a, chapter twenty-nine-a of this code. At a minimum, the report shall include the following information:

(1) The number of loans awarded;

(2) The total amount of the loans awarded;

(3) The amount of any unexpended moneys in the fund; and

(4) The rate of default during the previous fiscal year on the repayment of previously awarded loans.