Implementation of the FOCUS Act in Tennessee: A Case Study

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IMPLEMENTATION OF THE FOCUS ACT IN TENNESSEE: A CASE STUDY

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DEDICATION

To Steve, Heather and Alberto, and Chris and Lisa, who always supported me on this quest, even when it meant time spent away from family.

To my parents, whose lives were constant examples of the importance of persistence, determination, and hard work.

To Aunt Normie, whose courage in being first in our family to earn a college degree proved to later generations that higher education is attainable and life changing.

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The purpose of this single-case holistic descriptive case study was to document and describe the implementation of the FOCUS Act from the perspective of presidents and senior leaders at the Tennessee universities that transitioned from system-level governance by the Tennessee Board of Regents to governance by institutional boards of trustees. The decentralization of governance mandated by the FOCUS Act is an infrequent occurrence in higher education and presented a unique opportunity to examine how the universities prepared for the governance change and how university leaders viewed the governance change after implementation.

The central research question of this study was: What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents? Supporting subquestions included: How did the universities prepare for and navigate the massive change from a system-level board to an institutional board? Post-implementation, how did university leaders perceive their institution’s readiness for the change at the time it occurred? What specific aspects of the governance change process did university leaders perceive to have gone well and what specific aspects presented challenges? What do university leaders perceive to be the challenges moving forward?

The university leaders who participated in this study perceived the FOCUS Act to have had a positive impact on their respective university and Tennessee’s higher
education environment. One major success of the FOCUS Act identified by the leaders was the value associated with having an institutional board solely focused on one university. The leaders noted a number of challenges with the FOCUS Act implementation, most of them related to the complex nature of changing roles, processes, and culture. Moving forward, the leaders anticipate potential challenges based upon future leadership changes at the university or state level, as well as challenges related to capital projects management and funding approvals and statewide data management needs.
CHAPTER I: INTRODUCTION

In April 2016, the Tennessee General Assembly passed public chapter 869, the Focus on College and University Success (FOCUS) Act (FOCUS, 2016), “providing greater autonomy for universities in pursuit of innovation and differentiation, while allowing the Board of Regents to sharpen its attention on technical and community college success” (Tennessee Higher Education Commission [THEC], FOCUS Act, n.d.). One of the most significant provisions of the FOCUS Act was the creation of institutional-level governing boards for six public universities governed by the Tennessee Board of Regents (TBR), with the THEC continuing to function as the coordinating agency for all public universities, community colleges, and colleges of applied technology (THEC, About THEC, n.d.).

During the three years since the passage of the FOCUS Act, the transition from system-level board governance (pre-FOCUS) to institutional-level board governance (post-FOCUS) for the six universities required changes at the institutional and state level in structure, processes, policies, and personnel, and shifts in the day-to-day work of individuals at the universities, the TBR, the THEC, various state offices, and the General Assembly.

Purpose of the Study

The purpose of this descriptive case study was to document and describe the implementation of the FOCUS Act in Tennessee from the perspective of the presidents and senior leaders at the six universities that transitioned from system-level governance to governance by institutional boards of trustees with the passage of the FOCUS Act.
Research Questions

In qualitative research, Creswell (2007) recommends the use of a “single, overarching question and several subquestions” (p. 108). The central research question of this study is: What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents? Supporting subquestions include:

1. How did the universities prepare for and navigate the massive change from a system-level board to an institutional board?
2. Post-implementation, how do university leaders perceive their institution’s readiness for the change at the time it occurred?
3. What specific aspects of the governance change process do university leaders perceive to have gone well and what specific aspects presented challenges?
4. What do university leaders perceive to be the challenges moving forward?

General Methodology

This study is a qualitative case study. As noted earlier, the change in governance structure in Tennessee is uncommon, with Tennessee and Oregon the only two states to implement this type of governance change in recent history. Because of the uniqueness of the situation and its particular interest to higher education stakeholders, it is an appropriate setting for intrinsic case study methodology, where the focus of the study is on the case itself (Creswell, 2007; Stake, 1995).

This intrinsic case study included interviews with university presidents and other key administrators at the state universities formerly governed by the Tennessee Board of
Regents. Key administrators included the provost/chief academic officer, chief financial officer, secretary to the board of trustees, or other senior leaders. Each university president was asked to identify the leaders at their university who have been significantly involved in the governance change and/or whose roles or responsibilities have changed as a result of the governance change.

The study also incorporated an analysis of documents related to the implementation of the FOCUS Act, including but not limited to the FOCUS Act and other legislation; agendas and/or minutes of university Transition Task Forces and other university convenings; university and state websites; implementation plans; communications from university presidents, the THEC, the Tennessee Governor’s office, the TBR, and other state agencies; agendas and/or minutes from Board of Trustee meetings; the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC is the accrediting agency for all the universities) governance change request and documentation; university policy committee agenda and minutes; and news articles.

**Significance of the Study**

The decentralization of governance mandated by the FOCUS Act is an infrequent occurrence in higher education, with only Oregon (Hyatt, 2015) and Tennessee transitioning from system-level board governance to institutional-level board governance in recent history. The study presents a unique opportunity to examine how the universities prepared for the governance change and how university leaders view the governance change after implementation.

As noted by Hearn and McLendon (2012), “Systematic research interest in the governance of higher education is a remarkably recent phenomenon” (p. 45), and this
study contributes to a limited body of scholarly literature on change in higher education governance structures and can be used to inform lawmakers, higher education leaders, and institutions considering, preparing for, or undergoing a similar governance change (Marshall & Rossman, 2011).

Limitations

As with most qualitative research, due to the unique setting and phenomenon of this study, it was not pursued with the expectation that it would be generalizable to other settings (Marshall & Rossman, 2011; Slavin, 2007). However, there is a lack of existing research on higher education governance change, and the rich data that can be collected through qualitative research of the governance change in Tennessee warranted the use of a qualitative methodology for this study. Further, as Slavin (2007) noted, “If the goal of a case study is simply to determine what happened in that particular situation, then questions of generalizability may not be relevant” (p. 152). “The real business of a case study is particularization, not generalization” (Stake, 1995, p. 8).

Delimitations

Bryant (2004) defines delimitations as “the factors that prevent you from claiming that your findings are true for all people in all times and places. . . . the factors that limit the relevancy of your study to other populations or individuals” (pp. 57-58). This study focuses on the six Tennessee public universities formerly governed by the Tennessee Board of Regents. Thus, the study is delimited to the presidents of the six universities and the other senior leaders who were invited to participate in interviews for the study. If a subsequent study expands the subjects to include other participants, such as faculty, students, state lawmakers, community college presidents, or state government leaders, the
findings might differ. The study is also delimited by geographic location to the state of Tennessee; if the study was to be conducted in a different state, the findings might differ.

**Definitions**

*The Tennessee Board of Regents (TBR)* is one of two systems governing public higher education in the State of Tennessee. Prior to the implementation of the FOCUS Act, the TBR governed six public universities, 13 community colleges, and 27 colleges of applied technology. With passage of the FOCUS Act, governance of the six universities shifted to individual boards for each university.

*The Tennessee Higher Education Commission (THEC)* is the higher education coordinating body for the State of Tennessee. The THEC coordinates and provides guidance to the institutions governed by the University of Tennessee Board of Trustees, the Tennessee Board of Regents, and the six locally governed state universities.

*Locally Governed Institutions (LGIs)* are the six public universities that were governed by the Tennessee Board of Regents prior to the implementation of the FOCUS Act.

*Boards of Trustees (Trustees)* are the six institutional governing bodies created by the FOCUS Act to oversee the six universities that were governed by the Tennessee Board of Regents prior to the implementation of the FOCUS Act.

**Summary**

This study adds to the body of academic research into higher education governance, in particular the implementation of a change from system-level governance to institutional-level governance. Chapter II provides an overview of higher education
governance structures in the United States, a history of higher education governance in Tennessee, and an overview of the provisions of the FOCUS Act.
CHAPTER II: REVIEW OF THE LITERATURE

Introduction

This review of relevant literature provides an overview of state higher education governance and coordination structures in the United States, followed by a history of higher education governance and coordination in the state of Tennessee, and concludes by identifying the provisions of Tennessee’s FOCUS Act.

In the United States, the role of the federal government in higher education has generally been secondary to the role of the states and is limited to providing funding for research to colleges and universities and creating programs that provide financial aid assistance directly to students (McGuinness, 2011; Mumper, Gladieux, King, & Corrigan, 2011). Most of the public funding to public colleges and universities is provided by the state, which also creates structures for the governance and coordination of postsecondary institutions to protect the public interest and provide accountability to the citizens and legislative body of the state (Longanecker, 2006; McGuinness, 2011; Schmidtlein & Berdahl, 2011). In most states, boards charged with oversight of higher education were created by legislative action and are primarily composed of lay members appointed and/or approved by the state’s governor and/or legislature (Longanecker, 2006; Schmidtlein & Berdahl, 2011). At this point, it is important to clarify the difference between governing boards and coordinating boards. The focus of governing boards is narrower than that of coordinating boards (Longanecker, 2006). Governing boards are charged with the general oversight of one or more postsecondary institutions and have responsibilities similar to that of boards for other nonprofit organizations, to include hiring the institution’s chief executive officer, strategic planning, budgeting, stewardship
of institutional resources, awarding degrees, establishing policies, and approval of faculty tenure (McGuinness, 2011; Wellman, 2006). Wellman (2006) wrote:

> There are enduring themes about what might constitute “best practices” in institutional governance that persist in the literature, as commonly held values that shape language and behavior today. These themes include a commitment to lay governance that protects individual autonomy, respect for decentralization of control and shared governance with faculty, and support for boards that play a role of both bridge to external groups and buffer against political interference in academic decision making. Above all, governance is supposed to protect institutions from short term political trends, ensure stability, and guard the institution from intellectual fads or inappropriate control of the institution by single-interest groups. (p. 53)

The structure and scope of authority of governing boards can vary from state to state, but the categories suggested by Kerr and Gade in *The Guardians: Boards of Trustees of American Colleges and Universities* (1989) are frequently cited as one of the most useful (Hendrickson, Lane, Harris, & Dorman, 2013; McGuinness, 2011):

1. Consolidated governance systems. One board covers all two- and four-year public campuses… or one board covers all four-year campuses . . . with separate arrangements for two-year institutions . . . . These are often referred to as “superboards.”
2. Segmental systems. Separate boards cover separate types of campuses, such as research universities, comprehensive colleges and universities, and community colleges.
3. Campus-level boards. These boards are “autonomous” where they have full authority over a single campus and are not covered by a system board . . . exercise “delegated” authority where they exist within a system but can make some decisions on their own . . . [or] are “advisory” where they exist within a system but can only give advice... (Kerr & Gade, 1989, p. 116)

States may also utilize a combination of consolidated, segmental, and campus-level boards for higher education governance (McGuinness, 2011).

Coordinating boards were created as a mechanism to mediate the conflict between the interests of individual higher education institutions or systems and the broader public benefit generated by access to postsecondary education (Longanecker, 2006; Marcus,
1997). Coordinating boards focus on higher education from a statewide perspective, usually include both public and private institutions, and address the alignment of statewide postsecondary opportunities with state priorities and the efficient use of state resources (Longanecker, 2006; Marcus, 1997; McGuinness, 2011, 2015, 2016). The authority and scope of state coordinating boards varies significantly and may include tuition approval, budget recommendations, state-level higher education policy development, approval of academic programs, authorization of new institutions, and oversight of state financial aid programs (Longanecker, 2006; McGuinness, 2011).

“Although subject to periodic adjustments over the past century, the basic legal structure of most of these boards remains the same in 2015 as it was 60 years ago” (McGuinness, 2016, p. 6).

An Overview of Higher Education Governance Structures in the United States

In colonial America, the first colleges received public support so that colonists could continue to be educated for leadership roles in the ministry and other professional fields. Once the United States was established, the states continued to provide support to help sustain colleges such as “Harvard, Yale, and the University of Pennsylvania over financial rocky spots” (Rudolph, 1990, as cited in Lingenfelter, 2004, p. 48). As previously stated, in the United States each state has the authority and responsibility to provide public education to its citizens. The foundation of public higher education governance in the United States is a lay board of trustees composed of individuals from outside the higher education system (Longanecker, 2006; McGuinness, 2011). According to Hearn and McLendon (2012), the concept of a lay board began when:

Many of the founders of the colonial colleges...believed that the faculties’ control of England’s Oxford and Cambridge universities produced excessive sloth and
autonomy, so they explicitly chose instead to adopt the Scottish model of placing ultimate institutional authority in the hands of external boards. (p. 45)

While “there is and has always been enormous variation in the ways colleges and universities are governed” (Hearn & McLendon, 2012, p. 45), the board is generally vested with the power and duty to oversee management and operation of the institution or institutions they govern, with appropriate powers assigned to the institution president or chief administrator and in accordance with the concept of shared governance with institution faculty (Longanecker, 2006).

The brief overview of the history of higher education governance structures in the United States provided in this section builds upon a framework utilized by McGuinness (2016) in his report on state coordination and governance for the Education Commission of the States (ECS). McGuinness (2016) organizes the historical background into six phases:

- Phase 1: Late 19th century through end of World War II
- Phase 2: End of World War II to 1972
- Phase 3: 1972 through mid-1980s
- Phase 4: 1980s through mid-1990s
- Phase 5: Public Agenda Reforms mid-1990s to 2008

**Phase 1: Late 19th Century through end of World War II**

Early in this phase, private institutions still dominated higher education, with the exception of a handful of public universities (McGuinness, 2011, 2016). Over time, normal schools for the education of teachers were opened, and land-grant colleges and universities to provide education in agriculture and engineering were created with the
Morrill Land-Grant Act (Lingenfelter, 2004; McGuinness, 2011, 2016; Mumper et al., 2011). As more state colleges and universities were established, the state role was primarily one of providing funding, and the oversight of the schools was left to the institutional boards of trustees. A notable exception was that the normal schools and colleges of teacher preparation were generally administered by state boards of education. By the end of this period, there was some movement by states to establish governance systems and state coordinating boards for higher education, and 18 states or territories had statewide entities operating primarily between individual public institutions and state government (McGuinness, 2016).

**Phase 2: End of World War II to 1972**

Phase 2 could be characterized as the turning point from education for the elite to education for the masses and was marked by growth in enrollment, funding, and the number of public institutions, as the national perspective on higher education leaned more toward the public benefit of higher education to the nation (Hearn & McLendon, 2012; Lingenfelter, 2004; McGuinness, 2016). The demand for additional postsecondary institutions grew as the Baby Boomer generation began to graduate from high school, and the tuition assistance provided by the GI Bill enabled millions of people to attend college who previously did not have the financial resources to do so (Lingenfelter, 2004; Mumper et al., 2011). According to Pusser (2006):

The Higher Education Act (HEA) of 1965 institutionalized the provision of national subsidies for postsecondary students. The availability of need-based grant aid and portable student loans dramatically restructured the relationship between the public good and public support for higher education. Prior to the HEA, public universities . . . generally offered low tuition and open access. The HEA marked the beginning of a shift in the nature and the amount of subsidies to higher education, so that what were essentially state-funded institutions have become
Institutions with multiple sources of revenue, albeit increasingly funded by individuals. (p. 16)

In response to the increased demand, the number and diversity of public higher education institutions increased through the development of community colleges, conversion of normal schools and teachers colleges into colleges and universities, elevation of state career skills schools into postsecondary institutions, and the expansion of public universities to multiple campuses (Lingenfelter, 2004; McGuinness, 2016). Postsecondary enrollment increased 64% from 1939-40 to 1949-50, and the growth continued through this period (McGuinness, 2016). The funding structure for higher education also shifted, with state and local appropriations providing a greater share of the cost of higher education, from 47% before WWII to 58% in 1949-50 (McGuinness, 2016).

From a governance perspective, McGuinness (2016) referred to 1960-70 as the “greatest period of centralization in public higher education” (p. 8), citing the increase in governing systems and the increased role of statewide coordinating boards. By the end of this phase, 47 states had higher education boards, commissions, or councils (Marcus, 1997). Some were consolidated governing boards that oversaw governance of public institutions and statewide planning, while others were statewide coordinating boards with oversight of planning, student aid, and coordination of all higher education institutions in the state, among other responsibilities (Marcus, 1997; McGuinness, 2016; National Center for Public Policy and Higher Education, 2005). A common focus of the various entities was to ensure that the expansion or addition of institutions and development of new programs occurred in a manner that provided access to all residents of the state, regardless of their geographic location (Davies, 2011).
Phase 3: 1972 through mid-1980s

Phase 3 was marked by slowing growth, a focus on reducing costs and increasing public higher education capacity through cost-cutting and other operational efficiencies, and shifting more of the costs of higher education to students while simultaneously creating state student financial aid programs (McGuinness, 2016). Numerous states “altered their higher education structures. Increased centralization was the predominant pattern . . . other states . . . accorded additional authority to their coordinating boards” (Marcus, 1997, p. 400). The federal Education Amendments of 1972 offered funding to the states for comprehensive planning and expansion of community colleges and vocational/technical entities, with the stipulation that comprehensive planning for all levels of postsecondary education within the state be assigned to a single state entity, referred to as 1202 Commissions for the section of the U.S. code. Few states vested this breadth of powers in any existing board, resulting in some states establishing new entities or restructuring existing entities in order to meet the requirements of the law. After the funding for comprehensive planning was eliminated a few years later, “only a few of the new entities established in the 1974-75 period played an important role” in the higher education landscape, according to McGuinness (2016, p. 18).

Phase 4: 1980s through mid-1990s

Phase 4 saw increased restructuring in higher education governance and coordination, and a shift away from the autonomy that states had previously given public higher education institutions on developing policies related to curriculum and research (McGuinness, 2013). Enrollment growth and scarce resources led a majority of states to evaluate “the effectiveness of their higher education systems” (Marcus, 1997, p. 400), in
particular, the systems’ ability to align higher education with state strategic priorities (McGuinness, 2016) and to “engage in major planning initiatives for higher education” (Wellman, 2006, p. 63). Some states increased centralization through consolidation of institutions or governing bodies and strengthened the power of coordinating boards (Marcus, 1997). States began to shift their focus away from efficient use of resources to focus on measurable outcomes (McGuinness, 2016). Rather than continuing to fund higher education institutions based solely on enrollment (or inputs), states began to develop funding methods that allocated at least some portion of state funding to institutions based upon competitive, incentive, or performance measures, perhaps in response to the release of two reports, *A Nation at Risk* and *Involvement in Learning*, that criticized America’s educational competitiveness and encouraged the focus on outcomes (McGuinness, 2016). While centralization and consolidation continued to be the more common approach, a fundamental shift away from centralization began, and decentralization increased toward the end of this phase (Marcus, 1997; McGuinness, 2013, 2016).

**Phase 5: Public Agenda Reforms mid-1990s to 2008**

During phase 5, while many “governing systems continue[d] to focus more on internal management than on aligning system priorities with long-term state goals” (McGuinness, 2016, p. 28), governors and other state leaders increasingly focused on better alignment of higher education with broad, long-term state goals related to access and completion, in particular the gap between majority and minority populations, affordability, and the linking of higher education to the creation of a qualified workforce for the knowledge-based jobs of the future (McGuinness, 2013, 2016; National Center for
Public Policy and Higher Education, 2005). With baby boomers expected to begin retiring soon and a postsecondary certificate or degree required for most jobs in the fastest growing sectors that would support a middle-class lifestyle, elected officials, economists, and education leaders predicted a significant gap between the needs of the future labor market and the number of qualified workers available to fill the jobs of the future (Lingenfelter, 2004; National Center for Public Policy and Higher Education, 2005).

Phase 5 was marked by other notable changes in the higher education environment, namely, the “shifting of greater financial responsibility to students and families; the growth of the for-profit sector and other new modes of provision of higher education; and greater student mobility across institutions” (National Center for Public Policy and Higher Education, 2005, 2A). These shifts led to calls for significant changes in “the state-level public policy environment in which colleges and universities operate” (National Center for Public Policy and Higher Education, 2005, 1A), with a “new state focus on developing a public agenda” (McGuinness, 2016, p. 27) and restructuring state higher education governance and coordination bodies, many with legal mandates that had remained unchanged since they were created in the 1960s and 1970s, to include the private sector. “By the end of the decade, implementation of public agenda reforms was mixed . . . some states, including . . . Tennessee . . . adopted a public agenda, reforming the role of the statewide coordinating board and changing finance policy” (McGuinness, 2016, p. 27). The number of states that took decentralizing steps during this phase was “double the number of states [that took decentralizing steps] in the 1980s” (Marcus, 1997, p. 401).

Phase 6 began during the Great Recession (2008-2010) and, consistent with past periods of economic uncertainty, saw a number of higher education governance changes by the states (McGuinness, 2016). The challenge of providing a qualified work force that would enable the United States to compete in the global market was identified as a national priority by President Barack Obama, the Bill and Melinda Gates Foundation, and the Lumina Foundation, while a majority of states were also developing goals “to increase the postsecondary education attainment of their citizens . . . and an increasing number of states have enacted or are considering outcome-based funding” (McGuinness, 2016, p. 32).

Amid concerns about the need for strategic policy leadership and reform during a time of increasingly limited resources (Hearn & McLendon, 2012; McGuinness, 2016), McGuinness questioned the capacity of states to implement strategic reforms without major redesign of the existing systems, noting that the reforms are most likely to be successful in “states such as Indiana and Tennessee with long-established, respected state policy leadership structures” (McGuinness, 2016, p. 33). During this period, while some states attempted major strategic redesigns of their existing systems, changes to governance structures in other states were mixed, as a few states recentralized governance, while more states worked to decentralize and deregulate (Davies, 2011; McGuinness, 2016).

History of Higher Education Governance in Tennessee

According to Wood (1983), “Higher education in Tennessee has had an uphill climb against substantial odds since its beginning and has developed over the years
without a great deal of planned design” (p. 6). In the earliest years, higher education in Tennessee was fairly consistent with that seen on the national level during McGuinness’ first phase, with most higher education being provided by private colleges, which were often supported by religious organizations (Warf, 1963; Wood, 1983). In 1893, Merriam wrote that only three “prominent colleges in the history of the State” (p. 18) were not linked to a specific religious organization, and that many of the larger colleges received financial support from churches in states other than Tennessee. Wood (1983) identified four key factors that likely impeded the development of higher education in Tennessee: first, the debate over whether education should be provided by the state or the church; second, the scattered population of the state; third, a lack of support for education by the masses due to a sense that higher education was only for the elite; and fourth, sectionalism growing from the diverse physical geography of the state, in particular the separation of East and Middle Tennessee by the rugged terrain of the Cumberland Plateau. While the first Tennessee state constitution, adopted in 1796, did not reference public education at any level, the second constitution in 1835 resolved that “knowledge, learning and virtue” were valuable and that the General Assembly had the duty to “cherish literature and science” (Warf, 1963, p. 14). The third state constitution in 1870 “placed the responsibility for providing public [elementary and secondary] education upon the General Assembly” (Warf, 1963, p. 14) under the jurisdiction of a State Board of Education (SBE).

The early governance structure consisted of two statewide boards that operated independently of each other and oversaw public education at all levels (Rhoda, 1985; Warf, 1963; Wood, 1983). The University of Tennessee (UT) Board of Trustees
governed the UT Knoxville (the state’s 1862 land-grant institution), a medical school branch in Memphis, a two-year college in Martin, and a graduate school in Nashville, while the SBE governed six state colleges (Tennessee A & I University, East Tennessee State University, Memphis State University, Middle Tennessee State College, Austin Peay State College, and Tennessee Polytechnic Institute), in addition to public elementary, secondary, and special schools such as the Schools for the Deaf and for the Blind (Rhoda, 1985; THEC, 1973; Warf, 1963). With no coordination between the two boards, there were “overlapping programs [and] competition for students and appropriations among the institutions” (Wood, 1983, p. 9).

Consistent with the rest of the country, the State of Tennessee experienced a huge deficit in funds during the Great Depression of 1933, resulting in a more than 175% decrease in state funding for higher education between 1930-31 and 1936-37, at the same time that higher education enrollments increased by 10% (Wood, 1983). By 1937, an improved national and state economy led to increased state funding for education. Later, the creation of the Tennessee Valley Authority (TVA), growing industrialization in the state, and the enrollment of veterans in higher education at the end of World War II changed the landscape of higher education in Tennessee as students at the SBE governed schools sought to earn degrees in academic areas other than teacher education (Wood, 1983). State funding for higher education began to improve, but there was no logical mechanism for approving funding for education; and competition for funds was intense, complex, and often perceived as political (Wood, 1983). Funding for all levels of education competed for funding with highways, health and human services, corrections, and other state services. Even within the education sector, there was competition between
higher education and the public elementary and secondary schools, with the latter having a much larger number of students, parents, and teachers to advocate for funding (Wood, 1983). Within higher education, UT had several advantages over the other state colleges and universities. UT was a well-established system with a presence in nearly every county of the state through its extension services, a successful football team with fans all across the state, and a dedicated Board of Trustees supporting the UT administration in their quest for funding every year (Wood, 1983). The regional universities that were governed by the SBE did not have a similar broad base of statewide support, and there was a perception that state appropriations for the regional universities were based upon the negotiating skill of the president of each institution, instead of on enrollments or expenditures per student (Wood, 1983). During this time, state appropriations were generally determined by the Governor and the Commissioner of Finance and Administration while preparing the governor’s budget recommendation, which typically passed through the General Assembly with few changes (Wood, 1983).

From 1934 through 1961, Tennessee’s General Assembly or Governor initiated at least four studies of Tennessee’s public education system. While the reports from the various studies differed in specificity of design and application, most included recommendations for more centralized oversight of all levels of public education in the state and the creation of a coordinating committee or commission (Rhoda, 1985; Tennessee Legislative Council Committee, 1964). One of the earliest calls for greater coordination of public higher education was made in a 1948 report by the State Department of Public Education that recommended the creation of an advisory committee
to work with the UT Board of Trustees and the SBE on ways to better coordinate higher education (Tennessee Department of Education, 1948).

The Pierce-Albright (1957) study, one of the more comprehensive studies, was completed in 1957 after two years of work involving hundreds of people. The purpose of this study was to identify improvements in existing higher education programs in Tennessee using current resources and to facilitate planning to meet the state’s future higher education needs. The final report was 356 pages long and included 104 specific recommendations, including recommendations for improvements in higher education organization, administration, and coordination in Tennessee. In the report of the study, Pierce and Albright (1957) cited tremendous growth in enrollments and concerns about the coordination of budgets, programs, role, and scope as factors resulting in a recommendation to pursue “a unified program of public education for Grades one through graduate and professional schools” (p. 345) and the creation of a single governing board, consistent with the recommendation of an earlier study in 1946 (Pierce & Albright, 1957; Rhoda, 1985). However, in recommending the creation of a single governing board, Pierce and Albright (1957) noted that:

> strong counter forces support the concept that a fundamental recasting at present of the entire legal structure of higher education would create barriers to the continuation of present trends toward unity by a division of forces which are not united in the conviction that all public education should move toward a greater degree of unity in purpose, planning, and procedures. (p. 347)

As an alternative to a single governing board, Pierce and Albright (1957) recommended that “A Commission on Higher Education should be created by the General Assembly” (p. 347) and staff hired to coordinate all public higher education with a primary focus on “planning, research, [and the] study of financial needs, budget reviews and coordination”
While neither of these recommendations was implemented until later in the century, Governor Buford Ellington established, through executive action, a Coordinating Committee on Higher Education in 1961 (Tennessee Legislative Council Committee, 1964; Wood, 1983). The committee was chaired by the Commissioner of Education and its membership included representatives of the UT Board of Trustees and the SBE (Tennessee Legislative Council Committee, 1964; Wood, 1983). The coordinating committee had no statutory authority and was dissolved in 1962 at the conclusion of Ellington’s term as Governor (Tennessee Legislative Council Committee, 1964; Rhoda, 1985; Wood, 1983).

Vocational-Technical Schools and Community Colleges – 1963

In 1963, the Tennessee General Assembly authorized the creation of vocational-technical schools, regional technical schools (later called technical institutes), and two-year community colleges (Tennessee Public Acts of 1963, Chapter 229 and Chapter 379, Section 2, Item 43). Governance of these new schools was assigned to the SBE, along with their existing responsibilities for the six state universities and the public elementary, secondary, and special schools. The UT board continued to oversee the campuses in Knoxville, Memphis, Martin, and Nashville.

The Tennessee General Assembly and Governor Buford Ellington continued to initiate studies of higher education governance and coordination in Tennessee as “enrollments, programs, services and expenditures of the institutions continued to grow” (Rhoda, 1985, p. 53). A 1964 report by a Tennessee Legislative Council Committee recommended the establishment of:

a central coordinating-governing agency known as the “Board of Regents of Higher Education.” Under this central agency, there should be the board of
Trustees of the University of Tennessee and a new board, known as the “Board of Trustees of State Colleges and Universities,” as an institutional governing agency for the six State colleges and universities now under the State Board of Education. The Board of Education should be relieved of any responsibility for the present or future four-year institutions of higher learning. (pp. 12-13)

Under this recommendation, the SBE would maintain control of public education for grades 1-12, special schools, vocational schools, technical institutes, and community colleges (Tennessee Legislative Council Committee, 1964).

**Tennessee Higher Education Commission – 1967**

The next major change in Tennessee higher education governance and coordination occurred during the term of Governor Buford Ellington, when he initiated legislation to create an entity to coordinate the higher education efforts in the State of Tennessee (Wood, 1983). Ellington proposed two bills: one would have established a separate board for the regional universities; the second would create a coordinating board without changing the existing governance structure of the SBE or the UT Board of Trustees (Wood, 1983). Ultimately, the Tennessee General Assembly passed Senate Bill 189, which became Chapter 179 of the Public Acts of 1967, establishing the Tennessee Higher Education Commission (THEC) as a coordinating board for higher education in Tennessee, without changing the authority and powers of the two existing governing boards (McGuinness, 2016; THEC, About THEC, n.d.; THEC, 1973; Wood, 1983).

THEC’s lay board, professional staff, and executive director were charged to “study the use of public funds for higher education in Tennessee and to analyze programs and needs in the field of higher education” (Tennessee Public Acts of 1967, chapter 179, section 2, p. 149). The bill specified that the key responsibilities of the THEC were to:

1. Develop a master plan for the future development of public higher education in Tennessee . . . and to make recommendations to the governing boards of the
various institutions and to the governor and the General Assembly for the implementation of the plan.

2. Develop policies and formulae or guidelines for the fair and equitable distribution and use of public funds among the state’s institutions of higher learning, taking into account enrollment projections, and recognizing institutional differences as well as similarities in function, services, academic programs and levels of instruction. . . .

3. Study the need for particular programs, departments, academic divisions, branch operations, extension services, adult education activities, public service activities and work programs of the various institutions of higher learning . . . and to make recommendations to the respective governing boards . . . for the purpose of minimizing duplication and overlapping of functions and services and to foster cooperative programs among the various institutions. . . .

4. Review and approve or disapprove all proposals for new degrees or degree programs. . . .

5. Conduct a program of public information concerning higher education in Tennessee.

6. Study [sic] and make determinations concerning the establishment of new institutions of higher learning. . . .

7. Submit a biennial report to the governor and the General Assembly, commenting upon major developments, trends, new policies, budgets, and financial considerations which in the judgment of the commission will be useful to the governor and to the General Assembly in planning for the sound and adequate development of the state’s program of public higher education. (Tennessee Public Acts of 1967, Chapter 179, Section 3, pp.449-451)

However, the THEC was not granted authority to terminate academic programs (Wood, 1983).

Following the establishment of the THEC in 1967, higher education governance continued to be a topic of study in Tennessee, both in focused studies and in more general studies related to controlling the cost of government. The recommendations from the studies were varied, often contradictory, and frequently opposed by some of the higher education leaders in the state (Wood, 1983). Citing growth in the number of students and institutions governed by the SBE, and the diverse needs of the students, programs, and institutions, THEC’s first biennial report, *Toward a Stronger System of Higher Education* (1969), noted that the University of Tennessee had recently developed a system
organization for oversight of the UT schools and recommended the formation of two new lay governing boards in addition to the UT Board of Trustees and the SBE (THEC, 1969; THEC, 1973). One of the new boards would govern the community colleges, and the other would govern the six universities that were currently overseen by the SBE, allowing the SBE to focus on the needs of elementary and secondary public schools, special schools, and vocational schools (THEC, 1969).

In November 1970, Winfield Dunn, a dentist from Memphis, was elected as the first Republican Governor of Tennessee in 50 years (Wood, 1983). During the 1971 session of the General Assembly, “a number of proposals [related to higher education organization and governance] were introduced in the Legislature… but none were passed” (Wood, 1983, p. 42). In 1971, Governor Dunn commissioned two studies that provided recommendations on higher education governance and coordination. The Governor’s Study on Cost Control, a nonprofit, non-partisan entity of about 60 business executives chaired by business leader W. Maxey Jarman, evaluated all facets of state government for potential cost savings and ultimately produced a lengthy report with 575 recommendations for improvement, including a recommendation to “consolidate the state’s higher education and present education programs under the Secretary of Education” (Tennessee Governor’s Study on Cost Control, 1971, p. 229). The second study, completed by the Tennessee Advisory Committee on the Governance of Higher Education, focused on higher education reorganization alternatives (1971). Chaired by Nashville business owner Nelson Andrews, the advisory committee issued a report in December 1971 recommending that the most feasible solution for higher education governance was to maintain THEC as the coordinating entity, retain the current UT
structure, and establish a new State University System and board “to govern the six universities currently regulated by the State Board of Education” (p. 11). This arrangement, the committee noted, would provide more effective management of the universities, create a greater balance of power with the UT system, and allow the SBE to devote more time to K-12, special schools, vocational schools, and community colleges (Rhoda, 1985; THEC, 1973; Wood, 1983). The report also noted that the nine community colleges should eventually have their own board (Rhoda, 1985; THEC, 1973).

**State University and Community College System of Tennessee – 1972**

The following year, in 1972, the Tennessee General Assembly created the State University and Community College System of Tennessee (SUCCST) consisting of the six universities and nine community colleges previously governed by the SBE and established the State Board of Regents (SBR) to govern the new system (Tennessee Public Acts of 1972, Chapter 838). The SBE continued to govern the technical schools and institutes (Rhoda, 1985). It is noteworthy that the original legislation drafted by Governor Dunn’s staff did not include the community colleges in the new system, but input from the SBE, the community college presidents, and the legislators representing the areas where the community colleges were located resulted in the bill being amended to include the community colleges in the SUCCST (Rhoda, 1985; Wood, 1983).

Supporters of the creation of the new SUCCST and the SBR:

were hopeful that the new Board would provide the following advantages (1) operating the institutions would be more manageable, (2) there would be more of a balance of power between the systems of higher education politically, and (3) the SBE could provide more time to the planning and policy making of grades K-12 and the special schools. (Wood, 1983, p. 47)
The THEC’s master plan, Higher Education for Tennessee’s Future, released in January 1973, noted that:

Tennessee’s two governing boards in higher education, the UT Trustees and the Board of Regents, each have about as many institutions as one board can know well and govern effectively. It may be desirable to setup a separate governing board for the community colleges in the future so that the number of institutions which each board governs will be small enough so that its members can be well acquainted with each campus under its jurisdiction. (p. 17)

The same THEC report recommended that “additional major changes [to the system of governance and coordination] be avoided” (p. 17) in the imminent future in order for the SBR to become established and the SBE to focus on the needs of elementary and secondary education.

During the next two years, additional studies on the structure of higher education were conducted, different recommendations put forth, and several pieces of legislation introduced in the General Assembly. One bill would have created a “super board” for the oversight of all public education in the state; a second would have maintained the two existing boards while charging the Commissioner of Education with overseeing planning for all public education and changing the THEC membership to include members from both boards, with the Commissioner of Education as chair (Rhoda, 1985). Neither bill was passed.

In 1974, the General Assembly passed House Bill 2244, the Postsecondary Education Authorization Act of 1974, which broadened the THEC responsibilities to include the authorization and regulation of all degree-granting postsecondary institutions in the state, to include proprietary schools and out-of-state schools with operations in Tennessee (Postsecondary Education Authorization Act of 1974). When the federal Education Amendments of 1972 were enacted, state leaders had conflicting opinions
about how to comply with the requirement to have a single state planning entity for postsecondary education, identified as a 1202 Commission, in order to receive funding for planning and expansion of community colleges and technical schools. The 1202 Commission designation was eventually given to the THEC in 1978 (Rhoda, 1985).

The late 1970s and early 1980s saw continued study of higher education governance and coordination in Tennessee. The studies, audits, and recommendations often focused on the institutions providing vocational-technical education, as concerns were raised about overlapping missions, costly duplication of programs, management controls, and the number of state entities that were involved in vocational education and training (Rhoda, 1985). One unnamed study by THEC staff generated 11 different options for state governance-coordination, and the THEC board endorsed the option that would create a new board for the community colleges, technical institutes, and area vocational schools (Rhoda, 1985). While this recommendation was never put into state legislation, other bills were introduced with various approaches to higher education governance and coordination. One change of note occurred in 1980 with the passage of Senate bill 2258, which authorized the THEC to recommend that governing boards terminate duplicative or low-producing programs (Tennessee Public Acts of 1980, Public Chapter 901).

The Tennessee General Assembly continued to study higher education during Governor Lamar Alexander’s term and adopted Senate Joint Resolution 56 in 1981, creating a 27-member Tennessee Comprehensive Education Study Task Force (TCESTF) to “study the public education system in Tennessee in order to develop a long range plan for public education in this state and to make recommendations and report its findings to
the Governor and the General Assembly” (Tennessee Senate Joint Resolution 56, 1981). The task force was led by a coordinating committee that oversaw the work of several subcommittees, including one for higher education and another for vocational-technical education (Tennessee Comprehensive Education Study Task Force [TCESTF], 1982). One of the objectives of the study was “to examine the governance and organizational structures of the total educational system” (TCESTF, 1982, p. 2). On the issue of higher education governance, the TCESTF report recommended:

that the governance and administration of all postsecondary programs under the authority of the State Commissioner of Education and the State Board of Education be transferred to the State Board of Regents. This would include all postsecondary vocational-technical programs, including the twenty-seven (27) area vocational schools and the four (4) technical institutes. (1982, p. 460)

The task force also recommended that, long-term, “Consideration should be given toward creating a separate governing board responsible for all postsecondary non-baccalaureate institutions and creating a separate governing board responsible for all baccalaureate institutions” (TCESTF, 1982, p. 460).

Vocational and Technical School Governance Transferred to SBR – 1983

The recommendation of the task force was incorporated into legislation by the General Assembly in 1983 when Public Chapter 181 transferred “the governance of the state technical institutes and the state-wide system of area vocational-technical schools from the State Board for Vocational Education to the State Board of Regents” in order to:

(a) improve existing post-secondary, vocational and technical career programs, add appropriate new programs, and to expand the availability of these programs to more Tennesseans;
(b) provide a unified network of post-secondary institutions and schools that will ensure a cohesive delivery system, minimize unnecessary duplication, fill unmet needs, and avoid unnecessary administrative overhead; and
(c) decentralize the operations of institutions and schools in order to ensure appropriate decision-making at the local level. (Tennessee Public Acts of 1983, Chapter 181, Section 2)

The SBR would commonly be referred to as the Tennessee Board of Regents (TBR) and the SUCCST as the TBR System, with eventual oversight for “46 institutions—six (6) universities, 13 community colleges, and 27 Tennessee Colleges of Applied Technology” or TCATs, originally known as vocational-technical schools (Austin Peay State University, 2016, p. 5). The THEC continued to serve as the coordinating body for the TBR system and the UT System, with responsibility for:

- strategic planning for Tennessee postsecondary education;
- reviewing and approving new academic programs;
- developing formulae consistent with the state-wide master plan;
- recommending the operating and capital budgets for public higher education;
- approving institutional mission statements;
- providing data and information to the public, institutions, legislature, and state government;
- and providing authorization for private postsecondary institutions operating within the state. See Tenn. Code Ann. 49-7-202 (2015)

Each successive governor and legislature continued to focus on higher education, and in January 1997, Governor Don Sundquist convened a blue ribbon study group of 26 citizens, the Governor’s Council for Excellence in Higher Education (GCEHE), to study higher education governance, along with academic programs and financing, and to develop “a practical plan for elevating the state’s public colleges and universities into the nation’s highest ranks” (Doyle & Trombley, 1998; GCEHE, 1999, p. 3). When announcing the appointment, Sundquist said, “I wish to shift the terms of our higher education debate away from the tactical and political concerns of who governs our system and focus instead on . . . how it functions and what it provides to our citizens, students, and taxpayers” (Doyle & Trombley, 1998, n.p.). The report of the GCEHE (1999) stated that “The current ‘system’ of higher education governance and organization
is cumbersome, inappropriately competitive, illogically constructed, and insufficiently inspiring of public confidence” (p. 15), citing as examples the lack of differentiation in mission among the public institutions and insufficient empowerment of THEC to restrict mission creep between the different institutions. The GCEHE recommendations included adopting a system-wide mission, establishing goals aligned with the mission and performance targets for reaching the goals, and empowering the THEC to:

a) represent higher education to the state, governor and legislature,
b) propose public higher education annual budgets and receive annual legislative appropriations,
c) appoint a chief executive officer and other such administrators as needed,
d) establish higher education goals for the state of Tennessee,
e) distribute financial resources,
f) oversee institutional and program missions to create clear lines of accountability and enhanced performance,
g) undertake impartial evaluations of the performance of the higher education system components and make necessary corrections, and
h) approve and terminate programs. (p. 5)

Interestingly, the GCEHE report concludes with “A Dissenting View” written by Robert F. Fogelman, a member of the Governor’s Council and a Memphis businessman. Fogelman wrote, “our higher education governance council’s current system and the proposed fixes are awkward, dilute authority, diffuse accountability, and invite inappropriate meddling by the legislature and governor” (GCEHE, 1999, p. 46). Instead of the “Band-Aid” fixes proposed in the GCEHE report, Fogelman recommended:

that Tennessee should wipe the slate clean and eliminate the current higher education governance system. In its place should be a single board . . . [with] authority to realign current institutions into sensible categories . . . [and] discretion over the total higher education appropriations provided by the legislature. (GCEHE, 1999, p. 46)
Complete College Tennessee Act – 2010

On January 12, 2010, Governor Phil Bredesen convened the Tennessee General Assembly for a Special Session on Education to address education reform proposals for both K-12 and higher education (Tennessee State Government, 2010). The “Tennessee Education Improvement Plan” consisted of two bills. The first, named the “Tennessee First to the Top Act of 2010,” contained specific actions that Bredesen felt would strengthen Tennessee’s grant application for federal funding to be used for improvements to K-12 education through the “Race to the Top Fund” (Bredesen, 2010; Tennessee State Government, 2010). It was important that this bill be acted upon before the federal grant application deadline on January 19, 2010 (Bredesen, 2010). The Tennessee First to the Top Act of 2010 was approved by the General Assembly and signed by Governor Bredesen on January 10, 2010 (Tennessee First to the Top Act of 2010). The second bill, named the “Complete College Tennessee Act of 2010,” focused on higher education completion. The Complete College Tennessee Act of 2010 included recommendations from a “group of legislators, members of the administration, and representatives of the boards of our higher education organizations” that Bredesen had convened in the spring of 2009 to develop “the best strategies” for increasing the number of college-educated citizens in Tennessee (Bredesen, 2010, n.p.). The Complete College Tennessee Act of 2010 was passed by the General Assembly and signed into law by Governor Bredesen on January 26, 2010.

The Complete College Tennessee Act of 2010 impacted the state’s governing and coordinating bodies by assigning each with “specific responsibilities for implementing the legislation” (THEC, 2010, p. 1). Dr. Richard Rhoda, Executive Director of the THEC
from 1997 to 2014, noted that the Complete College Tennessee Act of 2010 “strengthened the THEC by authorizing them to exercise responsibilities that had already been legislated to them” (personal communication, October 3, 2018). One key responsibility assigned to the THEC was a requirement to develop “a state-wide master plan that directs higher education to be accountable for increasing the educational attainment levels of Tennesseans” (Complete College Tennessee Act of 2010, Section 3-1). The Act also mandated that the master plan include “an outcomes-based funding formula that rewards institutions for meeting goals set forth by the master plan” (National Conference of State Legislatures, n.d., p. 1). The Complete College Tennessee Act of 2010 required the TBR to “establish a comprehensive statewide community college system of coordinated programs and services to be known as the Tennessee community college system . . . [to] operate as a unified system with individual campuses” (Complete College Tennessee Act of 2010, Tennessee, Public Chapter 3, Section 8(c)(1-2), 2010). A third major provision of the Act required that the THEC, UT, and the TBR initiate actions and processes to facilitate the transfer of students from community colleges to state public universities (Complete College Tennessee Act of 2010).

While it did not incorporate a specific governance change, Governor Bill Haslam’s ‘Drive to 55’ initiative, launched in September 2013, stimulated the passage of the FOCUS Act a few years later. The goal of Drive to 55 is to increase the percentage of Tennesseans with a postsecondary credential to 55 by the year 2025 in order to meet Tennessee’s current and future workforce and economic needs (UT Advocacy, 2013). With the Tennessee Promise scholarship and other components of Drive to 55 encouraging and incentivizing students to seek certificates and degrees at TCATs and
community colleges, Drive to 55 raised the prominence of those institutions and increased the complexity of having the TBR govern six universities, 13 community colleges, and 27 technical schools.

**Provisions of the FOCUS Act**

To further support the Drive to 55 goals, the Tennessee General Assembly passed the FOCUS Act during the 2016 session of the Tennessee General Assembly and the Act took effect on July 1, 2016. When announcing his legislative agenda for the 2016 General Assembly session, Governor Bill Haslam identified the FOCUS Act as:

the next step in the Drive to 55: ensuring that Tennessee’s public colleges and universities are organized, supported and empowered in their efforts to increase the number of Tennesseans with a postsecondary credential to 55 percent by 2025. To enhance student success across higher education, the legislation provides more focused support for the Tennessee Board of Regents’ (TBR) 13 community and 27 technical colleges; increases autonomy by creating local boards for Austin Peay State University, East Tennessee State University, Middle Tennessee State University, Tennessee State University, Tennessee Technological University and the University of Memphis; and strengthens the Tennessee Higher Education Commission. (Tennessee State Government, 2016, n.p.)

The FOCUS Act restructured the TBR, one of the nation’s largest higher education system boards—providing governance for 6 universities, 13 community colleges, and 27 technical colleges serving 171,500 students (TBR, 2017). While the TBR would maintain governance for the community colleges and technical colleges, the FOCUS Act provided for the creation of institutional governing boards (referred to in the Act as “local governing boards” or “state university boards”) to provide management and governance for each board’s respective public university. While not officially utilized in the Act, the moniker “LGI” or “locally governed institution” has become the term for these newly-autonomous institutions. The composition of each local governing board was detailed in the FOCUS Act and included 10 members—eight voting members to be
appointed by the governor and confirmed by the state senate and house of representatives, one voting faculty member to be selected by the faculty of the university in a manner of their determination, and one non-voting student member to be appointed by the state university board. Board appointments and confirmation of the Governor’s appointees by the Tennessee General Assembly occurred early in the 2017 legislative session, and the governor convened the first meeting of each board later that spring (Association of Governing Boards of Universities and Colleges [AGB], 2016; FOCUS Act, 2016).

The FOCUS Act specified that the TBR would continue to provide data systems, capital project planning and management, and procurement services for the universities until November 30, 2017, after which time each university could request permission from the THEC to assume any or all of those functions. The Act bestowed upon each local governing board the power to promulgate rules and establish policies for the operation of the university, elect a chair and other officers, adopt by-laws and rules for the board, select and employ the president of the university, and prescribe curricula and requirements for degrees. In addition, each local governing board was granted the power to approve operating budgets and set the fiscal policies for the university, with the stipulation that the TBR would give final approval to the budget in order to ensure the ability to satisfy both contractual obligations to the Tennessee state school bond authority and obligations to that authority’s bondholders (FOCUS Act, 2016).

The FOCUS Act expanded the coordinating role of THEC “in capital project management, institutional mission approval, and higher education finance” (Austin Peay State University [APSU] SACSCOC Governance Change Prospectus, 2016, p. 8), with specific responsibilities related to the following: training and continuing education for
board members, development of master plan recommendations, review and approval of institutional mission statements, authority to set in-state undergraduate tuition rates, ensuring a coordinated system of higher education policy, state legislative funding requests for institutions, and determining the need for institution requested expansions in degree programs or additional campus sites (THEC, FOCUS Act, n.d.).

The FOCUS Act empowered each state university board to assume the following functions (among others): selecting the president of the university, establishing curricula and requirements for degrees, approving operating budgets, establishing policies and regulations related to campus life, purchasing land, and approving the university mission statement. The Act stipulated that the new university boards will operate under the by-laws and policies of TBR until the new state university boards adopt different by-laws and policies” (APSU SACSCOC Governance Change Prospectus, 2016, p. 4). In addition, TCA 49-7-1002 remained effective and section (o) of the FOCUS Act reaffirmed the expectation that capital projects and other state funding be “first considered and acted upon through established processes and procedures.” This means adherence, barring impossibility of some kind, to the THEC capital review process (FOCUS Act, 2016). Among stakeholders, this statute is known informally as the “McNally Rule” because it was sponsored by the then-Senate Finance Chairman Randy McNally.

Upon passage of the FOCUS Act, each of the six universities began preparing for the governance change by creating a Transition Task Force to oversee and facilitate the change (APSU SACSCOC Governance Change Prospectus, 2016). Each task force included representatives from faculty, staff, and administrators and was charged with:
examining all aspects of the governance change, including the effects on policies, finances and resources, to include evaluating the current tasks and services provided by the Tennessee Board of Regents and recommending options for providing those services in the future. (APSU SACSCOC Governance Change Prospectus, 2016, p. 6)

In late 2015, anticipating the passage of the FOCUS Act during the 2016 session, the Governor’s office had created a FOCUS Act Transition Task Force consisting of a steering committee and a working group to offer guidance and technical assistance on the transitions that would occur with passage of the Act. The steering committee, chaired by the Governor, would provide high-level guidance on adjustments to key operating areas needed as the Act was implemented. The six presidents of the universities currently governed by the TBR were appointed to the steering committee along with the president of UT, legislative leaders, and staff and board members from the TBR and the THEC. The working group was chaired by Mike Krause, Executive Director of Drive to 55, and was tasked with researching and preparing recommendations to the steering committee on data systems, policy processes, and other issues involving higher education alignment. The members of the working group included staff from the TBR and other individuals with extensive higher education experience (Tennessee State Government, 2015).

**Summary**

Chapter II provided an overview of higher education governance for the United States, a history of higher education governance in Tennessee, and a summary of the provisions of the FOCUS Act. Chapter III introduces the research design, setting, participants, and instruments; outlines the study procedures for collecting, managing, and analyzing the data; and discusses the role of the researcher, trustworthiness, limitations, and delimitations.
CHAPTER III: METHODOLOGY

Overview – Why Qualitative Research?

While the creation of institutional boards is the most visible outcome of the FOCUS Act, there were many other processes occurring simultaneously during the two years following the General Assembly’s passage of the bill. These changes included, but were not limited to dismantling of some—but not all—university relationships with the TBR; changes in the responsibilities of the THEC and its interactions with the universities; development of institutional-level policies, procedures, and rules to replace TBR policies, procedures, and rules; and changes in the formal mechanisms for universities to interact with the Tennessee General Assembly. To this date, little research has been completed on the implementation of the FOCUS Act, and no research has been completed that captures the implementation from the perspective of the university leaders. Due to the novelty of this phenomenon, the intricacies of the transition, and the lack of existing research, “quantitative measures and statistical analyses” (Creswell, 2007, p. 40) were simply not appropriate for this initial study (Slavin, 2007).

Qualitative research is a more suitable method to gather rich, detailed information about a little known phenomenon (in this case, the state-level governance change) and to provide rich, thick narratives of the participants’ experiences that could not be captured sufficiently through the use of quantitative methods such as surveys and quantitative data analysis (Marshall & Rossman, 2011; Slavin, 2007; Stake, 1995). Descriptive qualitative case study research is especially suited to this study because the implementation of the FOCUS Act is a clearly identifiable case with boundaries, includes many different variables, involves diverse universities, is the subject of very little existing research on
this phenomenon, and the researcher’s intent is to describe and understand “how” the FOCUS Act was implemented by the universities (Creswell, 2007; Marshall & Rossman, 2011; Merriam, 1988; Yin, 2009). Stake (1995) notes that a “case is a specific, a complex, functioning thing” (p. 2) and that the intent of case study is to “seek greater understanding of the case . . . to appreciate the uniqueness and complexity of the case, its embeddedness and interaction with its contexts” (p. 16), making case study particularly well suited to this topic of study.

**Research Questions**

“In qualitative studies, research questions typically orient to cases or phenomena” (Stake, 1995, p. 41). This study utilized topical research questions in order to gather the information needed to provide a rich description of the implementation of the FOCUS Act (Creswell, 2007; Stake, 1995). Creswell (2007) recommends the use of a “single, overarching question and several subquestions” (p. 108). The central research question of this study was: What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the TBR? Supporting subquestions included:

1. How did the universities prepare for and navigate the massive change from a system-level board to an institutional board?
2. Post-implementation, how did university leaders perceive their institution’s readiness for the change at the time it occurred?
3. What specific aspects of the governance change process did university leaders perceive to have gone well and what specific aspects presented challenges?
4. What do university leaders perceive to be the challenges moving forward?
The decentralization of governance mandated by the FOCUS Act is an infrequent occurrence in higher education, with only Oregon (Hyatt, 2015) and Tennessee transitioning from system-level board governance to institutional-level board governance in recent history, and presents a unique opportunity to examine how the universities prepared for the governance change and how university leaders view the governance change after implementation. The research questions in this study add to a limited body of research on change in higher education governance structures and can be used to inform lawmakers, higher education leaders, and institutions considering, preparing for, or undergoing a similar governance change.

**Research Design**

**Case Study Methods**

This study was a qualitative case study. As noted earlier, the change in governance structure in Tennessee is uncommon, with Tennessee and Oregon the only two states to implement this type of governance change in recent history. Because of the uniqueness of the situation and its particular interest to higher education stakeholders, it is an appropriate setting for intrinsic case study methodology, where the focus of the study is on the case itself (Creswell, 2007; Stake, 1995).

**Setting**

The setting for the study was the state of Tennessee, home to the campuses of the six universities that were previously governed by the TBR. The interviews with the university presidents and other university leaders were conducted at a time and location convenient to the interviewee, either in person or by telephone.
Participants

The population of interest was composed of the six presidents of the universities that were previously governed by the TBR and other senior leaders at each of those universities. While this population is small in number, the information that each individual provided was crucial to an in-depth understanding of the implementation of the FOCUS Act. One goal of case study methodology is to gather diverse views of the case as seen by multiple participants (Stake, 1995). I submitted a request to participate in an interview to each of the university presidents in order to get diverse perspectives (see Appendix A). As the senior leader within their organization, university presidents hold ultimate accountability for the implementation of the FOCUS Act at their institutions. They also work with the board of trustees for their institution, the THEC, and other state offices such as the State Building Commission. The presidents can provide overall information about the university’s policies, priorities, and plans; are likely well informed about the transition; and can provide valuable information from their unique perspective, attributes that establish them as elite interview participants (Marshall & Rossman, 2011; Merriam, 1988). However, outside of their specific high-level knowledge, the presidents may not be the most knowledgeable individuals about the actual work completed in support of the transition process. For this reason, and to try to get broader, richer descriptions of the processes and procedures deployed to implement the FOCUS Act, I also asked each university president to facilitate an interview with a second person at the university, a key informant who was directly involved in the work of preparing for the change in governance structure (Merriam, 1988). Ultimately, eight university leaders participated in interviews. The leaders represented four of the six universities and
included three university presidents, two vice-presidents of finance and administration, one vice-president of advancement, one secretary to the board of trustees, and one provost (speaking on behalf of the university president).

**Data Collection Methods**

While case study research can incorporate any method for data collection in order to effectively gather relevant information and provide diverse perspectives of the case, three of the most common primary sources of data are interviews, observations, and documents (Merriam, 1988; Slavin, 2007; Stake, 1995; Yin, 2009). Interviews were the primary data collection method for this study. While interviews can be time-consuming to schedule, conduct, and transcribe, they provided an effective way for the researcher to learn about the implementation of the FOCUS Act from the unique experiences and perspectives of the individuals who carried out the process (Seidman, 2006; Stake, 1995). Stake (1995) identifies interviews as “the main road to multiple realities” (p. 64), an important component of case study research. The structure of interviews can range from a tightly structured format utilizing preset, standardized inquiries (basically, a survey administered verbally) to a totally unstructured interview where the participant is given the freedom to discuss the topic of study in any manner they choose (Merriam, 1988; Seidman, 2006). For this case study, semi-structured interviews were utilized. This format was chosen because it provided the information being sought for the study, while acknowledging the unique circumstances of the case:

- the six universities have significant differences in missions and resources that will likely impact how each implemented the FOCUS Act;
- the FOCUS Act required the universities to take certain actions;
• the THEC, the Governor’s office, and other state entities communicated additional guidance and expectations to the universities; and
• the researcher and each interview participant have some knowledge about, and personal experience with, the implementation of the FOCUS Act.

The semi-structured interview is designed to obtain certain information from all participants through the use of an interview guide that identifies key topics of interest but does not predetermine the exact wording or order of questions (Merriam, 1988). Prior to conducting the first interview, an interview guide was developed based upon the requirements specified by the FOCUS Act; the guidance provided by the Governor’s office, THEC, and other state entities; media reports; and the first-hand experiences and observations of the researcher related to the implementation of the FOCUS Act. Each interview was recorded and transcribed in order to accurately capture the content of the interview.

The second source of data was observations of the researcher, a tool that provided the researcher with “a firsthand account of the phenomenon of interest rather than relying on someone else’s interpretation” (Merriam, 1988, pp. xiv-xv). Yin (2009) noted that “observations can range from formal to casual data collection activities” (p. 109). For this study, my informal observations began with the passage of the FOCUS Act, when I was asked to chair the FOCUS Act Transition Task Force at one of the six universities, and continued through the present time, as I currently serve as the university liaison to the General Assembly. In that role, I regularly engage with members of the House and Senate Education Committees, members of the Tennessee General Assembly and their
legislative assistants, the THEC staff, and government relations staff and senior leaders from Tennessee public universities and community colleges.

The third source of data consisted of documents and records. Some documents, such as memos, internal reports, and minutes, were produced by the study participants. Other documents, such as media accounts or external reports, were produced by parties external to the study (Creswell, 2007; Marshall & Rossman, 2011; Slavin, 2007). Documents are a stable source of information, they are almost always available, and they provide third-party confirmation of data gathered through interviews or observation.

**Procedures**

Upon receiving the necessary approvals to proceed with this study from my dissertation committee and the Institutional Research Board (IRB, see Appendix B), I prepared and sent an introductory email to the president of each of the six LGIs explaining my study and requesting a one-on-one interview (not to exceed one hour) to be scheduled at a time and place that would be convenient to each president. The email explained the purpose of the study, outlined the request for the president’s participation, and asked the president to identify one additional individual from the university to participate in a separate interview. Within two days of sending the email, I followed up with an introductory phone call to the individual responsible for the president’s schedule to request that individual’s assistance in scheduling a meeting with the university president. While face-to-face interviews allow for observation of nonverbal communication and can be more comfortable for the participant and the researcher, in the event that a personal meeting could not be scheduled I requested a telephone interview (Creswell, 2007).
Prior to conducting the first interview, I developed an interview protocol of open-ended questions (see Appendix C) to facilitate responses from the participant that could be used to answer the key research questions, while still providing the flexibility of discussion that is the hallmark of qualitative case study (Creswell, 2007). In preparing the interview guide, I referred to the requirements specified by the FOCUS Act; the guidance provided by the Governor’s office, THEC, and other state entities; media reports; review of other documents; and my first-hand experiences and observations related to the implementation of the FOCUS Act. In order to secure data that were relevant to the research questions, I mapped each interview question to one or more of the research questions (see Appendix D). Once the initial interview guide was drafted, I reviewed and refined the questions by asking several Tennessee higher education leaders who were familiar with the FOCUS Act, but would not be interviewed for the study, to review the questions and provide me with feedback (Creswell, 2007).

Prior to each interview, I sent the participant an email confirming the date and time for the interview and including the informed consent document (see Appendix E). For the interviews that were conducted by phone, the participant signed and returned the informed consent document to me by email prior to the interview. For the interviews that were conducted in person, the participant gave me a signed informed consent before beginning the interview. At the beginning of each interview, I reviewed the purpose of the study, and the informed consent that the participant had completed, and confirmed the time that was allocated for the interview (Creswell, 2007). So that each participant would be comfortable speaking openly and frankly about their perceptions of the FOCUS Act implementation, I informed each participant that personally identifiable information
would not be connected to any responses that are captured in the final dissertation. I recorded and transcribed each interview in order to accurately capture the content of the interview and inscribed brief notes as a backup to the recording.

A preliminary review of publicly available documents began with the writing of the literature review for this study. That review was ongoing until the completion of the research study, with a targeted focus on the review and analysis of documents that could confirm or disconfirm the data gathered during the interviews.

Data Management and Analysis

The analysis of intrinsic case study data, or evidence, is a topic that solicits differing opinions and recommendations. For example, Stake (1995) wrote:

With intrinsic case studies, our primary task is to come to understand the case. It will help us to tease out relationships, to probe issues and to aggregate categorical data, but those ends are subordinate to understanding the case. The case is complex, and the time we have for examining its complexity is short. To devote much time to formal aggregation of categorical data is likely to distract attention to its various involvements, its various contexts. Usually, we will try to spend most of our time in direct interpretation. The search for meaning often is a search for patterns, for consistency, for consistency within certain conditions, which we call ‘correspondence’ . . . We can look for patterns immediately while we are reviewing documents, observing, or interviewing—or we can code the records, aggregate frequencies, and find the patterns that way. Or both. Sometimes, we find significant meaning in a single instance, but usually the important meanings will come from reappearance over and over. (pp. 77-78)

Yin (2009) noted that “the analysis of case study evidence is one of the least developed and most difficult aspects of doing case studies” (p. 127). Yin and Creswell (2007) identified descriptive framework as an appropriate analytic strategy for case study, with the researcher “analyzing data through description of the case and themes of the case as well as cross-case themes” (Creswell, 2007, p. 79). Stake (1995) writes that “case study work is often said to be ‘progressively focused’ (i.e., the organizing concepts change
somewhat as the study moves along)” (p. 133). Keeping in mind that flexibility is one attribute of qualitative research, this study employed Stake’s (1995) recommendation that case study data be organized around one or more issues, noting that as data representing different perspectives are gathered, issues may be reconsidered and new issues will emerge.

**Role of Researcher**

It is appropriate to note that one fundamental characteristic of qualitative studies is that the researcher is the key instrument for the collection of data through observations, document examinations, and interviews with participants (Creswell, 2007; Marshall & Rossman, 2011; Merriam, 1988). The researcher is also the primary instrument for the analysis and interpretation of the data. In this role, the researcher is “responsive to the context . . . can process data immediately, can clarify and summarize as the study evolves” (Merriam, 1988, p. 19). In interpreting the findings, “researchers make an interpretation of what they see, hear, and understand. The researcher’s interpretations cannot be separated from their own background, history, context, and prior understandings” (Creswell, 2007, p. 39). The paragraphs that follow outline my background with the FOCUS Act.

In 2016, the Tennessee General Assembly passed the Focus on College and University Success (FOCUS) Act (FOCUS, 2016). One of the most significant provisions of the FOCUS Act was the creation of institutional-level governing boards for Austin Peay State University and five other public universities governed by the TBR, with the THEC continuing to function as the coordinating agency for all public universities, community colleges, and colleges of applied technology (THEC, FOCUS Act, n.d.). At
the time the FOCUS Act was passed, I was asked by the President of Austin Peay State University to chair the FOCUS Act Transition Task Force for the campus. The Transition Task Force was charged with reviewing current operations and relationships and making recommendations to the university administration regarding steps to prepare for the new governance structure. The Transition Task Force convened on June 22, 2016, and met regularly over the next nine months.

About the same time I was asked to assume responsibility for state government relations for the university, with the key responsibility of serving as the designated liaison with the Tennessee General Assembly once the APSU Board of Trustees officially convened on March 30, 2017. During the 2017 session of the General Assembly, I began regularly attending meetings of the House and Senate Education Committees, provided written and oral testimony for committee meetings, collaborated with legislative liaisons from other universities and education-related organizations, and met with General Assembly and executive branch staff. Chairing the Transition Task Force and serving as legislative liaison gave me a unique perspective on the implementation of the FOCUS Act and its impact on universities, state agencies, and the legislators and staff at the Tennessee General Assembly.

This involvement did not preclude me from conducting research on the implementation of the FOCUS Act and is actually well aligned with Stake’s (1995) statement that “Qualitative . . . researchers are encouraged to include their own personal perspectives in the interpretation. The way the case and the researcher interact is presumed unique and not necessarily reproducible for other cases and researchers” (p. 135). In practice, my familiarity with the FOCUS Act helped the interviews go more
smoothly because the participants did not have to explain basic processes or terminology to me.

**Trustworthiness**

Marshall and Rossman (2011) wrote:

Historically, concerns with the trustworthiness or goodness of qualitative research drew from the natural and experimental sciences for direction. Thus, reliability, validity, objectivity, and generalizability—borrowed from more quantitative approaches—were the criteria against which the soundness of a qualitative study was judged. (p. 39)

However, as qualitative research has gained credibility as a legitimate research method, various writers have identified different criteria for soundness. This study implemented the following standards, taken from Marshall and Rossman (2011) to establish the trustworthiness of the reported research:

- Prolonged engagement of the researcher in the general setting of the case under study. As related earlier in the section Role of the Researcher, I have been actively involved in the implementation of the FOCUS Act for more than three years and remain engaged through my current employment as legislative liaison for one of the universities.

- Member checks by sharing interview transcripts with participants to allow for the detection of errors, omissions, or misinterpretations.

- Peer debriefing by discussing findings with knowledgeable individuals who can critically assess the analyses and provide feedback.

- Triangulation of findings through the use of three sources of data (multiple interviews, observations, documents).
• Searching for disconfirming evidence within the various forms of study data or from other sources.

Additional details about the utilization of trustworthiness standards are provided in Chapter IV.

**Limitations**

As with most qualitative studies, this study is not likely to be generalizable to other settings due to the unique setting and phenomenon of the study (Marshall & Rossman, 2011; Slavin, 2007). However, there is a lack of existing research on higher education governance change, and the rich data that was collected through qualitative research of the governance change in Tennessee warranted the use of a qualitative methodology for this study. As Slavin (2007) noted, “If the goal of a case study is simply to determine what happened in that particular situation, then questions of generalizability may not be relevant” (p. 152).

Stake (1995) also maintains that generalization, or the understanding of other cases, is not the purpose of case study research and that “Our first obligation is to understand this one case” (p. 4). Stake noted that “more traditional comparative and correlational studies” are better suited to generalization (p. 8).

**Delimitations**

Bryant (2004) defines delimitations as “the factors that prevent you from claiming that your findings are true for all people in all times and places. . . . the factors that limit the relevancy of your study to other populations or individuals” (pp. 57-58). This study focused on the six Tennessee public universities formerly governed by the TBR. Thus, the study is delimited to the presidents of the six universities and the other senior leaders.
who were invited to participate in interviews for the study. If a subsequent study expanded the subjects to include other participants, such as faculty, students, state lawmakers, community college presidents, or state government leaders, the findings might differ. The study is also delimited by geographic location to the state of Tennessee; if the study was to be conducted in a different state, the findings might differ.

Summary

This intrinsic case study attempted to answer the central research question, “What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents?” and the four sub-questions. The study utilized interviews, observations, and document analysis. Data were initially organized around one or more issues, coded, and ultimately condensed into five themes. The final report includes a rich description of the FOCUS Act implementation from the perspectives of the eight leaders, representing four universities, who participated in interviews. Chapter IV provides additional detail about the data collection and analysis and presents the findings of the study.
CHAPTER IV: FINDINGS

Introduction

This single-case holistic case study looked at the impact of the implementation of the FOCUS Act in Tennessee as perceived by the presidents and senior leaders at the universities governed by the TBR prior to the implementation of the FOCUS Act. Yin (2009) identifies the single-case study model as an appropriate design for the study of a unique case (see illustration in Figure 1).

Figure 1. Basic types of designs for case studies.

SOURCE: COSMOS Corporation.
As noted earlier, Tennessee’s change from system-level to institutional governance is uncommon, with Tennessee and Oregon the only two states to implement this type of governance change in recent history. A holistic single-case study design was appropriate because the study looked at “the global nature” (Yin, 2009, p. 50) of the impacts of the FOCUS Act implementation on the universities and did not undertake a detailed analysis of its impact on each individual institution. Because of the uniqueness of the situation and its particular interest to higher education stakeholders, it was an appropriate setting for intrinsic case study methodology, where the focus of the study was on the case itself (Creswell, 2007; Stake, 1995).

**Research Questions**

The central research question of this study was: What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents? Supporting subquestions were:

1. How did the universities prepare for and navigate the massive change from a system-level board to an institutional board?
2. Post-implementation, how did university leaders perceive their institution’s readiness for the change at the time it occurred?
3. What specific aspects of the governance change process did university leaders perceive to have gone well and what specific aspects presented challenges?
4. What did university leaders perceive to be the challenges moving forward?
Data Collection

The primary source of data for the study was interviews with university presidents and other key administrators at the state universities now referred to as locally governed institutions, or LGIs. As previously described, when I contacted each of the six LGI presidents with a request to participate in an interview, I also asked each president to identify one additional university leader to participate in a separate interview. Ultimately, eight university leaders agreed to participate in an interview. The leaders represented four of the six universities and included three university presidents, two vice-presidents of finance and administration, one vice-president of advancement, one secretary to the board of trustees, and one provost (speaking on behalf of the university president). Each of the participants was employed at his or her respective university prior to the implementation of the FOCUS Act and remained employed by the same institution as of July 31, 2019. I conducted two of the interviews face to face and the remaining six by telephone in order to accommodate the busy schedules of the university leaders while still completing the interviews in a timely manner. I did not detect any decline in interview quality between the face-to-face interviews and the telephone interviews. As outlined when discussing trustworthiness in Chapter III, I conducted member checks by emailing the interview transcripts to each participant and asking the leader to review the transcript and advise me of any corrections that needed to be made. Five leaders responded that the transcripts were accurate, one leader responded with a minor clarification of one of the leader’s responses, and two of the leaders did not respond.

To encourage the participants to speak openly and honestly, they were notified in the informed consent and at the beginning of their interview that they would not be
identified by name, and none of their comments would be personally identifiable in the completed dissertation or any other published documents. In support of this commitment to confidentiality, none of the interview recordings or transcripts was labeled with an individual’s name, position, university name, or other personally identifiable information. Instead, each participant was assigned an alpha numeric code to be used in the naming of the files and in data analysis; and the key to that code was stored separately from the interview recordings, transcripts, and data analysis documents. So that responses from university presidents could be identified and analyzed collectively as well as individually, each university president was assigned a code beginning with the letter “P,” followed by a number (P1, P2, P3). The vice-presidents participating were assigned a code beginning with the letter “V,” followed by the same number as the number of their university president’s code, where applicable (V1, V2, V3, V4a, V4b). In addition, the data analysis documents identified the area of expertise for each of the vice-presidents. This coding scheme supported the identification of correspondence, or consistency, in responses by individuals holding the same position or by institution, a method of analysis that Stake (1995) notes as valuable in case study analysis.

**Data Analysis**

Qualitative data analysis, unlike statistical analysis, has “few fixed formulas or cookbook recipes” (Yin, 2009, p. 127) and does not usually fit well into a rigid linear analysis process. According to Creswell (2007), analysis for a case study “consists of making a detailed description of the case and its setting” (p. 163). Stake (1995) wrote that “the search for meaning often is a search for patterns, for consistency . . . for ‘correspondence’” (p. 77), and that “sometimes we find significant meaning in a single
instance, but usually the important meanings will come from reappearance over and over” (p. 78). Qualitative data analysis is unique to the situation, usually begins during the data gathering process, is recursive and dynamic throughout the data analysis process, and “becomes more intensive once all the data are in” (Merriam, 1988, p. 123). During the data gathering process for this case study, I personally conducted and recorded each interview, transcribed the interview, and compared the interview transcript to the recording to confirm the accuracy of the transcript. During this repeated exposure to the interviews, I was able to begin a preliminary analysis of the data and to identify some emerging codes and themes in the participants’ responses.

Creswell (2007) describes qualitative data analysis as “preparing and organizing the data . . . reducing the data into themes through a process of coding and condensing the codes, and finally representing the data in figures, tables, or a discussion” (p. 148). For this study, Creswell’s (2007) Data Analysis Spiral (see Figure 2) provided a model and visual representation of a qualitative data analysis approach where “the researcher engages in the process of moving in analytic circles rather than using a fixed linear approach. One enters with data of text or images . . . and exits with an account or a narrative” (p. 150). The four procedural loops of the Data Analysis Spiral are:

1. Data Managing
2. Reading, Memoing
3. Describing, Classifying, Interpreting
4. Representing, Visualizing. (Creswell, 2007, p. 150)

In the sections that follow, I first describe each of the four procedural loops and then identify the processes that I utilized for each loop.
1. Data Managing

During the data managing loop, “researchers organize their data . . . convert their files to appropriate text units (e.g., a word, a sentence, an entire story) . . . . Materials must be easily located in large databases” (Creswell, 2007, p. 150).

The primary database for this case study consisted of transcripts for eight interviews that I conducted with presidents and other senior leaders of the LGIs. I created a digital file folder with each transcript as a separate Microsoft Word document. This organization supported the data analysis by allowing for the documents to be manually or electronically searched individually or collectively for words or phrases. I also created a data analysis worksheet that I used through the entire data analysis process. The worksheet consisted of a table in a Microsoft Word document, a format that provided
clean visual organization of relevant data, attribution of the data to each interview participant’s assigned code, the ability to add additional content with each loop of the data analysis spiral, and verification of common themes by using the search feature of Word later in the process.

To further organize the data into manageable units, I reviewed each interview transcript to identify key points in each participant’s response, determined the guiding question most closely related to the response (some responses went beyond the scope of the guiding question being responded to and provided information that was more closely aligned with one of the other guiding questions), and inserted each key point into the worksheet organized by guiding question. I repeated the reading and compiling process twice with each transcript and re-read some complex responses multiple times in order to identify all key points. Throughout this process of managing the data by compiling and organizing key points, I noted any questions about the responses in comments on the analysis worksheet and later compiled the questions into a document for follow-up.

2. Reading, Memoing

During the reading and memoing loop, researchers read the transcripts several times to “get a sense of the whole database” and write brief memos to highlight key “phrases, ideas, or key concepts” while reading (Creswell, 2007, pp. 150-151). These memos will be used to assign codes in the next loop of the analysis. Researchers may also identify some major ideas based upon the “larger thoughts” and form a few initial categories (Creswell, 2007, p. 151).

As mentioned earlier, I actually began this process as I conducted and transcribed the interviews. During the transcription process, I listened to each interview at least twice
to confirm that my transcription was accurate before sending it to the interview participant for their review and comments. While reading the interviews multiple times, I began to form initial impressions of each participant’s perspective on the guiding questions. I recorded those initial impressions on the data analysis worksheet. I continued that practice during the reading and memoing loop as I made notes of additional questions, outliers, correspondence in responses, and relationships to historical facts and events related to the governance and coordination of higher education in Tennessee.

During this loop, as I continued my review of the compiled responses, I began to identify common words spoken or meanings assigned within each response by either underlining, bolding, or using the comment feature of Word. With additional iterations I began “to identify major organizing ideas… and looked for multiple forms of evidence” presented in the responses of other leaders that either supported the idea or provided an additional perspective (Creswell, 2007, p. 151; Stake, 1995). Throughout this loop I continued to memo “short phrases, ideas, or key concepts” (Creswell, p. 151).

3. Describing, Classifying, Interpreting

During the describing, classifying (or coding), and interpreting loop, researchers describe what they see or hear, form codes, develop themes, “and provide an interpretation in light of their own views or views of perspectives in the literature” (Creswell, 2007, p. 151). In data analysis of case studies, in particular, “Detailed description . . . provided in situ, that is, within the context of the setting of the person, place, or event . . . plays a central role” (Creswell, 2007, p. 151). During this loop, researchers utilize inductive data analysis, “build[ing] patterns, categories, and themes from ‘the bottom up’” as they expand the initial list of codes identified during the earlier
loop and utilize the codes to identify and describe key information in the database (Creswell, 2007, p. 38). Code names may be “exact words used by participants [in vivo codes] . . . drawn from the social or health sciences . . . or names that the researcher composes that seem to best describe the information” (Creswell, 2007, p. 153). For some areas of research, “pre-existing or a priori codes” may be available (Creswell, 2007, p. 152). “Classifying pertains to taking the text or qualitative information apart, and looking for categories, themes, or dimensions of information. As a popular form of analysis, classification involves five to seven general themes” (Creswell, 2007, p. 153).

“Interpretation involves making sense of the data . . . [in this process] researchers step back and form larger meanings of what is going on in the situation” (Creswell, 2007, p. 154).

I began this loop by sorting the compiled responses for each question into groups of related responses, recording initial impressions of the responses as I worked my way through the compiled responses. After two iterations of sorting, I began reviewing the responses to identify and assign codes to each grouping of related responses and added each code to the worksheet as it was identified. Due to the nature of this case study, a priori codes were not available, so I utilized open coding by composing original code names that seemed to best describe the data (Creswell, 2007). At the end of the coding process I had identified 11 codes: board of trustees, connections/collaborations, flexibility, future considerations, institutional culture, operations, preparation, readiness at implementation, severance from TBR, staffing, and Tennessee higher education environment. As outlined when discussing trustworthiness in Chapter III, I utilized peer debriefing by sharing a sample of interview transcripts and coding worksheets with the
chair of my dissertation committee and with a university colleague who was knowledgeable about qualitative data analysis and the implementation of the FOCUS Act, asking each to critically assess the coding that I had assigned and provide me with feedback. Both reviewers communicated agreement with the coding process.

Next, I began making observations and notes about classifying the codes into logical categories or themes. After careful review of the research questions and the data analysis worksheet, I identified five general themes mapped to the case study central research question and the four supporting questions: general perceptions of leaders, preparation, implementation successes, implementation challenges, and future impact.

Triangulation of the findings and searching for disconfirming evidence, two standards of trustworthiness were achieved by two processes during the data analysis. First, I carefully analyzed multiple interviews to identify common perspectives and uncommon outliers in the responses. Next, I reviewed multiple documents relevant to the implementation of the FOCUS Act. These documents included, but were not limited to the FOCUS Act and other legislation; agendas and/or minutes of university transition task forces and other university convenings; university and state websites; implementation plans; communications from university presidents, the THEC, the Tennessee Governor’s office, the TBR, and other state agencies; agendas and/or minutes from institutional board of trustee meetings; the SACSCOC governance change request and documentation; university policy committee agendas and minutes; and news articles. The primary use of the documents was to confirm or disconfirm information gathered through the interviews (Creswell, 2007).
4. Representing, Visualizing

In the fourth, and final phase of the spiral, Creswell (2007) wrote, “Researchers present the data, a packaging of what was found in text, tabular, or figure form” (p. 154). The final product is an “in-depth picture of the case (or cases) using narrative, tables, and figures” (Creswell, 2007, p. 157). See Appendix F for the completed Code Mapping Strategy. The sections that follow present the findings for the central research question and the four supporting sub-questions.

Findings by Research Question

Findings for Central Research Question

The central research question of this study was: What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents? Two years after the implementation of the FOCUS Act, the leaders who participated in the study overwhelmingly perceived the implementation of the FOCUS Act and the appointment of institutional Boards of Trustees to have had a positive impact on their universities. One of the benefits identified by the leaders was greater flexibility to initiate a timely response to educational or workforce needs in a manner that benefits students, the university, and the state as Tennessee continues to pursue the Drive to 55 with the goal of 55% of the workforce holding a postsecondary credential by 2025.

The actual transition process of transitioning from system-level governance to institutional governance was perceived by most leaders in a positive manner, although some leaders expressed minor concerns with the compressed timeline for implementation. All leaders acknowledged the detailed processes and procedures utilized
by their respective university to prepare for the implementation of the FOCUS Act, and all perceived their university to be well prepared at the time of implementation. Several leaders identified the assistance and guidance provided by the THEC, the Governor’s office, and experienced external consultants as key factors in successfully preparing the institution and the Board of Trustees for the implementation. Having a university president and/or other senior leaders who had experience with an institutional board was also mentioned by leaders as a contributing factor to a successful transition.

The move from system-level governance to institutional governance resulted in changes in personnel needs as the universities assumed more of the responsibilities that had previously been overseen by the TBR. A few leaders reported that their institutions added additional staff with expertise in specific areas, such as board operations or capital projects management, while other universities shifted the responsibilities of existing employees in order to address new needs such as state government relations. All of the leaders reported noticeable changes in the work of university presidents and other senior leaders, in particular, the need for university presidents to spend more time conducting business at the Tennessee General Assembly and with other state leaders and agencies than in the past and for university vice-presidents to spend more time meeting with board of trustee committee chairs, preparing for quarterly Board of Trustee meetings, and interacting with individuals in Nashville and across the state in the course of conducting university business.

At least one leader noted that, while the FOCUS Act was identified as a no-cost item, the implementation of the FOCUS Act was actually associated with direct costs to the universities. In addition to the expenses associated with any additional university
personnel, the universities were responsible for expenses related to the Trustees’ travel to Nashville for confirmation hearings before both houses of the General Assembly and for the Trustees’ travel to quarterly board meetings. All expenses for hosting the quarterly Board of Trustees’ meetings shifted to the universities from the TBR, including state-mandated, live-streaming of each meeting. The universities also incurred expenses related to their requests for a governance change from the SACSCOC. Some leaders indicated that the initial change was not as significant as they might have expected, noting that the universities are still subject to governance by their Board of Trustees instead of the TBR, some business operations still go through the TBR, and some oversight functions just shifted from the TBR to and the THEC.

Findings for Sub-Question 1

Sub-question 1 was: How did the universities prepare for and navigate the massive change from a system-level board to an institutional board? Common interview responses focused on operations (specifically, reviewing and revising policies), the Board of Trustees, staffing, and severing from the TBR in accordance with provisions of the FOCUS Act. Leaders from every university represented in the interviews discussed their process for reviewing and revising all university policies to accurately reflect the change in governing bodies. Rather than simply replacing “Tennessee Board of Regents” with “Board of Trustees” in the existing policies, most of the leaders indicated that their university utilized a very deliberate and time-intensive process of first determining whether an existing policy was required by statute, accreditation, or other factor and then deciding whether to revise or eliminate the policy in order to best meet the needs of the university and its constituents moving forward.
Preparing to start up and support the Board of Trustees for their respective university was another item identified by leaders from every university. During the period of time between the passage of the FOCUS Act and the first convening of each Board of Trustees nearly a year later, the universities invested time and resources into details such as creating drafts of Board of Trustee by-laws and meeting schedules, coordinating with the Tennessee Governor’s office on the logistics of the General Assembly confirmation process for each Board of Trustee nominee, and working with the THEC to provide the Trustees with the training mandated in the FOCUS Act. In addition, the universities assumed the responsibilities associated with hosting quarterly meetings of the Trustees, to include identifying a venue for the meetings that would allow for the state-required live streaming of the meetings, providing lodging and transportation for Trustees who must travel to attend the meetings, and preparing documents and presentations for the meetings. Prior to the FOCUS Act, each of the universities had worked with TBR staff to host a TBR meeting every few years, so the business of organizing and supporting quarterly meetings of the Board of Trustees was a major change for the LGIs.

The change from system-wide governance to institutional governance shifted the responsibility from the TBR to each LGI for certain functions, including state government relations and board of trustee support. To prepare for the changes in responsibilities, some leaders indicated that their university added additional personnel with specific responsibilities such as providing direct support to the Board of Trustees. Other universities assigned new responsibilities, such as government relations, to existing employees. Nearly all leaders mentioned that the responsibilities of the university
president and senior leaders shifted to accommodate their more intensive involvement in conducting business with an institutional Board of Trustees and State of Tennessee entities, to include the THEC and the Tennessee General Assembly.

The FOCUS Act provided the opportunity for universities to request approval from the THEC to sever from the Tennessee Board of Regents in three areas: data systems, capital project planning and management, and procurement. Most leaders reported that their respective university carefully evaluated this opportunity in order to identify which functions could be better performed by the university and the ideal timeframe for any transitions to occur. Some universities also added staff to provide institutional expertise in the area of facilities construction and design as the university prepared to eventually assume performance of the capital project planning and management function from the TBR.

Findings for Sub-Question 2

Sub-question 2 was: Post-implementation, how did university leaders perceive their institution’s readiness for the change at the time it occurred? All of the university leaders’ responses’ were positive, affirming that they perceived their university to be well prepared for the change, or as a couple of leaders responded, “as ready as we could be.” Factors that leaders identified as supporting their readiness for the transition were having a president who had prior experience with an institutional board, being a university that was not afraid of innovation and was culturally ready for the change, and the availability of knowledgeable consultants to provide guidance through the process.
Findings for Sub-Question 3

Sub-question 3 was: What specific aspects of the governance change process did university leaders perceive to have gone well and what specific aspects presented challenges?

**What aspects went well?** When leaders identified the aspects that they perceived to have gone well, common interview responses related to the Board of Trustees and improvements in some business and operational processes. The Board of Trustees was specifically mentioned by nearly every leader, with the leaders describing Governor Haslam’s nominees to the Boards of Trustees in very positive terms, such as “talented, capable, good people,” “awesome,” and “excellent,” and commenting on the positive culture and good working relationships established with their respective board. One university president described the Board of Trustee’s involvement as “hands-on, but fingers out.” Other positive aspects of the transition related to the Board of Trustees identified by the leaders were the professional development and training for the Board of Trustees and campus (while noting that more is needed) and the university’s actual preparation for and conducting of Board of Trustee meetings.

One business process that several university leaders stated went well was the universities’ severance from the TBR procurement process. More than one leader mentioned this as the “easiest” aspect of the transition and identified several contributing factors, including the education provided on how to sever, reasonable timelines that were provided to evaluate whether to sever, and the fact that the universities already had an established procurement process for items that were below the pre-FOCUS TBR dollar thresholds.
The establishment of an individual board for each university created numerous important changes in operational processes. Most leaders perceived these changes to be positive, and a majority of the leaders stated that they believed their university now had greater flexibility to respond to institution-specific opportunities or threats. One university president said that the FOCUS Act “has allowed us to dig into our mission and vision and the populations that we serve, our alumni, and connect in a way that makes the most sense and provides the best value back to the state.” Several leaders indicated that they had experienced greater flexibility in the development and approval of new academic programs, with one university president attributing that change to the Board of Trustees’ greater understanding of the uniqueness of the university’s environment and the removal of one layer of the approval process. A vice-president from another university noted, “we can start thinking about programs that our students need today, not programs that they need in three years, and start moving those things a lot faster.”

**What aspects presented challenges?** When asked about aspects of the governance change process that presented challenges for their institutions, leaders were generally positive, even when discussing challenges, and often used language to minimize the perceived impact of the challenge, saying things like “it wasn’t a big thing, but . . .” There were five common challenges identified by the leaders: preparing the trustees and campus leaders for their new roles under institutional-level governance, severing from the TBR capital project planning and management process, the Tennessee higher education environment, changing roles of university presidents and other senior leaders, and institutional culture.
One of the most commonly cited implementation challenges related to the operations of the Board of Trustees. As noted earlier in this section, the leaders were nearly unanimous in their praise for the quality of the individuals named to the Boards of Trustees. The challenges associated with the Board of Trustees primarily centered on the learning curve for the universities and the Trustees related to the newness of the situation for both parties. Leaders identified the need for additional education and professional development for the Trustees and the campus leadership to help both groups understand “how higher education was different than, perhaps the business culture” and the differences in the ways that decisions have typically been made and implemented in each environment. The leaders noted that all the Trustees were viewed as accomplished individuals, but few had prior experience serving on the board of a public university where they would be required to utilize detailed information about academic program creation and approval, the state budget process, faculty tenure and promotion processes, or college athletics to make important decisions that could impact the university for many years. Likewise, many of the university leaders had no experience working directly with an institutional governing board where the majority of the members came from a business background. In addition, since all board members began their service at the same time, there was not an opportunity for more experienced Trustees to mentor newly appointed trustees during the first years after the Boards of Trustees were convened.

While severing from the TBR procurement process was identified as one of the components of the transition that went well, leaders provided a different perspective on the process of severing from the TBR on capital project planning and management, with several leaders identifying this particular process as the biggest challenge of the
transition. One leader attributed the challenge to “a learning curve due to the level of
detail involved” in capital project planning and management, while another expressed a
general perception “that TBR was not ready for this severance; in some cases, it appeared
that they were ignoring it was happening.” Factors that leaders identified as contributing
to the challenge of implementing the severance were the process utilized to evaluate an
institution’s ability to sever (noting that the evaluation was conducted by the entity from
which the university was severing), a lack of timely training, and uncertainty about the
expectations of the state architect and state building commission related to materials that
need to be submitted for approvals.

The third area of challenge identified by the leaders expanded beyond the
universities and the TBR into the general Tennessee higher education environment, with
some leaders noting that the transition was “not a surgical separation” and incorporated
some “murkiness,” as some university business still runs through the TBR and will
continue to do so under the provisions of the FOCUS Act. Some leaders mentioned
challenges in understanding how to do the things that the TBR used to do, such as
rulemaking, and noted that there are still some inconsistencies in legislation related to
basic operations of the TBR, the University of Tennessee Board of Trustees, and the
boards of trustees for the LGIs. The FOCUS Act changed many of the responsibilities of
the TBR, the THEC, and the LGIs. When leaders were asked about challenges related to
the evolving roles of, and changing relationships between the TBR, the new LGIs and the
THEC, their responses were not consistent and varied greatly. Some leaders reported that
their connections and collaborations with the TBR, the THEC, and other universities
were “richer and more significant since the FOCUS Act” and had expanded to include
greater engagement with other LGI leaders and leaders with the University of Tennessee universities. Some expressed appreciation for the TBR’s staff assistance with year-end financial statement preparation and format. As mentioned earlier, TBR’s continued management of capital projects that were begun pre-FOCUS was a specific frustration to the university leaders, who also questioned why the universities are required to send data to the TBR for transmission to THEC, instead of sending the data directly to THEC.

The fourth challenge identified by the university leaders was the evolving roles of university presidents and other senior university leaders. One university president said FOCUS “has made my job a lot more difficult. I think it’s made all of the senior vice presidents’ jobs more difficult.” Leaders noted that university presidents are spending more time in Nashville engaging with the General Assembly, the THEC, the State Building Commission, and other state offices. The work of other university senior leaders has also changed, as they spend time meeting with Board of Trustee committee chairs, preparing materials for and presenting at Board of Trustee meetings, and attending meetings in Nashville related to their position at the university. One university vice-president said, “my job has changed. I had to push some things that I enjoy doing to someone else . . . I have to be more outward focused, rather than just focusing on internal processes.”

The fifth challenge identified by several leaders was the need to change the institutional culture to maximize the benefits provided by the FOCUS Act. Several leaders noted that having greater autonomy is not necessarily of value until the university community realizes that things can now be done a different way. For example, one university president said that while the university had long talked about having greater
control over the university’s academic calendar, it took a couple of years after the implementation of the FOCUS Act before the university leadership actually realized that they had the power to adjust the calendar to better fit the needs of that university’s students and community. Another university leader talked about the need for university leadership to understand and be able to clearly articulate the reasons for decisions made at the university, since the university could no longer use the TBR as the reason for university decisions.

Findings for Sub-Question 4

Sub-question 4 was: What did university leaders perceive to be the challenges moving forward? Responses to this question were diverse and illustrated fewer shared perspectives than responses to some other questions. While one leader said, “I don’t think that the majority of the challenges we’re going to see are going to be related as much to the FOCUS Act as they are just the challenges of higher education,” other leaders responded differently. Looking at state-level challenges, there was correspondence in the responses of all three university presidents related to concerns about the potential impact of future changes in Tennessee higher education leadership at both the state and institutional level. One president noted that the roles of the Tennessee Higher Education Committee, the TBR, and the LGIs are still somewhat in flux and that these roles will likely continue to evolve “depending on who the players are, who the commission members are, who the director is, and what’s happening at the legislature.” Another president stated, “Personally, I’m not driven by structures or organizational schemes. I think people make the real difference.” This president perceived that while the TBR probably worked well when it was created, “the culture and the historic leadership really
created an environment where it wasn’t productive for all parties in the system” and noted that “the same problem could befall this new structure.” The third president addressed the potential challenges related to leadership changes by asking, “What if an LGI brings in a maverick president resulting in adversarial relationships between the LGIs? Will the legislature become a traffic cop?” A slightly different aspect of role uncertainty at the state level was illustrated by a leader who noted that in some presentations to state committees or other bodies, only one university president is asked to provide a report on behalf of all six LGIs, even though the universities are no longer part of a system and now operate independently of each other with individual boards. Leaders also identified statewide challenges related to the transfer of data from the universities to the TBR and the THEC (a significant and timely challenge as the statewide contract for the Banner data management system is expiring soon), changes in the capital projects approval process, and ongoing concerns and issues related to the TBR’s continued oversight for bonded projects on the university campuses.

At the institutional level, one leader emphasized the importance of “sustainability for each individual institution,” including the need for “good board membership . . . good leadership, good visionary presidents.” Several leaders talked about the necessity to provide ongoing professional development for the Boards of Trustees, particularly as the terms for the inaugural appointees expire and new trustees begin to serve. It is noteworthy to add here that the FOCUS Act requires the THEC to provide ongoing annual continuing education for the Trustees.
Findings by Emerging Themes

This section discusses the study findings by the emerging themes that were identified during the analysis of the interview data: general perceptions of leaders, preparation, implementation successes and challenges, and future impact.

General Perceptions of Leaders

As noted earlier in this section, the leaders who participated in the study responded positively to questions about the implementation of the FOCUS Act. All of the leaders except one indicated that they were supportive of the FOCUS Act from the time it was introduced and that their support remained constant through the implementation and up to the time of the leader’s interview. One leader said, “I think my perspective remains the same. I think it was the right move for our university. Whether or not it was the right move for the state is to be determined.” Rather than the individual boards of trustees for the LGIs, this leader would have:

created a system in which you had a board for the universities, a board for the community colleges and you had two strong systems. Kind of the way they do in California. You’d have the Cal State system and the community college system. I think there’s some benefits to the universities being together.

Interestingly, similar structures had been proposed in Tennessee in the past, including recommendations by Governor Ellington and the THEC in the 1960s and by the Governor’s Advisory Committee on Higher Education and THEC in the 1970s (THEC, 1969, 1973; Wood, 1983). Only one leader acknowledged having concerns about the FOCUS Act prior to its implementation, with those concerns limited to preparing for and hosting quarterly board of trustee meetings, a responsibility that was held by the TBR prior to the FOCUS Act implementation. However, this leader’s concerns about this issue were allayed after the first board of trustees meeting.
Several of the leaders indicated that while they consistently viewed the FOCUS Act in a positive manner, their perspective changed somewhat over the course of the FOCUS Act implementation, as university administrators and board members gained a greater understanding of “what it was going to mean to be semi-autonomous. Our perception may have been that institutions would have been totally independent.” Other leaders stated that they had expected a more dramatic change, with one saying, “While our ability to change has increased, we still have THEC, SACS, other accreditors, and the legislature looking at higher education. Maybe we’ve tempered our expectations.” It is not surprising that the leaders’ expectations of the FOCUS Act did not perfectly align with their actual experiences, considering that this type of governance change is uncommon and has only occurred in one other state, Oregon, in recent history. It would be interesting to know how a leader’s positive mindset going into the FOCUS Act implementation was related to that leader’s perceptions after implementation, but that question is outside the scope of this case study.

Some of the university leaders interviewed addressed the topic of more open competition among universities. One leader was surprised when another university “took the gloves off in advertising [and] vacated some gentlemen’s agreements” by placing billboards in the immediate vicinity of the leader’s university.

When asked about the impact of the FOCUS Act on higher education in Tennessee, leaders perceived that it elevated the conversation in the state about higher education and helped lawmakers and other state leaders develop a greater understanding of the unique missions and audiences that the six universities serve. While one leader said, “for those of us working in higher ed, it has changed the paradigm pretty
significantly,” it is also important to note that awareness of the FOCUS Act and its provisions are not widely known or understood outside the circle of individuals who have been directly impacted by the FOCUS Act.

**Preparation**

As noted earlier in this chapter, all of the leaders perceived their university to be well prepared for the FOCUS Act transition. When asked how the universities prepared for the implementation of the FOCUS Act, one leader said, “What we wanted to do and what we did were probably a little different” and described a more lengthy and intense process for trustee orientation and professional development than was practical with the FOCUS Act implementation timeline. Many aspects of the preparation process for the FOCUS Act implementation were spelled out in statute, accreditor requirements, and/or guidance from the THEC or the Governor’s office, such as the requirement to review and rewrite institutional policies to incorporate references to the institutional board of trustees instead of the TBR. Other aspects of the preparation were driven by the individual institutions. Both leaders from one university talked about how they used the transition as an opportunity to “restructure some things internally, creating a university council which is an internal governance process that enhances shared governance on campus” and scheduling trustee meetings to best accommodate the work to be done at a particular meeting. As an example, this university aligned the date of their spring meeting so that “tuition and fees budgets and promotion and tenure of faculty” were acted on by the trustees before students and faculty left campus for the summer.
Implementation Successes and Challenges

The two themes of implementation successes and implementation challenges are combined in the sections that follow. This arrangement will provide greater clarity of the perceptions of the university leaders and allow for a more robust discussion about the successes and challenges of the implementation of the FOCUS Act.

**Board of trustees.** The FOCUS Act implementation success that was most frequently cited by university leaders related to their respective university’s board of trustees, with leaders relating the positive attributes of the individuals serving on the board of trustees and noting the value of having a governing board that was solely focused on one institution. The establishment of a “local governing board of trustees, [also] referred to . . . as a state university board” for each of the universities previously governed by the TBR was the most significant provision of the FOCUS Act (2016, p. 1). The FOCUS Act vested in each board of trustees the “management and governance of” the respective university (p. 1) and defined the membership of each state university board to consist of 10 members, with eight of the voting members to be appointed by the governor and confirmed by the state senate and house of representatives. The ninth voting member of each board of trustees is “a faculty member of the institution who shall be selected in a manner determined by the faculty senate of the respective institution” (FOCUS, 2016, p. 7). One university president identified several positive impacts of having “a very productive and very collegial faculty trustee” on the university board of trustees, to include providing “some comfort and some assurance to the campus community that there is someone [on the board] who is a colleague and a peer” and
giving “board members who are not faculty an extra appreciation for what the faculty do.”

University leaders identified additional successes related to having a local governing board of trustees. One university leader stated that having members who are more familiar with the university and the environment within which the university operated allowed for greater advocacy and support in the community by trustees when the university was working on complex community issues. The same leader said that having trustees who are “seeing and touching and having an opportunity to be a part of things” has led to increased financial support for the university, noting that “the single largest gift to the athletic department in the history of the university came as a result of a board member.”

While the university leaders identified several challenges related to the transition to an institutional board of trustees, these concerns focused on the operational aspects of an institutional board. As mentioned earlier in this chapter, preparing for and hosting quarterly board of trustee meetings was a new task for the universities, and some leaders expressed concerns about the time and work this task would require. Another frequently mentioned challenge was the learning curve for both trustees and the university leaders as both groups entered into roles that were completely new for most of the individuals involved, and the necessity to educate the trustees on university business matters while helping the university leaders understand the different dynamics that most of the trustees were accustomed to in their roles as successful businesspeople.

**Operations.** When the university leaders talked about operational aspects of the FOCUS Act implementation, they expressed divergent views about areas such as
increased flexibility. Several leaders perceived that their university had more flexibility in areas such as creating new academic programs, modifying university processes, changing the organization of the university, adjusting the university calendar, or improving the pay scale for adjunct professors (the TBR had capped the rate of pay that all community colleges and universities could pay adjuncts). In contrast, a few leaders stated that they had seen little increase in flexibility or nimbleness and that some approvals that previously were done by the TBR had simply been reassigned to the THEC or another entity.

**Severing from the Tennessee Board of Regents.** The FOCUS Act included provisions to allow the six universities to sever from the TBR in three areas: procurement, capital project planning and management, and data systems. Several universities successfully requested approval from THEC to sever the procurement function at the earliest opportunity, and leaders from most of the universities perceived that transition to go smoothly, with some noting that the universities were already managing the procurement process for less costly acquisitions. In contrast to the success in the procurement transition, leaders from a majority of the responding universities identified the process to sever from the TBR for capital project planning and management as a challenge for their institution, with several leaders calling it the biggest challenge of the transition. Many of the specific concerns of the leaders were shared earlier in this chapter, and additional observations related to capital project planning are presented in Chapter V.

The universities have not yet severed from the TBR data systems, and this process is also expected to be challenging and complicated, as the FOCUS Act (2016) explicitly
states that “Institutions shall ensure that any data system employed for student information is interoperable with the statewide student information system used by the board of regents and the higher education commission” (p. 11). At the present time, all of the universities and the TBR system use the same data system, Banner, that was purchased when the universities were still governed by the TBR, but the contract for that system will soon expire. The universities are conducting research into suitable options for student data management and exploring the possibility of a joint contract to increase their negotiating power with vendors when the current contract expires. Other challenges related to the severance from TBR were the resolution of items that were initiated under TBR governance but remained unresolved when the boards of trustees for the individual universities were convened. Two types of carryover items identified by the leaders were a detenuring process for a faculty member and the management of capital projects that had begun while the university was still governed by the TBR but were not yet completed at the time of the FOCUS transition.

Institutional culture. The universities had been governed by the TBR system for more than 40 years, so the switch to governance by an institutional board of trustees was a major change for university employees whose responsibilities included making decisions that required board approval or work that engaged them directly with university trustees. The university leaders saw the greater control that FOCUS gave the universities over defining outcomes and directions for the university to take, or “the ability to help shape our culture and operate the way we feel that we need to operate,” in a positive manner while also acknowledging that those new degrees of freedom were not immediately utilized in every case. One university leader provided an example of the
university waiting nearly two years after the FOCUS implementation to make changes to the university calendar. Even though the changes had been long desired and discussed, the ability to make the changes was not immediately capitalized on by the university administration. As one leader said, there are “differences in being more autonomous and realizing you can do it a different way.” Another leader noted that the universities could no longer use “the system office” as an excuse if a university constituent asked for something that the administration did not believe to be in the best interest of the institution. With more decision-making authority at the campus level, if the administration “had to say no, they had to know why they were saying no.”

**Tennessee higher education environment.** The changes in the roles and responsibilities of the TBR, the THEC, and the six locally governed institutions brought about by the FOCUS Act were the most significant changes to the Tennessee higher education environment since the creation of the TBR in 1972 and the transfer of governance of the vocational-technical schools (now Tennessee Colleges of Applied Technology) from the SBE to the TBR in 1983 (Tennessee Public Acts of 1972, Chapter 838; Tennessee Public Acts of 1983, Chapter 181). While the changes instituted by the FOCUS Act were substantial, there was also a fair amount of murkiness involved, as the process did not provide for the universities to have a “surgical separation” from the TBR. As one leader said, “We’re still trying to figure out what is THEC’s role and what is the role of each institution, and the institution that is TBR.” Some of the leaders questioned whether the new roles and responsibilities afforded to the various entities were the best arrangement, with one leader asking if THEC’s role should be expanded—to include
things that have a statewide impact, such as policy oversight or the distribution of funds—or contracted.

Prior to the FOCUS Act, the TBR organized regular meetings for all the university and community college presidents and for other senior university leaders in roles such as provost, chief business officer, or vice-president for student affairs. The presidents and vice-presidents also attended the quarterly TBR meetings, where they had opportunities to engage with their counterparts from community colleges and other universities and with the TBR central office staff. A vice-president for finance and administration reported that post-FOCUS, university chief business officers continue to receive TBR communications that are sent to community colleges, and most of the chief business officers also call in to participate in TBR Business Affairs Sub-Council meetings. Some of the leaders reported that they felt a loss of connections after the FOCUS Act implementation, with others stating that while they had fewer interactions with TBR central office staff and community college presidents, they had more frequent conversations and better relationships with leaders from the other locally governed institutions, the UT institutions, and the THEC.

One of the drivers of the FOCUS Act was the acknowledgment that the six universities each had different educational missions and unique strengths that could support Tennessee’s Drive to 55. When this study was completed two years after the implementation of the FOCUS Act, university leaders perceived that legislators and other decisionmakers in Tennessee government had a better understanding of the uniqueness of each university than they had pre-FOCUS. However, one leader noted that there is potential for confusion when one university president is asked to speak on behalf of all
six LGIs during a meeting, even though the universities all have separate governing boards, missions, and goals.

**Future Impact**

The data for this study were gathered in the spring and summer of 2019, three years after the passage of the FOCUS Act and two years after the boards of trustees were convened and began governing the six universities. During the time that had elapsed since the passage of the original Act, the Tennessee General Assembly passed several clean-up bills to clarify terminology in the original FOCUS Act or to better align existing laws with the post-FOCUS environment. In January 2019, a new governor took office and nearly one third of the seats in the House of Representatives were filled by new lawmakers. The sections that follow address the impact of the FOCUS Act moving forward.

**Board of trustees.** The FOCUS Act established staggered terms of three, four, and six years for the governor’s inaugural appointees to the institutional boards of trustees and a term of two years for the faculty representative (FOCUS, 2016). Under these provisions, the terms of four voting trustees—three gubernatorial appointees and the faculty representative—on each board expired in 2019. At the time the interviews for this study were conducted, most leaders knew the identity of the new faculty representative to their board but had not learned whether Governor Bill Lee would continue the terms of the three appointed trustees or would make new appointments to be confirmed by the General Assembly. With most of the leaders articulating high praise for their respective board of trustees, as accomplished individuals and as a governing body, it is not surprising that the leaders also expressed concerns about the next round of
appointees to the board of trustees. Their concerns were related to the attributes of future new appointees, how the new appointees may impact the dynamics of the board of trustees, how to successfully orient them to the nature of work conducted by a governing board for a public university, and how to continue providing effective ongoing professional development for the trustees, an item that some leaders identified as “not necessarily a challenge, but a reality” or “a perennial thing. Not a major obstacle.”

**Severing from the TBR.** While one of the leaders perceived they had a knowledge deficit when it came to understanding rulemaking or other things that TBR used to do, most of the comments about the future impact of severing from the TBR focused on capital projects or data systems management processes. Regarding capital projects, leaders perceived that the requirement to continue working through the TBR on capital projects that were started before FOCUS and were not yet completed was an unnecessary challenge, particularly since the universities were now managing other capital projects from inception to completion and often led to delays in to completing the projects. One leader also perceived certain processes involving the TBR and other state entities to be unnecessary and cumbersome, citing the Tennessee State School Bond Authority’s insistence that they must “send our interest billings to the TBR who then drafts money out of our bank account to make the payments [when] we are very capable of making payments ourselves.” Another aspect of TBR’s involvement in capital projects that leaders identified as a challenge was the requirement for TBR to continue to oversee capital projects that universities fund through school bonds.

A common and somewhat imminent concern to the university leaders involves future action to take regarding data systems. The contract for Banner, the student
management software currently used by the universities and the TBR, will expire in 2022. In order to explore potential future solutions, the universities will need to issue an RFP to identify interested vendors, confirm that any new system being considered will be compatible with the THEC and TBR systems in order to allow for data transfer, and negotiate the best price for the product. One leader noted that the universities may explore a joint RFP in order to “leverage our resources and get a better price for the product.” The university chief information officers are currently working with the THEC on the requirements for full severance, to include testing of the submission portal with the THEC and the TBR.

**Tennessee higher education environment.** Numerous changes occurred in the Tennessee higher education environment during the implementation of the FOCUS Act and in the years immediately after. While all six of the LGI presidents are still serving at their respective universities, there have been notable changes in the leadership team at the TBR, the leaders and membership of the Tennessee General Assembly, and the executive branch of government with the election of Governor Bill Lee and the associated changes in executive appointments, some of which directly impact higher education policy and practice. Many of the leaders in this study identified uncertainty related to these changes as a challenge that was concerning to them moving forward. One commonly mentioned perception was that people matter and changes in leadership are accompanied by uncertainty. Leaders also expressed concern about uncertainty related to the future roles of the THEC, the TBR, the LGIs, and the UT, as lawmakers, state leaders, and the universities have more experiences with the different ways the universities engage with the General Assembly, the THEC, and the TBR post-FOCUS. One leader questioned how...
elected officials would respond to the increased presence of university leaders at the General Assembly, more frequent requests from individual universities, and increased competition between institutions. The current roles of the LGIs have been amorphous and confusing in some settings over the past three years; in some situations and presentations each university is expected to stand alone, and in others one LGI president is tasked with delivering a joint presentation on behalf of all LGIs.

One leader shared a perception that certain policies and practices of the state continue to make things harder than they need to be in areas such as capital projects improvements and oversight, and greater efficiency could be achieved if ceilings on the cost of projects that could be managed by the universities were raised to a more appropriate level. In addition to other concerns already articulated about the capital projects management processes, leaders also expressed concerns about the process to seek funding of capital projects in the future. In the past when universities presented proposals for new buildings, approved proposals went onto a ranked list and generally moved up that list each year, although sometimes at a very slow pace. With the current process, a new list of approved projects is generated every year, and institutions have no assurance that a proposed project will stay on the list from year to year. Several leaders perceive this new approach to be a challenge to long-term planning and to securing donors who are willing to provide funds for required university matches and are concerned about the long-term impact of this practice as universities pursue additional capital projects, especially when the universities seek to utilize donor matches.

Leaders also perceive potential challenges created by the greater independence afforded to the universities by the FOCUS Act, with one expressing concern that the
“campuses can become too insular” without a system board providing greater statewide perspective. Another leader asked, “Will too much autonomy too fast result in decisions being made strictly on economics without realizing how they might impact other higher education partners?” One leader predicted that it “will take five or so years for the landscape to settle,” and several leaders concurred that in the long term, the universities would be stronger, higher quality institutions that could generate positive outcomes for the state in enrollment, retention, and earning of postsecondary degrees that are relevant to the workforce needs of the state.

Summary

The findings of this study indicate that the university leaders who participated generally perceive the FOCUS Act to have had a positive impact on their respective university and Tennessee’s higher education environment as the state continues to direct attention to the Drive to 55, with a goal for 55% of the state’s workforce to hold a postsecondary credential or degree by the year 2025. The leaders identified specific actions that their respective university took to prepare for the implementation of the FOCUS Act and, as a result of those efforts, the leaders felt their university was well prepared for the implementation of the FOCUS Act. When identifying successes of the FOCUS Act, the leaders were united in their perspective that the individuals appointed to serve as trustees were talented and accomplished individuals and that having an institutional board allowed the trustees to be committed to and focused solely on one university. The leaders had divergent perspectives on the degree of flexibility and nimbleness that the FOCUS Act brought to their university. The leaders noted a number of challenges with the FOCUS Act implementation and identified severance from the
TBR for capital project planning and management as the greatest challenge to date. Other cited challenges of less magnitude were the learning curve for both trustees and university administrators related to the different operating styles and timelines of business and public higher education and uncertainty related to the Tennessee higher education environment and the roles of the various entities in that space. Moving forward, the leaders perceive there to be potential challenges based upon future leadership changes at the university or state level. Leaders also noted that there will continue to be challenges related to capital projects management and funding approvals and statewide data management needs. Chapter V provides further discussion of these topics, along with reflections on the significance of the study and applications for utilizing the study findings.
CHAPTER V: DISCUSSION

Introduction

This case study documented and described the implementation of the FOCUS Act from the perspective of presidents and senior leaders at four of the six universities that transitioned from system-level governance by the TBR to governance by institutional boards of trustees with the passage of the FOCUS Act. The decentralization of governance mandated by the FOCUS Act is an infrequent occurrence in higher education and presented a unique opportunity to examine how the universities prepared for the governance change and how university leaders viewed the governance change after implementation. This study contributes to the limited body of contemporary academic research into the phenomena of the decentralization of higher education governance, such as happened in Tennessee with the FOCUS Act. The primary source of data for this study was interviews with three university presidents and five senior university leaders; secondary data sources were observations of the researcher and documents and records related to the FOCUS Act. This chapter discusses the findings presented in Chapter IV, the limitations of the study, recommendations related to significant changes in higher education governance, and implications for future study.

Discussion of Findings

The discussion of findings is arranged by the central research question and four supporting subquestions of the study. The central research question was: What is the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents? The supporting subquestions were: (1) How did the
universities prepare for and navigate the massive change from a system-level board to an institutional board? (2) Post-implementation, how do university leaders perceive their institution’s readiness for the change at the time it occurred? (3) What specific aspects of the governance change do university leaders perceive to have gone well and what specific aspects presented challenges? and (4) What do university leaders perceive to be the challenges moving forward? I compiled the findings of the study after intensive analysis of participant responses utilizing Creswell's Data Analysis Spiral and triangulated the findings through the use of multiple interviews, document reviews, and observations as the researcher.

**What was the Impact of the Change?**

The general perceptions of the leaders were that the FOCUS Act is a positive thing for their universities. The creation of institutional boards for the universities previously governed by the TBR provides each university with a board of trustees composed of a cadre of accomplished individuals who already have some connection to, or affinity for the respective university. The sole purpose of each institutional board of trustees is to focus on that university and how the university can successfully meet the needs of students and ultimately have a positive impact on meeting the state’s educational goals. The members of the institutional boards of trustees are able to use their individual and collective talents and experiences to govern the university in a manner that allows each university to pursue opportunities that are best aligned with the university’s mission, student population, and region. The transition to institutional governance resulted in changes in the type of work that is performed by many of the universities’ senior leaders, requiring university presidents and vice-presidents to focus on building positive working
relationships with the members of their respective board of trustees, members and staff of the THEC, staff at the State Building Commission and other state offices, and with members of the Tennessee General Assembly, particularly the members serving on the education committees. In this more outward facing role, the university leaders are required to be strong and effective communicators, skillful negotiators, and masters of time management.

**How Did the Universities Prepare?**

Because many aspects of the universities’ preparation were outlined by statute, accrederor requirements, and/or guidance from the THEC or the Tennessee Governor’s office, there was a high level of consistency in their preparations. Every university completed a thorough review of the university’s policies as they existed under the TBR and implemented procedures to convert the policies to accurately reflect governance by the institutional board of trustees. Some universities leveraged the governance change to make changes in their internal shared governance structure.

Interestingly, when discussing their preparations for the implementation of the FOCUS Act, only about half the leaders mentioned the role of each university’s transition task force, even though every university was required to establish such a group. An even more striking omission was that none of the leaders interviewed mentioned the rigorous and lengthy preparation invested into the governance change approval process for the SACSCOC, the accrediting agency for all six universities. While the FOCUS Act mandated a change in governance for all the universities, this mandate was not connected in any way to SACSCOC, and each university was required to submit a separate governance change application to SACSCOC for approval. If SACSCOC had not
approved the governance change for a university, the university would have become ineligible to accept federal financial aid dollars and would essentially have had to close the doors. The SACSCOC process is intensive, requires meticulous documentation, and incorporates deadlines built around regularly scheduled meetings of the Commission. The SACSCOC deadlines did not always mesh smoothly with timelines that were established by the state for appointing, confirming, and convening the six boards of trustees. Ultimately, every university received approval from SACSCOC for the governance change mandated by the FOCUS Act. One reason for the omission could have been that none of the leaders who participated in interviews for this study was directly responsible for this process at their university, even though the SACSCOC governance change application process typically incorporates input from and action by the president and all other senior leaders of an institution.

**How Did Leaders Perceive Their Institution’s Readiness?**

All of the leaders perceived that their university was well prepared for the change, or in the words of several leaders, “as well prepared as we could be.” When situations arose for which they were not prepared, the leaders implemented interim solutions to address the immediate needs and developed more permanent solutions for future use.

**What Aspects Went Well and What Presented Challenges?**

Key aspects that went well included the selection of the individuals who would serve on the boards of trustees, institutional review of policies, and the universities’ assumption of the procurement process from the TBR. With the exception of the quality of the individuals appointed to serve as trustees, most of the items that the leaders
repeatedly identified as successes were fairly simple changes in processes or procedures, not massive changes that were disruptive to the organization.

Aspects that presented challenges included the universities’ severance from the TBR for capital projects management and data systems management, the need to adapt the culture at the universities in order to leverage the additional flexibility afforded to the universities by the FOCUS Act, and the learning curve that existed for the boards of trustees and university administrators due to operational differences and expectations between business organizations and public universities. These items were more complicated, involved numerous individuals and/or entities, and could not be resolved simply by a change in institutional policy or procedure. To effectively address complex challenges such as these, leaders must critically analyze the situation, solicit and consider input from the individuals most impacted by the situation, develop a plan for addressing the challenge, and communicate a vision for ultimately surmounting the challenge.

**What Are the Challenges Moving Forward?**

Most of the issues that university leaders perceived to be challenges moving forward can be placed into three categories: severance from the TBR, changes in the Tennessee higher education environment, or changes in the Tennessee General Assembly. The two most clearly defined challenges moving forward are the processes for universities to sever from the TBR for capital projects management and for data management.

**Severance from the Tennessee Board of Regents.** As mentioned earlier, the TBR’s role in the management of capital projects that were started while a university was still governed by the TBR but were not yet completed at the time of the FOCUS
transition, was identified as an ongoing challenge by more than one university leader.

One leader described a university project that was initiated well before the FOCUS Act implementation in 2017 and has had multiple delays in starting the project, resulting in a completion date that has been pushed out years from the original projected date. Continued delays impact the university’s ability to utilize the space for the purpose intended, may create contractual issues with vendors, and can cause a domino effect when the inability to occupy a particular space prevents other projects from moving forward as planned. This issue is particularly troublesome to leaders at universities that have completed the capital projects severance and are managing other, newer, capital projects.

The second operational challenge is related to data management and compliance with the FOCUS Act requirement that all public universities and colleges must utilize data systems that allow for the transmission of data to the THEC. At the present time, all of the universities and the TBR system use the same data system, Banner, that was purchased when the universities were still governed by the TBR. However, the contract for that system will soon expire. Over the past two years as the universities, the TBR, and the THEC began work toward a THEC data submission portal that the LGIs will use to submit data, discrepancies have been discovered between the TBR documentation, TBR source logic, and the THEC data dictionary related to the funding formula and the THEC Fact Book. As of September 2019, a resolution to these discrepancies is being investigated, and the universities expect to submit their Spring 2020 data submissions through the new THEC portal. This new process requires one or more of the universities to modify their data submission logic to accommodate the new format of submission, a
process that will consume a significant amount of time and resources. University leaders involved in that project have observed that a steering committee and regularly scheduled project status meetings should have been put in place to ensure the appropriate personnel are involved in the project. At the same time, the universities are collaboratively researching suitable options for student data management in view of the upcoming Banner contract expiration and are exploring the possibility of a joint contract to increase their negotiating power with vendors when the current contract expires.

**Changes in the Tennessee higher education environment.** More complex challenges moving forward are related to changes in the Tennessee higher education environment. During the interviews one leader spoke extensively about the importance of people over structures, and it is worth noting that there have been several changes in the state higher education leadership since the introduction and implementation of the FOCUS Act. TBR Chancellor John Morgan resigned his position in January 2016, a new TBR chancellor was appointed in December 2016, and the TBR vice-chancellor for academic affairs left for a new position in Georgia in May 2017 (Tamburin, 2016; TBR, 2016; University System of Georgia, 2017). While there have been no changes in university presidents since the introduction of the FOCUS Act, another leader expressed concern about the impact that changes in university presidents could have, saying:

> To date, we’ve all played well together. The presidents know each other. We’ve all been together for a while. But [what] if you brought in a maverick leader at [two different universities] and those two campuses became adversaries, and that plays out in Nashville? The legislature doesn’t want to see that, which means they are going to put a traffic cop in place.

Another important change to the Tennessee higher education environment occurred when the Tennessee General Assembly passed the University of Tennessee
FOCUS Act during its 2018 session. This Act reduced the members of the governing board for the UT system by more than half and eliminated the voting faculty seat on the governing board, replacing it with a voting faculty member seat on the Academic Affairs and Student Success committee of the UT board (University of Tennessee FOCUS Act, 2018). The lack of a voting faculty member on the UT board is inconsistent with the board composition for the TBR system board, which has two faculty members (one voting), and the board composition for each of the LGIs, which have one voting faculty member. The UT FOCUS Act also created advisory boards for each campus, and at least one of the leaders in this study questioned the purpose and role of the advisory boards and how the advisory boards will ultimately be viewed by the individuals at the UT campuses. It is also interesting to note that while all of the governor’s appointees to the local governing boards of trustees were confirmed by the Tennessee General Assembly in Spring 2017, the outcome was different with the nominees for the restructured UT Board of Trustees one year later when several appointees were not confirmed (Buie, 2018).

How will this new environment impact the behavior of university leaders moving forward? Answers to this question have both practical and ethical considerations. At least one leader expressed concern about competition between higher education institutions. This concern, and other perceived negative implications of the FOCUS Act on higher education in Tennessee, was also cited by TBR Chancellor John Morgan when he resigned his position on January 31, 2016, early in the session of the Tennessee General Assembly when the FOCUS Act was introduced and ultimately passed into law. In a letter to then Governor Bill Haslam, Morgan expressed his fears that “the FOCUS will weaken the effective collaboration we have worked so hard to achieve and instead drive
competition and shift priorities away from the state's goals" while creating a structure that would make it more difficult to hold universities, the TBR, or the THEC accountable “if goals are not achieved” (Tamburin, 2016, n.p.). In the post-FOCUS era, there is not only the potential for competition between universities, but there is also the potential for competition between community colleges and universities. This issue has already arisen and was discussed and debated extensively during the 2017 session of the Tennessee General Assembly as the TBR unsuccessfully pursued legislation that would essentially grant community colleges first right of refusal to offer dual enrollment courses to all high school students in Tennessee.

**Changes in the Tennessee General Assembly.** The Tennessee General Assembly has experienced numerous personnel changes since the introduction and implementation of the FOCUS Act. During the 2018 elections a total of 29 new members were elected to the General Assembly (UT Advocacy, 2018). These new lawmakers replaced many long-serving members who retired or did not run for reelection. In addition, the 2019 session of the General Assembly saw the House of Representatives elect a new Speaker of the House and implement several changes in the structure and composition of standing committees early in the session, only to be called back for a special session late in the summer to elect a new Speaker. Changes of this magnitude have the potential to impact higher education in several ways. First, the newly serving members may not be as familiar with the FOCUS Act as their predecessors. Indeed, they are not likely to have the same level of understanding of higher education in general as members who had served for many years. This knowledge gap of lawmakers may create a different dynamic in the General Assembly. As noted earlier, when asked about the
impact of the FOCUS Act, one leader said, “for those of us working in higher ed, it has changed the paradigm pretty significantly.” While this is an accurate statement related to those individuals who have been directly impacted by the FOCUS Act, it is also important to note that outside a relatively small circle of individuals, very few people are aware of the FOCUS Act and its provisions. The typical Tennessee resident has little to no understanding of the Tennessee higher education governance structure, and most students and university employees have not been directly impacted by the changes associated with the FOCUS Act implementation. More importantly, some current members of the Tennessee General Assembly are not knowledgeable about either of the FOCUS Acts and the resulting structure of Tennessee higher education governance and coordination. Moving into the future, it will be interesting to note how the members of the General Assembly interact with the public higher education institutions and structures in the state.

One leader in the study acknowledged the importance of people over structures. In Tennessee it has not been uncommon for individual leaders to impact Tennessee’s higher education goals and governance structure. This was most recently seen with Governor Haslam’s Drive to 55 initiative and introduction of the FOCUS Act, and was preceded by Governor Bredesen’s focus on Complete College Tennessee. In reviewing the history of Tennessee higher education governance and coordination, there have been several instances when one strong elected or appointed official or citizen leader of a commission or committee appointed to study a topic set a direction that was followed for many years to come.
With the changes in the Tennessee higher education environment and the Tennessee General Assembly, questions about certain practices arise. For example, how will the General Assembly respond to future debates between colleges and universities related to competition? Will university presidents go straight to legislators with funding requests? This practice violates the McNally Rule and recalls the historical perspective that prior to the creation of the TBR, funding to regional universities was distributed based upon the negotiating skills of the university leadership and the familiarity of the lawmakers with a specific higher education institution (Wood, 1983). With that approach, the universities that were not part of the UT system were perceived to be at a disadvantage because UT has many programs and services in every county of the state, in addition to their university campuses.

Limitations

As with most qualitative research, because of the unique setting and phenomenon of this study, it was not pursued with the expectation that it would be generalizable to other settings (Marshall & Rossman, 2011; Slavin, 2007). However, there is a lack of existing research on higher education governance change, and the rich data that can be collected through qualitative research of the governance change in Tennessee warranted the use of a qualitative methodology for this study. Further, as Slavin (2007) noted, “If the goal of a case study is simply to determine what happened in that particular situation, then questions of generalizability may not be relevant” (p. 152). “The real business of a case study is particularization, not generalization” (Stake, 1995, p. 8).
Delimitations

Bryant (2004) defines delimitations as “the factors that prevent you from claiming that your findings are true for all people in all times and places. . . . the factors that limit the relevancy of your study to other populations or individuals” (pp. 57-58). This study initially focused on the presidents and senior leaders at the six Tennessee public universities formerly governed by the TBR. Ultimately, eight individuals from four different universities participated in interviews. Thus, the study was delimited to the leaders who participated in interviews from the four universities. If a subsequent study expanded the subjects to include other participants, such as faculty, students, state lawmakers, community college presidents, university trustees, or state government leaders, the findings might differ. The study also was delimited by geographic location to the state of Tennessee; if the study was to be conducted in a different state, the findings might differ.

Recommendations

Leaders who participated in the study provided several key recommendations to both high-level decisionmakers and to individuals involved in similar transitions. At the state level, one leader recommended that if other states have “a system as large and varied as the TBR system was, looking at breaking it apart is a great idea, because it’s just more than one board can handle, that kind of diversity among institutions.” Another leader recommended specific changes related to state government oversight of higher education, saying:

I believe that we still, as a state, make things harder than they need to be. I really think levels should be changed—when I say levels, I’m talking financial floors and ceilings in terms of when things need to go to the State Building Commission, what we have the ability to do on our own without taking it to the state level. . . .
it appears to me that we add time and resources that could be spent elsewhere because our processes can be clumsy. Other leaders addressed the issue of the learning curve for the trustees and the university administration, with one encouraging the state and the universities early in the process to invest additional effort “to educate board members to how higher ed works. Business culture and public higher ed culture are very different.” Another leader’s recommendations specifically focused on the individuals charged with making the transition work. That leader said, “It’s going to take more time than you thought . . . have a plan for how you’re going to handle all the additional things, the different things, that you’re going to do.”

Implications for Further Study

This case study documented and described the implementation of the FOCUS Act from the perspective of presidents and senior leaders at four of the six universities that transitioned from system-level governance by the TBR to governance by institutional boards of trustees with the passage of the FOCUS Act. The study was conducted three years after the passage of the FOCUS Act and two years after implementation of the Act. The primary source of data was interviews with three university presidents and five senior university leaders; secondary data sources included observations of the researcher and documents and records related to the FOCUS Act.

Given the short period of time that has elapsed between passage of the FOCUS Act and this study, replication of the study with the same participants at different intervals in the future, possibly at 5 and 10 years after implementation, could provide additional perspective over a longer period of time. Future studies could also secure input from additional stakeholders who were not included in this study but could provide
valuable perspective, including members of the Tennessee General Assembly, in particular the chairs and members of the education committees; the TBR, including the central office staff and the community college presidents; the THEC executive director and staff; members of the institutional boards of trustees; and personnel at other state offices with which the universities regularly engage, such as the Tennessee State Building Commission. Comparative case studies could delve deeper into the FOCUS Act implementation by conducting detailed comparisons of changes in specific attributes of one university before and after the FOCUS Act or of two or more universities post-FOCUS.

Quantitative studies could include analyses of financial matters pre- and post-FOCUS: university budget requests and eventual state appropriations, university capital funding requests and approvals, tuition and fee requests and approvals, or university internal budget requests and allocations. Studies could also look at academic programs: requests for, approval of, and implementation of new academic programs or changes in enrollment, retention, and graduation rates for existing programs.

Ultimately, the question that should be asked is, “Did the FOCUS Act achieve its intent of ‘providing greater autonomy for universities in pursuit of innovation and differentiation, while allowing the Board of Regents to sharpen its attention on technical and community college success’?” (THEC, FOCUS Act, n.d.). Answers to that comprehensive question would likely require both qualitative and quantitative research conducted with the LGIs and the TBR. Qualitative research could delve into the perspective of the leaders at the universities and the TBR central office, community colleges, and colleges of applied technology. Quantitative research would gather and
analyze data on degree or certificate programs, completers, job placement rates, and other measures for the universities and TBR institutions.

**Conclusion**

As state lawmakers and higher education leaders continue to be pressured to support the preparation of a workforce qualified for the jobs of the present and the future, while also providing an appropriate educational foundation for tomorrow’s doctors, lawyers, and other professionals, other states may consider restructuring their higher education governance structures. This study adds to a limited body of academic research on higher education governance; and the findings of this study can be useful to lawmakers, state higher education leaders, and university leaders who are involved in decision making or implementation of governance restructuring.
REFERENCES


APPENDIX A: REQUEST TO PARTICIPATE

EMAIL/LETTER TO UNIVERSITY PRESIDENTS

Dear President (Last name),

I am Carol Clark, a student in the Educational Leadership Doctor of Education program at Western Kentucky University (and Assistant Vice President for Community and Government Relations at Austin Peay State University). I plan to complete my Ed.D. in August 2019.

The title of my dissertation is “Implementation of the FOCUS Act in Tennessee: A Case Study.”

The purpose of the study is to document and describe the implementation of the Focus on College and University Success (FOCUS) Act in Tennessee from the perspective of the presidents and senior leaders at the six universities that transitioned from system-level governance by the Tennessee Board of Regents to governance by institutional boards of trustees with the passage of the FOCUS Act. This study will contribute to a limited body of research on change in higher education governance structures and can be used to inform lawmakers, higher education leaders, and institutions considering, preparing for, undergoing a similar governance change.

I am writing you today with a two-part request. First, to request your participation in a personal interview about the implementation of the FOCUS Act and the impacts of the governance change on your respective institution and the general higher education environment in Tennessee; and, second, to ask that you identify one additional person at your university to participate in a personal interview. Ideally, the second person should be an individual who was directly involved in the governance change and/or whose role or responsibilities changed as a result of the governance change.

Your interview will last approximately one hour and will be scheduled at a time and location that is convenient for you in the month of April, May or June. The interview will be recorded and transcribed in order to capture the content of the interview and you will be emailed the interview transcript to check for accuracy. Your confidentiality will be
maintained throughout the process and identifiable comments will not be included in the dissertation or any subsequent written or oral presentations.

This study has been approved by the WKU Institutional Review Board.

Thank you for your consideration of this request. I will follow-up with a phone call to your office within the next five days to confirm your receipt of this communication, to answer any questions that you may have, and to schedule an interview time, if you are willing to participate in an interview. If you prefer to have someone from your office contact me directly, I can be reached at (931) 206-3330 mobile or text, (931) 221-7570 office, or clarkc@apsu.edu.

Sincerely,
Carol D. Clark

EMAIL/LETTER TO UNIVERSITY LEADERS IDENTIFIED BY EACH PRESIDENT

Dear (Title & Last name),

I am Carol Clark, a student in the Educational Leadership Doctor of Education program at Western Kentucky University (and Assistant Vice President for Community and Government Relations at Austin Peay State University). I plan to complete my Ed.D. in August 2019.

The title of my dissertation is “Implementation of the FOCUS Act in Tennessee: A Case Study.”

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of research on change in higher education governance structures and can be used to inform lawmakers, higher education leaders, and institutions considering, preparing for, undergoing a similar governance change.

The study will include interviews with university presidents and one additional person from each university. Ideally, the second person should be an individual who was directly involved in the governance change at the university and/or whose role or responsibilities changed as a result of the governance change. President (Last name) provided me with your name and contact information as a potential participant.

I am writing you today to request your participation in a personal interview about the implementation of the FOCUS Act and the impacts of the governance change on your respective institution and the general higher education environment in Tennessee.

Your interview will last approximately one hour and will be scheduled at a time and location that is convenient for you in the month of April, May or June. The interview will be recorded and transcribed in order to capture the content of the interview and you will be emailed the interview transcript to check for accuracy. Your confidentiality will be maintained throughout the process and identifiable comments will not be included in the dissertation or any subsequent written or oral presentations.

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Sincerely,
Carol D. Clark
APPENDIX B: IRB APPROVAL LETTER

DATE: April 4, 2019
TO: Carol Clark
FROM: Western Kentucky University (WKU) IRB
PROJECT TITLE: [1416412-1] IMPLEMENTATION OF THE FOCUS ACT IN TENNESSEE: A CASE STUDY
REFERENCE #: IRB 19-352
SUBMISSION TYPE: New Project
ACTION: APPROVED
APPROVAL DATE: April 4, 2019
EXPIRATION DATE: April 1, 2020
REVIEW TYPE: Expedited Review

Thank you for your submission of New Project materials for this project. The Western Kentucky University (WKU) IRB has APPROVED your submission. This approval is based on an appropriate risk/benefit ratio and a project design wherein the risks have been minimized. All research must be conducted in accordance with this approved submission.

This submission has received Expedited Review based on the applicable federal regulation.

Please remember that informed consent is a process beginning with a description of the project and insurance of participant understanding followed by a signed consent form. Informed consent must continue throughout the project via a dialogue between the researcher and research participant. Federal regulations require each participant receive a copy of the consent document.

Please note that any revision to previously approved materials must be approved by this office prior to initiation. Please use the appropriate revision forms for this procedure.

All UNANTICIPATED PROBLEMS involving risks to subjects or others and SERIOUS and UNEXPECTED adverse events must be reported promptly to this office. Please use the appropriate reporting forms for this procedure. All FDA and sponsor reporting requirements should also be followed.

All NON-COMPLIANCE issues or COMPLAINTS regarding this project must be reported promptly to this office.

This project has been determined to be a MINIMAL RISK project. Based on the risks, this project requires continuing review by this committee on an annual basis. Please use the appropriate forms for this procedure. Your documentation for continuing review must be received with sufficient time for review and continued approval before the expiration date of April 1, 2020.

Please note that all research records must be retained for a minimum of three years after the completion of the project.

If you have any questions, please contact Robin Pyles at (270) 745-3560 or irb@wku.edu. Please include your project title and reference number in all correspondence with this committee.
This letter has been electronically signed in accordance with all applicable regulations, and a copy is retained within Western Kentucky University (WKU) IRB's records.
APPENDIX C: INTERVIEW PROTOCOL

The purpose of this study is to examine the impact of the FOCUS Act on the six public universities previously governed by the Tennessee Board of Regents (TBR).

Guiding Questions

1. What are your overall impressions of the FOCUS Act?
2. In general, how do you think the FOCUS Act has impacted higher education in Tennessee?
3. How has the FOCUS Act impacted your university?
4. How did your university prepare for the change from a system-level board to an institutional board?
5. Post-implementation, how do you perceive your institution’s readiness for the change at the time it occurred? (Board, separation from TBR, other key areas – identify)
6. What aspects of the transition process do you perceive to have gone well?
7. What aspects presented challenges for your institution?
8. What challenges related to the FOCUS Act, if any, do you expect moving forward?
9. Has your perspective on the FOCUS Act changed over time? If so, how?
10. How did the change in governance mandated by the FOCUS Act impact your university’s ability to respond to opportunities or threats that may be unique to your environment?
11. Do you have any additional observations related to the FOCUS Act implementation?
APPENDIX D: MAPPING INTERVIEW QUESTIONS TO RESEARCH QUESTIONS

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CRQ: What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents?

IQ 1, 2, 3, 4, 5, 6, 7a, 7b, 8, 9, 10, 11

SQ1 - How did the universities prepare for and navigate the massive change from a system-level board to an institutional board?

IQ 4

SQ2 - Post-implementation, how do university leaders perceive their institution’s readiness for the change at the time it occurred?

IQ 5
SQ3 - What specific aspects of the governance change process do university leaders perceive to have gone well and what specific aspects presented challenges?

IQ 1, 2, 3, 5, 6, 7

SQ4 - What do university leaders perceive to be the challenges moving forward?

IQ 7, 8
APPENDIX E: INFORMED CONSENT DOCUMENT

INFORMED CONSENT DOCUMENT

Project Title: Implementation of the FOCUS Act in Tennessee: A Case Study
Investigator: Carol Clark, Western Kentucky University Educational Leadership Doctoral Student. carol.clark@topper.wku.edu

You are being asked to participate in a project conducted through Western Kentucky University. The University requires that you give your signed agreement to participate in this project.

You must be 18 years old or older to participate in this research study.

The investigator will explain to you in detail the purpose of the project, the procedures to be used, and the potential benefits and possible risks of participation. You may ask any questions you have to help you understand the project. A basic explanation of the project is written below. Please read this explanation and discuss with the researcher any questions you may have. If you then decide to participate in the project, please sign this form in the presence of the person who explained the project to you. You should be given a copy of this form to keep.

1. Nature and Purpose of the Project: The purpose of this case study is to document and describe the implementation of the Focus on College and University Success (FOCUS) Act in Tennessee from the perspective of the presidents and senior leaders at the six universities that transitioned from system-level governance by the Tennessee Board of Regents to governance by institutional boards of trustees with the passage of the FOCUS Act.

2. Explanation of Procedures: University leaders will be interviewed about the implementation of the FOCUS Act and the impacts of the governance change on their respective institution and the general higher education environment in Tennessee. Approximately one hour of your time is requested for this interview, which will be digitally transcribed. Before the study is completed and the report on the research written, you will be emailed the interview transcript to check for accuracy.

3. Discomfort and Risks: No discomfort or risks relating to participation are anticipated.

4. Benefits: This study will contribute to a limited body of research on change in higher education governance structures and can be used to inform lawmakers, higher education leaders, and institutions considering, preparing for, undergoing a similar governance change.

5. Confidentiality: Strict confidentiality will be maintained by the principal investigator. The unpublished dissertation and any written or oral presentation will not contain identifiable comments. Study data will be stored securely. Records will be viewed, stored, and maintained in private, secure files only accessible by the P.I. for three years following the study, after which time they will be destroyed.

WKU IRB# 19-352
Approved: 4/4/2019
End Date: 4/1/2020
EXPEDITED
Original: 4/4/2019

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6. **Refusal/Withdrawal:** Refusal to participate in this study will have no effect on any future services you may be entitled to from the University. Anyone who agrees to participate in this study is free to withdraw from the study at any time with no penalty.

*You understand also that it is not possible to identify all potential risks in an experimental procedure, and you believe that reasonable safeguards have been taken to minimize both the known and potential but unknown risks.*

__________________________  _________________
Signature of Participant    Date

__________________________  _________________
Witness                     Date

- I agree to the audio/video recording of the research. *(Initial here)********

THE DATED APPROVAL ON THIS CONSENT FORM INDICATES THAT
THIS PROJECT HAS BEEN REVIEWED AND APPROVED BY
THE WESTERN KENTUCKY UNIVERSITY INSTITUTIONAL REVIEW BOARD
Robin Pyles, Human Protections Administrator
TELEPHONE: (270) 745-3360

WKU IRB# 19-352
Approved: 4/4/2019
End Date: 4/1/2020
EXPEDITED
Original: 4/4/2019
### APPENDIX F: CODE MAPPING STRATEGY

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<thead>
<tr>
<th>Theme (Research Question)</th>
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<th>Broad Topics</th>
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<tr>
<td><strong>General Perceptions of Leaders (CRQ)</strong></td>
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<td>Overall impressions of impact See IQ 1</td>
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<td>Has perspective changed? See IQ 10</td>
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<td>More open about competition</td>
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<td><strong>Preparation (CRQ, SQ1, SQ2)</strong></td>
<td>Staffing</td>
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<td>Operations</td>
<td>Policies</td>
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<td>Severance from TBR</td>
<td>Began evaluation process on what/when</td>
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<td>Readiness at implementation</td>
<td>Overall positive responses – see IQ 5</td>
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<td><strong>Implementation Successes (CRQ, SQ3)</strong></td>
<td>Board</td>
<td>Quality of appointees</td>
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<td>Board advocacy</td>
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<td>Board supports maximizing opportunity and addressing threats</td>
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<td>Operations</td>
<td>Flexibility: processes, organization, calendar, pay, academic programs</td>
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<td>Responsiveness to opportunities or threats</td>
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<td>Institutional Culture</td>
<td>Change from culture of “cannot” good, but sometimes challenging to make</td>
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<td>Connections/Collaborations</td>
<td>Increased relationships with peers at UT, LGIs, state</td>
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<tr>
<td>TN Higher Ed Environment</td>
<td>Uniqueness of each university</td>
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<td>Ability to market programs or ask for support from the state</td>
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<td>Severance from TBR</td>
<td>Taking over procurement</td>
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<th>Implementation Challenges (CRQ, SQ3)</th>
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<td>TN Higher Ed Environment</td>
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<td>Operations</td>
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<th>Future Impact (CRQ, SQ4)</th>
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State makes things harder than they need to be – lower $$$ floors, etc

Operations
Efficiencies, impact, outreach, relevance
Replacement of Banner - ERP

Board
Next round of appointees
Professional development

Severance from TBR
Address the need to go through TBR for facilities office direction and oversight for bonded projects.

Research Questions

Central Research Question: What was the impact of the implementation of the FOCUS Act and the change in public university governance in Tennessee on the six public universities previously governed by the Tennessee Board of Regents?

SQ1 - How did the universities prepare for and navigate the massive change from a system-level board to an institutional board?

SQ2 - Post-implementation, how do university leaders perceive their institution’s readiness for the change at the time it occurred?

SQ3 - What specific aspects of the governance change process do university leaders perceive to have gone well and what specific aspects presented challenges?

SQ4 - What do university leaders perceive to be the challenges moving forward?
APPENDIX G: THE FOCUS ACT
AN ACT to amend Tennessee Code Annotated, Section 12-3-102; Title 49, Chapter 7; Title 49, Chapter 8 and Title 49, Chapter 9, relative to the structure and organization of state higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-8-101, is amended by deleting subsections (a) and (b) and substituting instead the following language:

(a)  
(1) There is established a state university and community college system, to be called the board of regents. The state university and community college system is composed of state universities, community colleges, and state colleges of applied technology.

(2)  
(A) The board of regents state universities shall be composed of Austin Peay State University, East Tennessee State University, Middle Tennessee State University, Tennessee State University, Tennessee Technological University, and the University of Memphis. The board of regents state universities shall be subject to the authority of a local governing board of trustees, referred to in this chapter as a state university board.

(B) The management and governance of each state university shall be vested in the institution’s respective state university board, subject to certain powers and duties maintained by the Tennessee higher education commission.

(C) During a transition period commencing July 1, 2016, and ending November 30, 2017, the board of regents shall maintain performance of the following functions on behalf of the state university boards: data systems, capital project planning and management, and procurement. By November 30, 2017, the Tennessee higher education commission shall solicit and receive requests from the state university boards to assume the performance of these functions. The Tennessee higher education commission shall approve or deny a state university board’s request to assume these functions. A state university board shall not be permitted to assume the performance of these functions until November 30, 2017. If the board of regents continues to perform the functions related to data systems, capital project planning and management, and procurement after the transition period has concluded, a state university board is not precluded from requesting to assume the performance of these functions at any time after November 30, 2017.

(3)  
(A) The state community colleges shall be composed of Chattanooga State Community College, Cleveland State Community
College, Columbia State Community College, Dyersburg State Community College, Jackson State Community College, Motlow State Community College, Nashville State Community College, Northeast State Community College, Pellissippi State Community College, Roane State Community College, Southwest Tennessee Community College, Volunteer State Community College, and Walters State Community College, and other community colleges that may be established. The statewide system of state colleges of applied technology, established under chapter 11, part 4, of this title, shall be composed of the state colleges of applied technology now established and located at Athens, Covington, Crossville, Crump, Dickson, Elizabethon, Harriman, Hartsville, Hohenwald, Jackson, Jackson, Knoxville, Livingston, McKenzie, McMinnville, Memphis, Morristown, Murfreesboro, Nashville, Newbern, Oneida, Paris, Pulaski, Ripley, Shelbyville, and Whiteville, and other state colleges of applied technology that may be established.

(B) Subject to certain powers and duties reserved for and relegated to the Tennessee higher education commission, the government, management, and control of the state community colleges and the state colleges of applied technology shall be vested in the board of regents.

(b) The board of regents shall work collaboratively with state university boards to ensure alignment between community colleges and state universities, especially in regards to innovation and student success initiatives.

SECTION 2. Tennessee Code Annotated, Section 49-8-101, is further amended by adding the following language as new, appropriately designated subsections:

(d) All institutions in the state university and community college system shall submit annually institutional mission statements to the Tennessee higher education commission for review and approval. An institutional mission statement shall:

(1) Characterize distinctiveness in degree offerings by level, focus, and student characteristics, including, but not limited to, nontraditional students and part-time students; and

(2) Address institutional accountability for the quality of instruction, student learning, and, when applicable, research and public service to benefit Tennessee citizens.

(e) Nothing contained in this section shall prohibit any institution from pursuing research and related activities that are consistent with the institution's mission.

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 9, Part 2, is amended by adding the following language as a new, appropriately designated section:

All institutions governed by the board of trustees of the University of Tennessee shall submit annually institutional mission statements to the Tennessee higher education commission for review and approval. An institutional mission statement shall:

(1) Characterize distinctiveness in degree offerings by level, focus, and student characteristics, including, but not limited to, nontraditional students and part-time students; and

(2) Address institutional accountability for the quality of instruction, student learning, and, when applicable, research and public service to benefit Tennessee citizens.

SECTION 4. Tennessee Code Annotated, Section 49-8-102, is amended by deleting the section and substituting the following:

(a)
(1) Persons who otherwise meet admission requirements shall be admitted to a state college or university, at in-state tuition rates, if they are residents of the state, or if they are nonresidents whose bona fide place of residence is in a county of another state lying immediately adjacent to a county in this state in which the institution is situated, or if the bona fide residence is within thirty (30) miles of the institution.

(2) With respect to nonresidents, subdivision (a)(1) applies only to Austin Peay State University and the University of Memphis.

(b)

(1) Nonresidents of the state who meet the conditions for entrance to any of the institutions under the control of the board of regents or a state university board may be admitted on payment of tuition rates that the respective board prescribes.

(2) Persons who otherwise meet admissions requirements shall be admitted to Dyersburg State Community College with in-state tuition, if they are residents of the state or if they are nonresidents whose bona fide place of residence is in Mississippi County, Arkansas, or either Dunklin County or Pemiscot County, Missouri. However, those students shall not be counted in the consideration of any future capital construction.

(c) Nonresidents who otherwise meet requirements for admission to a community college shall be admitted to the institution at in-state tuition rates, subject to the following limitations:

(1) The nonresidents admitted at in-state tuition rates shall not exceed three percent (3%) of the full-time equivalent attendance of the institution;

(2) The nonresident applicant must have a bona fide place of residence in a county that is adjacent to the Tennessee state line and also within a thirty-mile radius of the city in which the institution is located as determined by the Tennessee higher education commission;

(3) The Tennessee higher education commission has the authority to determine the number of affected students, and every three (3) years an adjustment shall be made to the number of nonresident students admitted according to this subsection (c); and

(4) In the case of any question of admission between applicants who are residents of this state and applicants who are not residents of this state, the preference in admission shall be given to Tennessee residents who are equally qualified relative to nonresident applicants.

SECTION 5. Tennessee Code Annotated, Section 49-8-103, is deleted in its entirety.

SECTION 6. Tennessee Code Annotated, Section 49-8-104, is amended by deleting the section and substituting instead the following language:

(a) The board of regents and each state university board are authorized to establish from time to time reasonable and appropriate rules and policies defining residency of students, which shall be used for the purpose of determining whether or not out-of-state tuition shall be charged to a student enrolling in a state college or university subject to this chapter.

(b)

(1) The board of regents or a state university board may classify a student as a Tennessee resident and charge the student in-state tuition, if the student is a citizen of the United States, has resided in Tennessee for at least one (1) year immediately prior to admission, and has:
(A) Graduated from a Tennessee public secondary school;
(B) Graduated from a private secondary school that is located in this state; or
(C) Earned a Tennessee high school equivalency diploma.

(2) Subdivision (b)(1) shall not be construed to limit the authority of the board of regents or a state university board under subsection (a) to establish other reasonable and appropriate rules defining additional categories of residents.

SECTION 7. Tennessee Code Annotated, Section 49-8-105, is amended by deleting the section and substituting instead the following language:

(a) Any state college or university under the direction of the board of regents or a state university board is authorized to maintain a training school for grades pre-kindergarten through twelve (pre-K-12), or any combination of grades pre-kindergarten through twelve (pre-K-12), for the purpose of providing practice teaching experience for teachers in training, and the students enrolled in the school shall be taught the same course of study as prescribed by the state board of education for the public school system in grades pre-kindergarten through twelve (pre-K-12), or the grades appropriate for the particular school.

(b) Each institution, acting through its governing board, is authorized to contract with the county or city board of education in the county or city in which the college or university is located to provide for the teaching of the children of public school age in the training school, whereby the training school shall receive all state and federal funds received by the county or city board of education as a result of this contract for the operation of the school, including per capita allocations, equalization funds, capital outlay funds, textbook funds, and any other funds that may be allocated for the operation of public schools of this state. The control of the training school shall be wholly under the direction of the respective institution.

(c) It shall not be mandatory for a state college or university subject to this chapter to maintain a training school; provided, that arrangements can be established and approved by the board of regents or state university board by which practice teaching experience can be provided in the county and city school systems of the state.

(d) In the event the training school does not maintain a school for grades pre-kindergarten through twelve (pre-K-12), the contract between the board of regents or state university board and the county or city board of education shall direct the allocation of funds between the local boards of education and the training school, as the parties determine will best achieve the objective of providing practice teaching for teachers in training.

SECTION 8. Tennessee Code Annotated, Section 49-8-106, is amended by deleting the section and substituting instead the following language:

(a) The governing board of each institution subject to this chapter is authorized and empowered to establish reserve officers training corps units in any public college or university under its jurisdiction, to execute and deliver bond, with or without surety, in such manner and on such terms and conditions as may be required by the United States, for the care and safekeeping of the transportation animals, arms, ammunition, supplies, tentage, and equipment that may be necessary or desirable for the operation, conduct, and training of any reserve officers training corps units of the armed forces of the United States authorized by law at any time, to be conducted in conjunction with any public college or university under its jurisdiction.

(b) The authority delegated to a governing board in subsection (a) may, at the board's discretion, be delegated to the presidents of the several universities, colleges, and institutions, now or hereafter under its control.

(c) Nothing in § 49-3-1106 shall limit the authority conferred in this section.
(d) Under authority of this section, suits may be brought by the United States against the individual state universities or the community college system of this state.

SECTION 9. Tennessee Code Annotated, Section 49-8-107, is amended by deleting the section and substituting instead the following language:

(a)

(1) Austin Peay State University, East Tennessee State University, Middle Tennessee State University, Tennessee State University, Tennessee Technological University, the University of Memphis, and, subject to prior approval of the commissioner of finance and administration and the comptroller of the treasury, the state colleges of applied technology and community colleges are authorized to maintain bank accounts in their own names and to draw vouchers and checks for their expenditures through their own disbursing officers to maintain their own fiscal procedure under rules prescribed by the board of regents and the state university boards.

(2) The institutions shall furnish monthly statements of their requirements to the commissioner of finance and administration, who shall draw a state warrant for the expenditures.

(b) The purpose of this section is to provide that the state institutions enumerated in subsection (a) shall enjoy the same privileges now enjoyed by the University of Tennessee under the direction and supervision of the board of trustees of the University of Tennessee.

SECTION 10. Tennessee Code Annotated, Section 49-8-108, is amended by deleting the section and substituting instead the following language:

(a)

(1) The Tennessee higher education commission is authorized and empowered to develop reasonable and objective rules and standards for the purpose of determining when degree-granting institutions of higher learning under its jurisdiction have attained the status of a university.

(2) The rules and standards shall take into consideration such factors as variety and depth of instructional programs and the various resources of the institution.

(b) Whenever a state degree-granting institution of higher learning has achieved the status of a university in accordance with the rules and standards authorized in subsection (a), the commission may designate the degree-granting institution of higher learning a university.

(c) Neither this section nor the authorizations conveyed in this section shall have any effect on institutions of higher learning that have already been designated as universities by action of the general assembly.

SECTION 11. Tennessee Code Annotated, Section 49-8-111(d)(1), is amended by deleting the subdivision and substituting instead the following language:

(d)

(1) The board of regents is authorized to sell, upon approval of the state building commission, property which has been acquired for use by the central office of the board. The proceeds from the sale may be used as the board determines; provided, that the use shall be for purposes that are long term and nonrecurring in nature and that are otherwise permitted by law.

SECTION 12. Tennessee Code Annotated, Section 49-8-112(b), is amended by deleting the subsection and substituting instead the following language:
(b) The board of regents and each state university board shall promulgate rules and regulations to be followed by each college or university under its jurisdiction to uniformly implement this section.

SECTION 13. Tennessee Code Annotated, Section 49-8-113, is amended by deleting the section and substituting instead the following language:

(a)

(1) The board of regents and each state university board shall establish a program whereby each of their respective institutions of higher education providing dormitory facilities and cafeteria services shall offer a room plan whereby students may pay for use of the facilities and services on a monthly basis.

(2) Any increase in funds necessary to fund the administration of the program shall be charged as a special service charge to students participating in the program.

(b) The board of regents and each state university board shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, which:

(1) Require the room deposit of any student participating in the program to be retained until the end of the quarter, semester, or session, as is appropriate; and

(2) Deny readmittance to any student who participated in the program who left the institution without paying all charges pursuant to the program until all delinquent charges and interest on the charges are paid in full.

SECTION 14. Tennessee Code Annotated, Section 49-8-115, is amended by deleting the section and substituting instead the following language:

The institutions of postsecondary and higher education subject to this chapter are authorized to appoint administrative judges and hearing officers from among their employees to conduct contested cases under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 15. Tennessee Code Annotated, Section 49-8-117(a), is amended by deleting subdivisions (1) and (2) and substituting instead the following language:

(a)

(1) The board of regents, each state university board, and the University of Tennessee shall establish a grievance procedure for all support staff employees.

(2) "Support staff" means employees who are neither faculty nor executive, administrative, or professional staff of any institution or board subject to this chapter and the University of Tennessee.

SECTION 16. Tennessee Code Annotated, Section 49-8-117(c), is amended by deleting the subsection and substituting instead the following language:

(c) The board of regents, each state university board, and the board of trustees of the University of Tennessee shall provide an annual report to the education committee of the senate and the education administration and planning committee of the house of representatives summarizing grievance activities of the previous year.

SECTION 17. Tennessee Code Annotated, Section 49-8-201(a)(3)(A), is amended by deleting the subdivision and substituting instead the following language:
HB 2578

(A) Twelve (12) public members shall be appointed by the governor, one (1) of whom shall be from each congressional district, and three (3) at-large from different geographical areas of the state; provided, however, that after July 1, 2016, at-large appointments may be either residents from different geographical areas of the state or non-Tennessee residents.

SECTION 18. Tennessee Code Annotated, Section 49-8-201(e), is amended by deleting the subsection and substituting instead the following language:

(e) Nothing in this act shall be construed to affect the terms of the existing members of the board of regents. Amendments to or revisions of this section shall not affect the current members of the board of regents, who shall continue to serve until the expiration of their terms.

SECTION 19. Tennessee Code Annotated, Section 49-8-201, is amended by adding the following language as new subsections (f) and (g):

(f)

(1)

(A) Each state university board shall consist of ten (10) members of which nine (9) members shall be voting members and one (1) member shall be a nonvoting member. The nonvoting member shall be a student representative. Of the (9) voting members, at least six (6) members shall be residents of the state of Tennessee.

(B) Eight (8) of the voting state university board members shall be appointed by the governor.

(C) At least three (3) of the members appointed by the governor shall be alumni of the institution for which they are serving. "Alumnus" shall mean a person who is a graduate of the institution.

(D) In making appointments, the governor shall strive to ensure that the state university boards are composed of members who are diverse in gender, race, perspective, and experience.

(E) One (1) voting board member shall be a faculty member of the institution who shall be selected in a manner determined by the faculty senate of the respective institution.

(F) The nonvoting student member shall be appointed by the state university board.

(2)

(A) The initial terms of the members appointed by the governor to a state university board shall be three (3), four (4), and six (6) years. Three (3) members shall serve a three-year term; three (3) members shall serve a four-year term; and two (2) members shall serve a six-year term. As the initial terms of the initial board members expire, successors shall be appointed for six-year terms.

(B) The faculty member shall serve a term of two (2) years.

(C) The nonvoting student member shall serve a term of one (1) year.

(3) The eight (8) members of a state university board appointed by the governor shall be subject to confirmation by the senate and the house of representatives, but appointments shall be effective until adversely acted upon by joint resolution of the senate and the house of representatives.
(4) State university board members appointed by the governor shall be eligible to serve for two (2) consecutive terms. A member who serves two (2) consecutive terms on a state university board may be reappointed after at least four (4) years have elapsed since the member’s last date of service.

(5) If a vacancy occurs by death or resignation, the vacancy shall be filled for the remainder of the term. If a vacancy occurs by reason of expiration of term, the board member whose term is expiring shall serve until a successor is appointed.

(6) The following individuals are prohibited from serving as a member of a state university board for so long as they hold the office or position:

(A) Employees of any public institution of higher education; except those faculty members appointed to the board under subdivision (f)(1)(E);

(B) Elected or appointed officials;

(C) State employees; and

(D) Members of a governing body for any institution of higher education.

(7)

(A) The Tennessee higher education commission shall coordinate and administer an orientation training program, as well as an ongoing continuing education program, for governing board members. This training shall include a perspective on higher education that incorporates national experts in higher education governance. This training shall address the roles and responsibilities of governing boards; the legal and ethical responsibilities of trustees; the board’s role in upholding academic standards, intellectual diversity, and academic freedom; budget development; presidential searches and evaluation; the role of higher education in K-12 collaboration; and setting strategic goals. Initial training shall be conducted prior to the first called meeting of the board. In subsequent years, all newly appointed members shall attend orientation seminars within their first year of service.

(B)

(i) Each state university board’s first meeting after all members have been appointed shall be upon the call of the governor, at which point the state university boards shall assume responsibility for the management and governance of their respective institutions.

(ii) The state university boards thereafter shall meet at least four (4) times each year.

(iii) Meetings of the state university boards shall be made available for viewing by the public over the Internet by streaming video accessible from the respective institution’s web site. Archived videos of the board meetings shall also be available to the public through the respective institution’s web site.

(8)

(A) A state university board shall elect from its members a chair and other officers the board deems appropriate. The chair shall serve a term of two (2) years.

(B) The board shall adopt by-laws and rules for the organization and conduct of its business.
(C) To the extent that the policies and guidelines adopted by the board of regents as of the effective date of this act are applicable to the state university boards and their respective institutions, such policies shall be deemed the policies and guidelines of the state university boards and their respective institutions until rescinded or revised by the respective state university boards. Boards shall adopt a policy that facilitates ongoing professional development for members.

(g) Board of regents and state university board members shall receive no compensation for their services, but shall be entitled to reimbursement for travel expenses incurred in the performance of their official duties, in conformity with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 20. Tennessee Code Annotated, Section 49-8-202, is amended by deleting the section and substituting instead the following language:

(a)

(1) The board of regents is empowered to employ a chief executive officer of the board of regents whose office shall be located in Nashville.

(2) The board shall define the chief executive officer’s duties, and within budgetary limitations, fix the chief executive officer’s compensation.

(3) The chief executive officer shall serve at the pleasure of the board and shall have educational preparation and experience that qualify the chief executive officer for leadership of a large complex system of public higher education.

(b) The board or its designated representative is empowered to employ additional professional and staff employees as may be appropriate for the efficient discharge of its duties.

(c) All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 21. Tennessee Code Annotated, Section 49-8-203, is amended by deleting the section and substituting instead the following language:

(a)

(1) With respect to the institutions they govern, each state university board and the board of regents has the power to:

(A) Select and employ the chief executive officers of the institutions and to confirm the appointment of administrative personnel, teachers, and other employees of each state institution and to fix their salaries and terms of office;

(B) Prescribe curricula and requirements for diplomas and degrees. The board of regents and the state university boards shall maintain alignment across state higher education by working to develop curricula requirements that promote student success, postsecondary completion, and advancement of the Tennessee higher education commission state master plan;

(C) Approve the operating budgets and set the fiscal policies for the schools and programs under its control. Each state university board shall have the power to approve the operating budget and set the fiscal policy for the university under its control. In order to ensure the ability to satisfy both contractual obligations to the Tennessee state school bond authority and obligations to that authority’s bondholders, the board of
regents shall have authority over, and shall give final approval to, the operating budget of each state university. The funds appropriated for each state university shall initially be distributed by the department of finance and administration to the board of regents, which shall then distribute such funds to each state university in such amounts as were appropriated minus any deduction or deductions required to be made by the board of regents pursuant to any financing agreement, or other similar agreement, then existing by and between the board of regents and the Tennessee state school bond authority or any successor organization. Notwithstanding any provision of law, the board of regents shall retain all powers and duties with respect to each state university, state community college, and Tennessee college of applied technology, including, but not limited to, any projects at such institutions which are necessary for the board of regents to fulfill its covenants, representations, agreements, and obligations under any financing agreement, then existing by and between the board of regents and the Tennessee state school bond authority, or any successor organization, on the date that this act becomes effective, as the same may be amended pursuant to the terms thereof, or any successor or similar agreement subsequently entered into by and between the board of regents and the Tennessee state school bond authority;

(D) Establish policies and regulations regarding the campus life of the institutions, including, but not limited to, the conduct of students, student housing, parking, and safety; and

(E) Assume general responsibility for the operation of the institutions, delegating to the chief executive officer of each respective institution such powers and duties as are necessary and appropriate for the efficient administration of the institution and its programs.

(2) The board of regents has the power to receive donations of money, securities, and property from any source on behalf of the community colleges and the Tennessee colleges of applied technology, which gifts shall be used in accordance with the conditions set by the donor. Each state university board has the power to receive donations of money, securities, and property from any source on behalf of the institution it governs, which gifts shall be used in accordance with the conditions set by the donor.

(3) The board of regents and each state university board has the power to purchase land subject to the terms and conditions of state regulations, to condemn land, to erect buildings, and to equip them for the institution subject to the requirements of the state building commission and to the terms and conditions of legislative appropriations. Each board shall be vested with title to property so purchased or acquired.

(4) The board of regents and each state university board has other powers, not otherwise prescribed by law, that are necessary to carry out this part, and it is the expressed legislative intent and purpose to vest similar and comparable responsibility and authority in each board as is authorized for the board of trustees of the University of Tennessee; provided, that in exercising any power to borrow money for any purpose, whether by the issuance of bonds or notes or by any other method, each board shall first secure the approval of the state school bond authority.

(b) Notwithstanding any other law, the board of regents, a state university board, or any institution subject to this chapter is not authorized to borrow money for any purpose, whether by the issuance of bonds or notes or by any other method, without first securing the approval of the state school bond authority.

(c) State university boards shall manage and initiate capital and real estate transactions; provided, that such transactions are within the scope of a master plan approved by the Tennessee higher education commission.
(d) The title of the property held on behalf of the state universities named in § 49-8-101(a)(2)(A) by the board of regents shall be transferred to the respective state university board upon assumption of responsibility no later than June 30, 2017.

(e) A state university board shall ensure the board’s institution remains in compliance with the transfer and articulation provisions of § 49-7-202.

(f) The board of regents, the state university boards, and the institutions subject to this chapter shall not enter into any final agreement or other final arrangement for a merger or consolidation with a private institution of higher education without the authorization of the general assembly, acting through legislation, resolution, or appropriations.

(g) It is unlawful for any member of a state university board or the board of regents to be financially interested in any contract or transaction affecting the interests of any institution governed by the board, or to procure, or be a party in any way to procuring, the appointment of any relative to any position of financial trust or profit connected with the universities and colleges governed. A violation of this subsection (g) shall subject the member so offending to removal by the governor or the board.

(h) Except for the purposes of inquiry or information, a member of the state university board shall not give direction to or interfere with any employee, officer, or agent under the direct or indirect supervision of the chief executive officer of the respective institution.

(i) Each institution subject to this chapter shall provide data to the Tennessee higher education commission for information, assessment, and accountability purposes, to be used in a statewide data system that facilitates the public policy agenda developed by the commission. The commission shall determine the data elements necessary to carry out this task.

(j) Notwithstanding any provision of this act or any other provision of law to the contrary, the state university boards and their respective institutions shall continue to be participating employers in the Tennessee consolidated retirement system and utilize such claims administration services, risk management programs, investment funds and trusts, and retirement and deferred compensation programs, or any successor programs and services in the same fields, as are provided or administered by the department of treasury to any of the state universities on the effective date of the act until the effective date of any subsequent legislation authorizing procurement from another provider.

(k) Institutions shall ensure that any data system employed for student information is interoperable with the statewide student information system used by the board of regents and the higher education commission.

(l) Each institution subject to this chapter shall make a report annually to the higher education commission on any academic program terminations which shall be submitted by the higher education commission to the education committee of the senate and the education administration and planning committee of the house of representatives.

(m) Upon formal request by the higher education commission, the board of regents and each state university board authorized under this chapter shall assist the commission in convening representatives of the institutions and governing boards, as authorized by § 49-7-202(p), to help ensure a cohesive and coordinated system of higher education public policy in Tennessee.

SECTION 22. Tennessee Code Annotated, Section 49-8-204, is amended by deleting the section and substituting instead the following language:

(a) The board of regents and each state university board shall establish and adopt a code of ethics that shall apply to and govern the conduct of all appointed members of each board.
(b) Notwithstanding any other law to the contrary, by a two-thirds (2/3) vote of its membership, the board of regents and each state university board may remove any appointed member of the respective board for a material violation of the code of ethics.

(c) A board vote to remove one (1) of its members shall only be taken after the accused member has been afforded a due process contested case hearing in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and a finding has been made that the member did violate the board's code of ethics.

(d) If a member is removed in accordance with this section, the position shall be considered vacant and the vacancy shall be filled as provided by law.

SECTION 23. Tennessee Code Annotated, Section 49-8-301(a), is amended by deleting the subsection in its entirety and substituting instead the following language:

(a) The board of regents and each state university board shall promulgate a tenure policy or policies for faculty at their respective institutions, which policy or policies shall ensure academic freedom and provide sufficient professional security to attract the best qualified faculty available for the institutions.

SECTION 24. Tennessee Code Annotated, Section 49-8-303, is amended by deleting the section and substituting instead the following language:

(a) The board of regents and each state university board shall develop procedures for the termination of faculty with tenure for adequate cause by the institutions following a hearing that ensures due process, which procedures shall include the following minimum requirements:

(1) The faculty member shall be notified of the specific charges in writing, and shall be notified of the time, place, and nature of the hearing at least twenty (20) days prior to the hearing;

(2) The faculty member shall have the right to be represented by counsel of the faculty member's own choice;

(3) A verbatim record of the hearing shall be made, and a typewritten copy made available to the faculty member for a reasonable fee at the faculty member's request;

(4) The burden of proof that adequate cause for termination exists shall be upon the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole;

(5) The faculty member shall have the right to confront and cross-examine all witnesses; and

(6) The findings of fact and the decision shall be based solely on the hearing record.

(b) The board of regents and each state university board shall adopt all additional procedures the respective board deems necessary for the hearings and may provide for review of the decision by the board or its designee based upon the record.

(c) A faculty member serving a probationary period shall be given an oral statement of the reason for nonappointment to the institution's faculty.

SECTION 25. Tennessee Code Annotated, Section 49-8-304(b), is amended by deleting the subsection in its entirety and substituting instead the following language:

(b) Within forty-five (45) days after service of the petition, or within such further time allowed by the court, the board of regents or the state university board shall transmit to the court the original or a certified copy of the entire record of the proceeding.
SECTION 26. Tennessee Code Annotated, Section 49-8-501(b), is amended by deleting the subsection in its entirety and substituting instead the following language:

(b) The transfer shall place the paramedical school under the control, direction, and supervision of East Tennessee State University and its state university board.

SECTION 27. Tennessee Code Annotated, Section 49-8-601, is amended by deleting the section and substituting instead the following language:

Subject to approval by its state university board, the University of Memphis is authorized to enter into an indemnity agreement with the United States nuclear regulatory commission, as required pursuant to 42 U.S.C. § 2210 and 10 C.F.R. § 140.95, in connection with its nuclear facility operating license.

SECTION 28. Tennessee Code Annotated, Section 49-8-801, is amended by deleting the section and substituting instead the following language:

Tennessee State University shall be operated and maintained as a state university under the management and governance of a state university board, with all programs available to all qualified citizens, and shall continue to function as the 1890 land grant institution of the state pursuant to federal laws and recognized as a federally designated historically black college and university.

SECTION 29. Tennessee Code Annotated, Section 49-7-202, is amended by deleting the section in its entirety and substituting instead the following language:

(a) It is the duty of the commission on a continuing basis to study the use of public funds for higher education in this state and to analyze programs and needs in the field of higher education.

(b) The commission shall establish and ensure that all postsecondary institutions in this state cooperatively provide for an integrated system of postsecondary education. The commission shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions.

(c) The commission shall:

(1) Provide planning and policy leadership, including a distinct and visible role in setting the state’s higher education policy agenda and serving as an agent of education transformation;

(2) Develop and advance the education public policy agenda of the state to address the challenges facing higher education in Tennessee; and

(3) Develop public consensus and awareness for the Tennessee higher education public policy agenda.

(d)

(1) The commission shall develop a statewide master plan to increase the educational attainment levels of Tennesseans through strategic future development of public universities, community colleges, and colleges of applied technology.

(2) In the development of this master plan, the commission shall actively engage with state institutions of higher education and their respective governing boards, as well as key stakeholders, and the appropriate state agencies.

(3) The commission shall engage regional and statewide constituencies for input and information to ensure the master plan supports the development of higher education opportunities for Tennesseans. Additionally, provisions of the master plan shall facilitate regional cooperation and alignment among
postsecondary institutions, secondary educational institutions, business, and industry, as well as civic and community leaders.

(4) This master plan shall be reviewed and revised as deemed appropriate by the commission, and shall include, but not be limited to, consideration of the following provisions:

(A) Addressing the state's economic development, workforce development, and research needs;

(B) Ensuring increased degree production within the state's capacity to support higher education; and

(C) Using institutional mission differentiation to minimize redundancy in degree offerings, instructional locations, and competitive research, and to realize statewide efficiencies through institutional collaboration.

(5) Following completion of the master plan and to expedite implementation, the commission shall submit any necessary higher education policy recommendations to the governing boards of the various institutions, the governor, and the general assembly through the education committee of the senate and the education administration and planning committee of the house of representatives.

(e) Concurrent with the adoption of each revised master plan and in consultation with the respective governing boards, the commission shall approve institutional mission statements. Submitted by state institutions, an institutional mission statement shall characterize distinctiveness in degree offerings and shall address institutional accountability for the quality of instruction, student learning, and, where applicable, research and public service to benefit Tennessee citizens. Nothing contained in this section shall prohibit any institution from pursuing research and related activities that are consistent with the institution's mission.

(f)

(1) The commission shall develop and utilize an outcomes-based funding formula model to ensure the fair and equitable distribution and use of public funds among state institutions of higher education.

(2) This funding formula model shall further the goals of the statewide master plan by emphasizing outcomes across a range of variables that shall be weighted to reinforce each institution's mission and provide incentives for productivity improvements consistent with the state's higher education master plan, including:

(A) End-of-term enrollment for each term, student retention, and timely progress toward degree completion and degree production; and

(B) Student transfer activity, research, and student success, as well as compliance with the transfer and articulation policies required in this section.

(3) The funding formula model shall consider the impact of tuition, maintenance fees, and other charges assessed by each institution in determining the fair and equitable distribution of public funds. The commission shall also consider capital outlay programs and operating expenses, which shall be utilized to determine the higher education appropriations recommendation.

(g)

(1) The commission shall establish a review committee to aid in development or revision of the higher education master plan and funding formula. The committee shall include the executive director of the Tennessee higher
education commission, the chancellor of the board of regents, the president of the University of Tennessee system, each president of a board of regents state university, the commissioner of finance and administration, the comptroller of the treasury, the chairs of the standing committees on education and finance, ways and means of the senate, the chairs of the standing committees on education administration and planning and finance, ways and means of the house of representatives, and the directors of the office of legislative budget analysis, or their designees.

(2) The committee shall review the funding formula components, as well as identify needed revisions, additions, or deletions to the formula. The committee shall also ensure that the funding formula is linked to the goals and objectives of the master plan.

(3) The review committee shall meet at least annually.

(h) The commission shall submit the revised higher education funding formula to the office of legislative budget analysis and the comptroller of the treasury no later than December 1 of each year. The commission shall also report any projected tuition increases for the next academic year to the office of legislative budget analysis and the comptroller of the treasury no later than December 1 of each year. The office of legislative budget analysis and the comptroller of the treasury shall each provide comments on the higher education funding formula to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education administration and planning and finance, ways and means committees of the house of representatives.

(i) Before any amendment or revision to the outcomes-based funding formula model shall become effective, the amendment or revision shall be presented to the education and finance, ways and means committees of the senate and the education administration and planning and finance, ways and means committees of the house of representatives for review and recommendation.

(j) In the implementation of its duties, the commission, in cooperation with the commissioner of finance and administration and the comptroller of the treasury, shall establish uniform standards of accounting, records, and statistical reporting systems in accordance with accepted national standards, which standards shall be adhered to by the various institutions in preparing for submission to the commission statistical data and requests for appropriations.

(k) The commission shall develop funding recommendations that reflect the outcomes-based funding formula model as well as the priorities of the approved master plan.

(l) The commission shall have no authority for recommending individual colleges of applied technology's operating budgets nor in approving or disapproving the transfer of any funds between colleges of applied technology deemed necessary by the board of regents to carry out the provisions of chapter 181 of the Public Acts of 1983. For fiscal years ending on and after June 30, 2013, the commission shall have no authority for recommending individual community colleges' operating budgets or in approving or disapproving the transfer of any funds between community colleges as may be determined necessary by the board of regents.

(m) The commission shall develop a comprehensive strategic financial plan for higher education focusing on state appropriations, student tuition and other charges, financial aid, and capital and infrastructure issues, as well as other factors, as appropriate. The plan shall also address higher education efficiency, affordability, performance, return on investment, and other relevant factors.

(n)

(1) The commission shall review annually tuition and other institutional fees charged to students attending state institutions of higher education.
(2) Following this review, the commission shall approve annually a tuition and fee policy binding upon all state institutions of higher education. This tuition policy shall apply only to tuition and fees charged to undergraduate students classified as Tennessee residents, commonly referred to as in-state tuition or maintenance fees.

(3) The tuition policy shall include two (2) approved ranges of allowable percentage adjustment:

(A) One (1) range for any proposed modification to the current tuition rates; and

(B) One (1) range for any proposed modification to the combined total amount of tuition and all mandatory fees assessed.

(4) Institutions may adopt tuition and fee adjustments within the commission's approved policy ranges, but no increase shall exceed the maximum percent adjustment approved by the commission.

(5) Tuition-setting authority for undergraduate students not classified as Tennessee residents and all graduate-level students shall be the sole responsibility of the institution's respective governing board.

(6) Nothing in this subsection (n) shall prohibit institutions from reducing the total tuition and fees charged to students.

(7) Notwithstanding any provision of this subsection (n), no change in tuition or fee policy shall be made that, in the opinion of the board of regents, might adversely affect compliance with, or future borrowings pursuant to, financing agreements with the Tennessee state school bond authority.

(o) The commission shall establish a formal process, consistent with the provisions of § 49-7-1002, for identifying capital investment needs and determining priorities for these investments for consideration by the governor and the general assembly as part of the annual appropriations act.

(p) As necessary, the commission may convene the membership, leaders, and personnel of each public institution, governing board, or system to ensure a cohesive and coordinated system of higher education public policy. The commission may also conduct orientation and informational policy seminars for members of governing boards.

(q)

(1)

(A) The commission shall study the need for particular programs, departments, academic divisions, branch operations, extension services, adult education activities, public service activities, and work programs of the various institutions of higher learning, with a particular view to their cost and relevance and to make recommendations to the respective governing boards for the purpose of minimizing duplication and overlapping of functions and services and to foster cooperative programs among the various institutions.

(B) The commission is authorized to make recommendations to the governing boards for the termination of existing on-campus and off-campus programs of those institutions set forth in § 49-7-203 that are determined by the commission to be unnecessarily duplicative. A copy of the recommendations shall be filed with the education committee of the senate and the education administration and planning committee of the house of representatives.

(C) The governing boards of the institutions shall make a report annually on any program terminations to the education committee of the
senate and the education administration and planning committee of the
house of representatives, and a copy of the report shall be filed with the
commission.

(2)

(A) The commission shall review and approve or disapprove all
proposals for new degrees or degree programs or for the establishment of
new academic departments or divisions within the various institutions of
higher learning.

(B) Determination of specific courses or course content, however,
shall continue to be the exclusive function of the governing boards of the
various institutions.

(C) This subdivision (q)(2) shall apply to state colleges of applied
technology only if the schools grant degrees and shall apply only to those
schools granting degrees, unless the system as a whole grants degrees.

(3) The commission shall review and approve or disapprove all proposals
by any existing higher education institution to establish a physical presence at
any location other than its main campus or to extend an existing location that will
be utilized for administrative purposes or to offer courses for which academic
credit is offered. If the new location will create or expand a physical presence out
of state, the higher education institution shall, through its governing board, file
with the commission a notice of intent to initiate out-of-state instructional activity
prior to the development of the proposal. The commission shall, no later than
February 15 of each year, report to the chairs of the fiscal review committee, the
education committee of the senate, and the education administration and
planning committee of the house of representatives of any such notices filed in
the previous year and the status of that application. The commission shall
develop policies and procedures governing the process outlined in this
subdivision (q)(3). This subdivision (q)(3) shall also apply to state colleges of
applied technology.

(r)

(1) The commission shall require all state institutions of higher education
to collaborate and develop a transfer pathway for at least the fifty (50)
undergraduate majors for which the demand from students is the highest and in
those fields of study for which the development of a transfer pathway is feasible
based on the nature of the field of study.

(2)

(A) A transfer pathway shall consist of sixty (60) hours of
instruction that a student can transfer and apply toward the requirements
for a bachelor's degree at a public institution that offers the transfer
pathway. The sixty (60) hours of instruction in a transfer pathway shall
consist of forty-one (41) hours of general education courses instruction
and nineteen (19) hours of pre-major courses instruction, or elective
courses instruction that count toward a major, as prescribed by the
commission, which shall consider the views of chief academic officers
and faculty senates of the respective campuses. Courses in a transfer
pathway shall transfer and apply toward the requirements for graduation
with a bachelor's degree at all public universities.

(B) An associate of science or associate of arts degree graduate
from a Tennessee community college shall be deemed to have met all
general education and university parallel core requirements for transfer to
a Tennessee public university as a junior. Notwithstanding this
subdivision (r)(2)(B), admission into a particular program, school, or
college within a university, or into the University of Tennessee, Knoxville,
shall remain competitive in accordance with generally applicable policies.
(C) The forty-one-hour lower division general education core common to all state colleges and universities shall be fully transferable as a block to, and satisfy the general education core of, any public community college or university. A completed subject category, for example, natural sciences or mathematics, within the forty-one-hour general education core shall also be fully transferable and satisfy that subject category of the general education core at any public community college or university.

(D) The nineteen-hour lower division AA/AS area of emphasis articulated to a baccalaureate major shall be universally transferable as a block satisfying lower division major requirements to any public university offering that degree program major.

(3) It is the legislative intent that community college students who wish to earn baccalaureate degrees in the state's public higher education system be provided with clear and effective information and directions that specify curricular paths to a degree. To meet the intent of this section, the commission, in consultation with the governing boards of all state institutions of higher education, shall develop, and the governing boards of all state institutions of higher education shall implement, the following:

(A) A common course numbering system, taking into consideration efforts already undertaken, within the community colleges to address the requirements of subdivision (r)(1); and

(B) Listings of course offerings that clearly identify courses that are not university parallel courses and therefore not designed to be transferable under subdivision (r)(1).

(4) This subsection (r) shall be fully implemented no later than the fall 2015 semester. Until this subsection (r) is fully implemented, prior to the beginning of each semester, the commission shall report to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education administration and planning and finance, ways and means committees of the house of representatives on the progress made toward completion of the nineteen (19) pre-major course blocks provided in subdivision (r)(2)(D).

(5) The commission shall have ongoing responsibility to update and revise the plans implemented pursuant to this subsection (r) and report to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education administration and planning and finance, ways and means committees of the house of representatives no later than October 1 of each year on the progress made toward full articulation between all public institutions.

(s) Notwithstanding any law or rule to the contrary, the commission, in consultation with the governing boards of state institutions of higher education, shall develop policies under which a person who satisfies the admissions requirements of a two-year institution and a four-year institution may be admitted to both such institutions. The commission shall identify those institutions for which such dual admission is appropriate, based on geographic or programmatic considerations. These policies shall be adopted and implemented by the governing boards of all state institutions of higher education no later than July 1, 2015.

(t) The commission, with the assistance of the University of Tennessee system, state universities, and the community college system, shall develop information concerning the potential career opportunities in each curriculum or major field of study leading to a baccalaureate degree that is offered at a state institution of higher education. The information shall include, but not be limited to,
the potential job market in this state in the major field or curriculum after graduation, the median income or an income range for jobs in the major field or curriculum in this state, and whether an advanced degree in the major field or curriculum is required to obtain employment in that field.

(2) The information developed concerning career opportunities for curricula and major fields of study under subdivision (t)(1) shall be posted on the commission’s web site. A link to the information developed by the commission, together with a brief description of the type of information available, shall be posted on the web site of each state institution of higher education offering baccalaureate degrees. The institutions shall not be required to publish the information developed by the commission in school catalogs, but school catalogs shall include, in a prominent location, the web site address for the information and a brief description of the type of information that is available.

(3) The information required by this subsection (t) shall be updated at least annually.

(u) The commission shall undertake specific duties that are directed by resolution of the general assembly or requested by the governor.

SECTION 30. Tennessee Code Annotated, Section 49-7-1002, is amended by deleting the section in its entirety and substituting instead the following language:

(a) All legislative proposals or requests for state funding toward public higher education capital projects, maintenance, new academic programs, public service, research activities, and engagement opportunities or operational support coming before the general assembly shall first be considered and acted upon through established processes and procedures to review such requests; provided, however, that if such consideration or action through established processes and procedures is not possible, then such legislative proposals or requests shall be made with the knowledge of the executive director of the Tennessee higher education commission, the chancellor of the board of regents, or the president of the University of Tennessee, as applicable, and the chief executive officer of the institution for which the proposal or request for state funding is made. The executive director, chancellor, and the president shall be accountable for ensuring that the established processes for considering and evaluating such requests are followed to the greatest extent possible.

(b) At no time shall an employee of a state institution of higher education advance state legislative funding requests without the knowledge of the executive director, chancellor, or president of the respective system or institution for which the request is made, and the chief executive officer of the institution, campus, or unit.

(c) The executive director, chancellor, and president are expected to advance such policies or proposals through existing processes and procedures established in the spirit to maximize the state’s ability to strategically plan, execute, and maintain the state’s public higher education obligations.

(d) The governing board of each institution shall be authorized to take such action as each board deems reasonable and appropriate to enforce this part and that is consistent with the purpose of this part.

SECTION 31. Tennessee Code Annotated, Section 49-9-202(a), is amended by adding the following language as a new subdivision (8) and redesignating subsequent subdivisions accordingly:

(8) One (1) additional member who shall be a non-Tennessee resident;

SECTION 32. Tennessee Code Annotated, Section 12-3-102(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(3) The board of trustees of the University of Tennessee system, the Tennessee board of regents system, and the state university boards;
SECTION 33. The state university boards are authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 34. Tennessee Code Annotated, Section 49-7-204, is amended by deleting subsections (a), (b), and (c) in their entirities and substituting instead:

(a)

(1)

(A) The commission shall consist of a total of ten (10) appointed voting members.

(B) The governor shall appoint six (6) voting members, the speaker of the senate shall appoint one (1) voting member, the speaker of the house of representatives shall appoint one (1) voting member, and the speakers shall jointly appoint one (1) voting member.

(C) In addition, the governor shall appoint two (2) student members. One (1) student member shall be a voting member, and one (1) student member shall be a nonvoting member. The student appointed pursuant to subdivision (d)(2)(A) will be the first voting student member for a term of one (1) year, followed by the student member appointed pursuant to subdivision (c)(1), who shall serve a term of one (1) year as a voting member. Thereafter, the voting student membership shall be rotated between the student representing the University of Tennessee system and the student representing institutions that are not in the University of Tennessee system, it being the legislative intent that a student member serve one (1) year as a nonvoting member before becoming a voting member.

(D) The comptroller of the treasury, the secretary of state, and the state treasurer shall serve as ex officio, voting members of the commission. The executive director of the state board of education shall serve as an ex officio, nonvoting member of the commission.

(2)

(A) Except for ex officio members and student members, membership shall be for a six-year term.

(B) To transition from appointment of all members by the governor to appointment of members by the governor, the speaker of the senate, and the speaker of the house of representatives, when the first vacancy occurs or the first term expires after July 1, 2016, the speaker of the senate shall appoint the member to fill the vacancy. When the second vacancy occurs or the next term expires, the speaker of the house of representatives shall appoint the member to fill the vacancy. When the third vacancy occurs or the next term expires, the speaker of the senate and the speaker of the house of representatives shall jointly appoint the member to fill the vacancy.

(3)

(A) As the governor, speaker of the senate, and speaker of the house of representatives appoint voting members, other than the student members, the governor, the speaker of the senate, and the speaker of the house of representatives shall appoint the voting members so that the three (3) grand divisions of the state are represented equally.

(B) No member of the commission serving on July 1, 2016, shall have the member’s term cut short because of subdivision (a)(3)(A).
(4) When the nine (9) voting members, other than the student member, have been appointed so that the three (3) grand divisions are represented equally, the appointing authorities, in filling vacancies, shall subsequently appoint a person from the grand division in which the member who previously filled the position resided.

(5) Members shall be eligible for reappointment.

(6) The appointing authorities shall strive to appoint members to the commission in a manner that is representative of the diversity of the citizens of the state.

(b)

(1) Except as provided in subdivision (a)(2)(B), any vacancy on the commission shall be filled by appointment of the authority who originally made the appointment.

(2) Vacancies, except for expiration of a term, shall be filled for the unexpired term only.

(3) Except for members appointed before July 1, 2016, the place of any member on the commission shall be vacated at such time as the member ceases to reside in the grand division in which the member resided at the time of appointment.

(c)

(1) One (1) member of the commission shall be a student who shall be appointed by the governor from a list of three (3) nominees selected and submitted no later than April 15 by the presidents of the student government associations and associated student bodies of the community colleges, the Tennessee colleges of applied technologies, and the six (6) state universities.

(2) The student member shall serve for a term of two (2) years beginning on July 1 after the student member's appointment by the governor. The student shall continue as a student in good standing at the institution the student represents during the student's term on the commission.

(3) The list of nominees referenced in subdivision (c)(1) shall be selected in accordance with the following provisions:

(A)

(i) One (1) nominee shall be enrolled as a full-time student at a state university at the time of nomination and shall maintain enrollment as a full-time student at the state university;

(ii) One (1) nominee shall be enrolled as a full-time student at a community college at the time of nomination and shall maintain enrollment as a full-time student at the community college; and

(iii) One (1) nominee shall be enrolled as a full-time student at the time of nomination at a Tennessee college of applied technology;

(B) The nominees may not be enrolled at the same institution;

(C) All nominees for student commission member shall be residents of this state; and

(D) A majority of the student government association and associated student body presidents of all state universities, community
colleges, and Tennessee colleges of applied technologies shall constitute a quorum for nomination purposes. A majority vote of those present and voting is necessary to effect a nomination.

(4) The executive director of the commission shall notify all student government association and associated student body presidents of the necessity for the nominating procedure described in subdivision (c)(3).

SECTION 35. This act shall take effect on July 1, 2016, the public welfare requiring it.
HOUSE BILL NO. 2578

PASSED: April 4, 2016

BETH HARWELL
SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 19th day of April 2016

BILL HASLAM, GOVERNOR