

SB 5047

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REGULAR SESSION, 1995



ENROLLED

Committee Substitute For
SENATE BILL NO. 547

(By Senator *TOUBLIN, MR. PRESIDENT* AND
BOLEY, By Request of the Executive)



PASSED *MARCH 11,* 1995
In Effect *From* Passage

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COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 547

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND BOLEY,
BY REQUEST OF THE EXECUTIVE)

[Passed March 11, 1995; in effect from passage.]

AN ACT to repeal section four, article three-a, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section forty-eight, article three, chapter five-a of said code; to amend and reenact section eleven, article three, chapter twelve of said code; to amend and reenact section four, article twenty-nine, chapter eighteen of said code; to amend and reenact sections one-a, one-b, two, eight and eight-a, article one, chapter eighteen-b of said code; to further amend said article by adding thereto two new sections, designated sections one-c and one-d; to amend and reenact sections one, three and four, article three of said chapter; to further amend said article by adding thereto a new section, designated

section three-a; to amend and reenact section one, article four of said chapter; to amend and reenact sections four, five, six and seven, article five of said chapter; to further amend said article by adding thereto three new sections, designated sections two-b, two-c and eight; to amend and reenact section one, article six of said chapter; to amend and reenact section one, article seven of said chapter; to further amend said article by adding thereto a new section, designated section eleven; to amend and reenact sections two and twelve, article nine of said chapter; to further amend said article by adding thereto a new section, designated section six; to amend and reenact section one, article ten of said chapter; to amend article eleven of said chapter by adding thereto a new section, designated section five; and to amend article fourteen of said chapter by adding thereto a new section, designated section five, all relating to achieving goals for higher education; exempting higher education governing boards and their institutions from rules relating to travel and purchase of vehicles; extending default provision at level one for grievances and requiring dual filing for cases relating to higher education; deleting obsolete language; expressing goals relating to relevance and quality for post-secondary education and expressing goals for student access, entrepreneurial programs and good citizenship; requiring governing boards to report strategic plans relating to salary targets and resource allocation exceptions; increasing flexibility and capacity for change relating to retirement and separation incentives, pilot flexibility initiatives and consolidation of administrative functions; revising definitions; updating powers and duties of governing boards generally and authorizing employment of legal counsel; requiring governing boards to adopt rules providing for the collection, analysis and dissemination of higher education report cards; adding three members to the board of directors of the state college system; establishing community and technical college education; creating positions of vice chancellor for

instructional technology and vice chancellor for community and technical education; updating purchasing and bidding procedures for institutions of higher education; extending terms for members of the institutional board of advisors for faculty and classified employees; retaining bumping rights for classified employees involuntarily transferred; eliminating the five-percent salary provision for probationary employees; providing compensatory time off in lieu of overtime for employees of governing boards; creating an institute for instructional technology; and authorizing governing boards to sell property.

Be it enacted by the Legislature of West Virginia:

That section four, article three-a, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section forty-eight, article three, chapter five-a of said code be amended and reenacted; that section eleven, article three, chapter twelve of said code be amended and reenacted; that section four, article twenty-nine, chapter eighteen of said code be amended and reenacted; that sections one-a, one-b, two, eight and eight-a, article one, chapter eighteen-b of said code be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections one-c and one-d; that sections one, three and four, article three of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section three-a; that section one, article four of said chapter be amended and reenacted; that sections four, five, six and seven, article five of said chapter be amended and reenacted; that said article be further amended by adding thereto three new sections, designated sections two-b, two-c and eight; that section one, article six of said chapter be amended and reenacted; that section one, article seven of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eleven; that sections two and twelve, article nine of said chapter be amended and reenacted; that said article be further amended by adding

thereto a new section, designated section six; that section one, article ten of said chapter be amended and reenacted; that article eleven of said chapter be amended by adding thereto a new section, designated section five; and that article fourteen of said chapter be amended by adding thereto a new section, designated section five, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-48. Travel rules; exceptions.

1 The secretary of administration shall promulgate rules
2 relating to the ownership, purchase, use, storage, main-
3 tenance and repair of all motor vehicles and aircraft
4 owned by the state of West Virginia and in the posses-
5 sion of any department, institution or agency thereof:
6 *Provided, That the provisions of sections forty-eight*
7 *through fifty-three of this article shall not apply to the*
8 *division of highways of the department of transporta-*
9 *tion, the division of public safety of the department of*
10 *military affairs and public safety, the division of natural*
11 *resources, the division of forestry, the department of*
12 *agriculture and the higher education governing boards*
13 *and their institutions: *Provided, however, That the**
14 *higher education governing boards and their institutions*
15 *shall report annually to the secretary of education and*
16 *the arts and the legislative oversight commission on*
17 *education accountability in a form and manner as*
18 *required by the secretary of education and the arts.*
19 *Such report shall include at least the following: The*
20 *number of vehicles purchased and the purchase price,*
21 *the number of donated vehicles, and the cost of lease*
22 *agreements on leased vehicles.*

23 If, in the judgment of the secretary of administration,
24 economy or convenience indicate the expediency thereof,
25 the secretary may require all vehicles and the aircraft
26 subject to regulation by this article, or such of them as
27 he or she may designate, to be kept in such garages, and
28 other places of storage, and to be made available in such

29 manner and under such terms for the official use of such
30 departments, institutions, agencies, officers, agents and
31 employees of the state as the secretary may designate by
32 any such rule as he or she may from time to time promul-
33 gate. The secretary also has the authority to administer
34 the travel regulations promulgated by the governor in
35 accordance with section eleven, article three, chapter
36 twelve of this code, unless otherwise determined by the
37 governor.

38 Provisions of this section relating to the governing
39 boards of higher education and the institutions under
40 their jurisdiction shall expire on the first day of July,
41 two thousand one, unless the continuation thereof is
42 authorized by the legislative oversight commission on
43 education accountability.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-11. Travel expenses; rules to be promulgated concern- ing same; dues to voluntary organizations; recruitment expenses for West Virginia higher education governing boards; moving expenses of employees of West Virginia higher education governing boards.

1 The governor shall promulgate rules and regulations
2 concerning out-of-state travel by state officials and
3 employees, except those in the legislative and judicial
4 branches of the state government and except for the
5 attorney general, auditor, secretary of state, treasurer,
6 board of investments, commissioner of agriculture and
7 their employees, and the higher education governing
8 boards and institutions under their jurisdiction. The
9 Legislature, the supreme court of appeals and the
10 attorney general, auditor, secretary of state, treasurer,
11 board of investments, commissioner of agriculture and
12 the higher education governing boards shall promulgate
13 rules and regulations concerning out-of-state travel for
14 their respective branches and departments of state

15 government. Copies of such rules and regulations shall
16 be filed with the auditor, and the secretary of state. It
17 shall be unlawful for the auditor to issue a warrant in
18 payment of any claim for out-of-state travel expenses
19 incurred by a state officer or employee unless such claim
20 meets all the requirements of the rules and regulations so
21 filed.

22 Payment for dues or membership in annual or other
23 voluntary organizations shall be made from the proper
24 item or appropriation after an itemized schedule of such
25 organizations, together with the amount of such dues or
26 membership, has been submitted to the budget director
27 and approved by the governor.

28 It shall be lawful for a higher education governing
29 board to authorize the payment of traveling expenses
30 incurred by any person invited to visit the campus of any
31 state institution of higher education or any other facility
32 under control of the board to be interviewed concerning
33 his possible employment by the board or agent thereof.

34 It shall be lawful for a higher education governing
35 board to authorize payment of: (1) All or part of the
36 reasonable expense incurred by a person newly em-
37 ployed by the board in moving his household furniture,
38 effects and immediate family to his place of employment;
39 and (2) all or part of the reasonable expense incurred by
40 an employee of the board in moving his household
41 furniture, effects and immediate family as a result of a
42 reassignment of the employee which is considered
43 desirable, advantageous to and in the best interest of the
44 state: *Provided*, That no part of the moving expenses of
45 any one such employee shall be paid more frequently
46 than once in twelve months.

47 Provisions of this section relating to the governing
48 boards of higher education and the institutions under
49 their control shall expire on the first day of July, two
50 thousand one, unless the continuation thereof is autho-
51 rized by the legislative oversight commission on educa-

52 tion accountability.

CHAPTER 18. EDUCATION.

ARTICLE 29. GRIEVANCE PROCEDURE.

§18-29-4. Procedural levels and procedure at each level.

1 (a) Level one.

2 (1) Before a grievance is filed and within fifteen days
3 following the occurrence of the event upon which the
4 grievance is based, or within fifteen days of the date on
5 which the event became known to the grievant or within
6 fifteen days of the most recent occurrence of a continu-
7 ing practice giving rise to a grievance, the grievant or the
8 designated representative shall schedule a conference
9 with the immediate supervisor to discuss the nature of
10 the grievance and the action, redress or other remedy
11 sought.

12 The conference with the immediate supervisor con-
13 cerning the grievance shall be conducted within ten days
14 of the request therefor, and any discussion shall be by
15 the grievant in the grievant's own behalf or by both the
16 grievant and the designated representative.

17 (2) The immediate supervisor shall respond to the
18 grievance within ten days of the conference.

19 (3) Within ten days of receipt of the response from the
20 immediate supervisor following the informal conference,
21 a written grievance may be filed with said supervisor, or
22 in the case where the grievance involves an event under
23 the jurisdiction of a state institution of higher education,
24 the grievance shall be filed with said supervisor and the
25 office of personnel, by the grievant or the designated
26 representative on a form furnished by the employer or
27 agent.

28 (4) The immediate supervisor shall state the decision to
29 such filed grievance within ten days after the grievance
30 is filed.

31 (b) Level two.

32 Within five days of receiving the decision of the
33 immediate supervisor, the grievant may appeal the
34 decision to the chief administrator, and such administra-
35 tor or his or her designee shall conduct a hearing in
36 accordance with section six of this article within five
37 days of receiving the appeal and shall issue a written
38 decision within five days of such hearing. Such decision
39 may affirm, modify or reverse the decision appealed
40 from. Level four hearing examiners or the chief admin-
41 istrator shall have the authority to subpoena witnesses
42 and documents for level two and level three hearings in
43 accordance with the provision of section one, article five,
44 chapter twenty-nine-a of this code, and may issue a
45 subpoena upon the written request of any party to the
46 grievance.

47 (c) Level three.

48 Within five days of receiving the decision of the chief
49 administrator, the grievant may appeal the decision to
50 the governing board of the institution or may proceed
51 directly to level four. An appeal to the governing board
52 shall set forth the reasons why the grievant is seeking a
53 level three review of the decision of the chief administra-
54 tor. Within five days of receiving the appeal, such
55 governing board may conduct a hearing in accordance
56 with section six of this article, may review the record
57 submitted by the chief administrator and render a
58 decision based on such record or may waive the right
59 granted herein and shall notify the grievant of such
60 waiver. Any decision by the governing board, including
61 a decision to waive participation in the grievance, shall
62 be in writing and shall set forth the reasons for such
63 decision, including the decision to waive participation in
64 the grievance. If a hearing is held under the provisions
65 of this subsection, the governing board shall issue a
66 decision affirming, modifying or reversing the decision
67 of the chief administrator within five days of such

68 hearing.

69 (d) Level four.

70 (1) If the grievant is not satisfied with the action taken
71 by the chief administrator or, if appealed to level three,
72 the action taken by the governing board, within five days
73 of the written decision the grievant may request, in
74 writing, on a form furnished by the employer, that the
75 grievance be submitted to a hearing examiner as pro-
76 vided for in section five of this article, such hearing to be
77 conducted in accordance with section six of this article
78 within ten days following the request therefor: *Pro-*
79 *vided*, That such hearing may be held within thirty days
80 following the request or within such time as is mutually
81 agreed upon by the parties, if the hearing examiner gives
82 reasonable cause, in writing, as to the necessity for such
83 delay.

84 (2) Within thirty days following the hearing, the
85 hearing examiner shall render a decision in writing to all
86 parties setting forth findings and conclusions on the
87 issues submitted. Subject to the provisions of section
88 seven of this article, the decision of the hearing examiner
89 shall be final upon the parties and shall be enforceable
90 in circuit court.

91 All information and data generated by the board and
92 in its custody relative to level four decisions and copies
93 of such decisions shall be provided at reasonable cost to
94 any individual requesting it.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

§18B-1-1a. Goals for post-secondary education.

1 (a) *Findings and directives.* — The Legislature finds
2 that higher education is a vital force in the future of
3 West Virginia. For the state to realize its considerable
4 potential in the twenty-first century, West Virginia
5 should invest in its people through a strong and dynamic

6 higher education system.

7 The Legislature further finds that the people of West
8 Virginia have demonstrated their support for this finding
9 through their involvement and comments at meetings
10 held throughout the state pursuant to Senate Concurrent
11 Resolution No. 30 adopted at the regular session of the
12 West Virginia Legislature, one thousand nine hundred
13 ninety-two. The Legislature, also, endorses the report
14 submitted by the higher education advocacy team
15 pursuant to said resolution and directs the affected
16 educational agencies to implement unified strategies for
17 accomplishing the needed improvements.

18 (b) *Goals and objectives.* — In the pursuance of the
19 above findings, the following goals and objectives are
20 hereby adopted with respect to the investments which
21 are necessary for higher education in West Virginia to
22 contribute fully to the growth, development and quality
23 of life of the state and its citizens:

24 (1) Students should be better prepared in high school
25 to meet college standards jointly agreed upon by higher
26 education and the public schools as required under
27 subsection (c), section five of this article. Those stan-
28 dards should be conveyed to students prior to entering
29 tenth grade;

30 (2) More students should obtain education that is both
31 high quality and relevant, beyond the high school level
32 for our individual and collective economic development:

33 (A) The awareness of post-secondary educational
34 opportunities among the state's citizens should be
35 expanded and their motivation to take advantage of
36 available opportunities should be enhanced;

37 (B) Assistance in overcoming the financial barriers to
38 post-secondary education should be provided;

39 (C) A student-friendly environment should be created
40 within post-secondary education to encourage and

41 expand participation for the increasingly diverse student
42 population;

43 (D) All West Virginians, whether traditional or nontra-
44 ditional students, displaced workers or those currently
45 employed should have access to post-secondary educa-
46 tional opportunities through their community and
47 technical colleges, colleges and universities which is
48 relevant, affordable, allows them to gain transferrable
49 credits and associate or higher level degrees, provides
50 quality technical education and skill training, and is
51 responsive to business, industry, labor and community
52 needs;

53 (E) The development of entrepreneurial skills through
54 such programs as the rural entrepreneurialship through
55 action learning (REAL) should be encouraged, including
56 skills assessment, needs analysis and business plan
57 development; and

58 (F) More opportunities should be available for ad-
59 vanced high school students to obtain college credit prior
60 to high school graduation;

61 (3) Students should be prepared to practice good
62 citizenship to compete in a global economy in which the
63 good jobs will require an advanced education and level
64 of skill which far surpasses former requirements:

65 (A) Academic preparation should be improved to
66 ensure that students enrolling in programs of post-
67 secondary education are adequately prepared to be
68 successful in their selected fields of study and career
69 plans;

70 (B) College graduates should meet or exceed national
71 and international standards for skill levels in reading,
72 oral and written communications, mathematics, critical
73 thinking, science and technology, research and human
74 relations;

75 (C) College graduates should meet or exceed national

76 and international standards for performance in their
77 fields through national accreditation of programs and
78 through outcomes assessment of graduates;

79 (D) The faculties in higher education should include
80 elements of citizenship development across the curricu-
81 lum in core areas, including practical applications such
82 as community service, civic involvement and participa-
83 tion in charitable organizations or in the many opportu-
84 nities for the responsible exercise of citizenship that
85 higher education institutions provide;

86 (4) Resources should be focused on programs and
87 courses which offer the greatest opportunities for
88 students and the greatest opportunity for job creation
89 and retention in the state:

90 (A) An entrepreneurial spirit and flexibility should be
91 created within higher education to respond to the needs
92 of the current work force and other nontraditional
93 students for college-level skills upgrading and retrain-
94 ing;

95 (B) A focus should be created on programs supportive
96 of West Virginia employment opportunities and the
97 emerging high technology industries;

98 (C) Closer linkages should be established among higher
99 education and business, labor, government, community
100 and economic development organizations;

101 (5) Resources should be used to their maximum poten-
102 tial and faculty and technology should be combined in a
103 way that makes West Virginia higher education more
104 productive than similar institutions in other states:

105 (A) Institutional missions should be clarified and
106 resources should be shifted to programs which meet the
107 current and future work force needs of the state;

108 (B) Program duplication necessary for geographic
109 access should be determined and unnecessary duplica-
110 tion should be eliminated;

111 (C) Systematic ongoing mechanisms should be estab-
112 lished for each state institution of higher education to set
113 goals, measure the extent to which those goals are met
114 and use results of quantitative evaluation processes to
115 improve institutional effectiveness;

116 (D) Institutional productivity and administrative
117 efficiency standards should be established to ensure that
118 state institutions of higher education are more produc-
119 tive and efficient than similar institutions in other states;
120 and

121 (6) The compensation of faculty, staff and administra-
122 tors should be established at competitive levels to attract
123 and keep quality personnel at state institutions of higher
124 education:

125 (A) Faculty and staff classification and compensation
126 at state institutions of higher education should be
127 competitive with relevant market levels;

128 (B) Available revenues should be distributed in an
129 equitable fashion which enables each state institution of
130 higher education to fulfill its mission and reward its
131 employees appropriately; and

132 (C) It is the goal for post-secondary education to move
133 faculty salaries to one hundred percent of peer averages.
134 As part of this long-term strategy the state should make
135 every effort to provide funds to assist the institutions in
136 moving to that goal.

§18B-1-1b. Implementation of findings, directives, goals and objectives.

1 The governing boards shall develop a plan for imple-
2 mentation of the legislative findings, directives, goals
3 and objectives set forth in section one-a of this article,
4 including benchmarks to ensure accountability in
5 achieving said findings, directives, goals and objectives,
6 in consultation with the secretary of education and the
7 arts, the president of the state board of education, the

8 president of the West Virginia association of private
9 colleges, the president of the joint commission for
10 vocational-technical-occupational education and the
11 president of the West Virginia economic development
12 council. A written report of the plan required by this
13 section, including the plans required of the state institu-
14 tions of higher education pursuant to section one-c of
15 this article and any resource allocation exceptions
16 granted thereunder, shall be submitted to the governor
17 and the legislative oversight commission on education
18 accountability by the first day of December, one thou-
19 sand nine hundred ninety-five, and thereafter. Progress
20 toward achieving said goals and objectives shall be
21 reported in the higher education report card required
22 pursuant to section eight-a of this article. The secretary
23 shall conduct an ongoing review of the plans submitted
24 by the governing boards and the strategic plans submit-
25 ted by the institutions and shall annually report to the
26 Legislature his or her opinion as to the progress of the
27 governing boards and institutions in accomplishing the
28 goals and objectives set forth in the plan. The secretary
29 shall also report to the Legislature any plans which do
30 not, in the opinion of the secretary, set appropriate goals
31 and objectives and any institutions which are not in
32 compliance with their plan.

**§18B-1-1c. Strategically focusing resources to maximize
opportunity; institution plans; resource alloca-
tion exceptions.**

1 (a) To achieve the goals for post-secondary education
2 as set forth in section one-a of this article, each of the
3 following state institutions of higher education shall
4 prepare a strategic plan of change to refocus its mission
5 and leadership, and restructure its existing resources
6 and programs: Bluefield state college; Concord college;
7 Glenville state college; Fairmont state college; Marshall
8 university; West Virginia northern community college;
9 Potomac state college of West Virginia university;
10 Shepherd college; southern West Virginia community

11 college; West Liberty state college; the West Virginia
12 graduate college; West Virginia institute of technology;
13 West Virginia university at Parkersburg; West Virginia
14 school of osteopathic medicine; West Virginia state
15 college; West Virginia university; and all branch cam-
16 puses of these institutions of higher education. Such
17 plans shall specifically state how the institution will,
18 over a five-year period, refocus its mission and leader-
19 ship and restructure its existing resources and programs
20 to achieve the goals for post-secondary education
21 including, but not limited to, the following: (1) Increase
22 average faculty salaries at the institution, not including
23 health sciences, to a level at least equal to ninety-five
24 percent of the average faculty salaries at peer institu-
25 tions in the southern regional education board region:
26 *Provided*, That West Virginia university, excluding West
27 Virginia university at Parkersburg and Potomac state
28 college of West Virginia university shall state specifically
29 how it will increase average faculty salaries at that
30 institution, not including health sciences, to a level at
31 least equal to ninety percent of the average faculty
32 salaries at peer institutions in the southern regional
33 education board region; (2) achieve full funding of the
34 uniform employee classification system and salary policy
35 for classified employees adopted by the respective
36 governing boards pursuant to section four, article nine of
37 this chapter; (3) eliminate duplicative programs and
38 services, acting alone or in conjunction with another
39 institution, and eliminate under-utilized or unnecessary
40 programs; (4) may combine administrative functions
41 among other institutions; and (5) use admission and exit
42 standards for students, incentives and staff development
43 for assuring quality teaching and learning and the
44 critical assessment of programs to meet the goals. The
45 plan shall also state the manner in which any pay
46 increases will be funded, the sources of any funds used
47 for pay increases, and the savings and costs associated
48 with achieving any other goals specified in the plan and
49 how the funds are to be redirected. The faculty senate,

50 classified staff council and the student government
51 association shall be consulted prior to the submission of
52 the plan and their recommendations included in the
53 presidents report to the board. Beginning the first day of
54 July, one thousand nine hundred ninety-six, the budgets
55 of state institutions of higher education shall reflect
56 movement to the salary targets for faculty and classified
57 staff as set forth in this section and any other goals
58 specified in their strategic plan for change.

59 (b) The president or administrative head of each state
60 institution of higher education shall submit the plan for
61 the institution to its respective governing board on or
62 before the first day of November, one thousand nine
63 hundred ninety-five: *Provided*, That community and
64 technical college education shall not be required to be
65 segregated in such plan until the first day of November,
66 one thousand nine hundred ninety-six. The governing
67 boards shall approve or disapprove such plans within
68 sixty days of receipt and notify the institution president
69 or administrative head of its decision: *Provided how-*
70 *ever*, That if the plan submitted by the institution includes
71 retirement and separation incentives pursuant to section
72 one-d of this article, such portion of the plan shall be
73 submitted by the governing board to the legislative joint
74 standing committee on pensions and retirement, and the
75 time required for review by such committee shall not be
76 included in the sixty days. If disapproved, the governing
77 board shall return the plan to the institution president or
78 administrative head stating its reasons for disapproval.
79 The institution president or administrative head may
80 modify and resubmit a plan which was disapproved at
81 any time and the governing board shall approve or
82 disapprove such resubmitted plan within sixty days and
83 notify the institution president or administrative head as
84 herein provided for the original plan. If such plans have
85 not been approved on or before the first day of March
86 following the November submission date, the board is
87 authorized to develop a plan for such institutions. The

88 president or administrative head of every state institu-
89 tion of higher education with an approved plan shall
90 update such plan on an annual basis to reflect perfor-
91 mance during the preceding year and make any neces-
92 sary modifications. Such updated plans shall be submit-
93 ted on the first day of November in each of the subse-
94 quent years that the plan is in effect and the governing
95 board shall follow the same procedures for approval or
96 disapproval as herein provided for the original plan.
97 Upon the approval of a plan or plan update which
98 includes the elimination of a program, the institution
99 president or administrative head shall immediately
100 notify affected students, faculty and staff.

101 (c) Any state institution of higher education with an
102 approved plan may apply to its governing board for an
103 exception under the resource allocation model and
104 policies to retain funding for student enrollments that
105 decline due to planned program reductions or elimina-
106 tion under the strategic plan. The number of student
107 enrollments subject to the exception shall be based on
108 the average full-time equivalent enrollments over the
109 five preceding years in such program. The allocation
110 exception shall become effective in the next ensuing
111 allocation cycle following approval by the governing
112 board and notification of affected faculty, students and
113 staff of the program reduction or elimination, and shall
114 remain effective for the number of years normally
115 required for students to complete the full program from
116 beginning enrollment to graduation, subject to annual
117 review by the governing board of the actual decline in
118 program enrollments. Notwithstanding any other
119 provision of this section, any program suspended or
120 discontinued by action of the governing board on or after
121 the first day of September, one thousand nine hundred
122 ninety-four, and prior to the effective date of this
123 section, which program is being eliminated pursuant to
124 said action, is eligible for an exception under the re-
125 source allocation model and policies pursuant to this

126 section for the fiscal year one thousand nine hundred
127 ninety-six.

128 (d) Any state institution of higher education with an
129 approved plan may apply to its governing board for an
130 exception under the resource allocation model and
131 policies to retain funding for student enrollments that
132 decline due to the planned reductions for the purpose of
133 enhancing the quality of a particular program. The
134 number of student enrollments subject to the exception
135 shall be based on the average full-time equivalent
136 enrollments over the preceding five years in such pro-
137 gram. Money allocated to the institution as a result of
138 this exception shall be used to enhance the quality of
139 that particular program. The allocation exception shall
140 become effective in the next ensuing allocation cycle
141 following approval by the governing board and notifica-
142 tion of affected faculty, students and staff of the pro-
143 gram reduction and shall remain in effect subject to
144 biennial review by the governing board of the actual
145 decline in program enrollments and enhancements in
146 quality of the program.

147 (e) The application for an exception in subsections (c)
148 and (d) of this section shall be submitted by the institu-
149 tion president or administrative head and state how the
150 funds will be redirected to achieve the purposes of the
151 institution's approved plan including, but not limited to,
152 salary increases to attract and retain quality faculty and
153 staff, expand and improve the quality of existing pro-
154 grams, make additional investments in technology and
155 increased access, and, in the exemption provided in
156 subsection (c) of this section, begin new programs. The
157 governing board shall approve or disapprove the appli-
158 cation within sixty days of receipt and if disapproved,
159 shall return the application to the institution president
160 or administrative head stating the reasons for disap-
161 proval. The institution president or administrative head
162 may modify and resubmit an application which was
163 disapproved at any time and the governing board shall

164 approve or disapprove such resubmitted application
165 within sixty days and notify the institution president or
166 administrative head as herein provided for the original
167 plan.

168 (f) An exception to the resource allocation model and
169 policies granted under this section and any differential
170 approved for an institution by its governing board to
171 reflect the high costs of a program within the institu-
172 tion's mission shall be removed from the institutions
173 base budget and, to the extent included therein, from the
174 indicated level of state support for the purposes of
175 subsection (d), section two, article five of this chapter,
176 and any governing board rule to the contrary is hereby
177 specifically modified.

178 (g) It is the expressed intent of the Legislature, subject
179 to the availability of funds and appropriations therefor,
180 to increase state appropriated funds for state institutions
181 of higher education in each of the five fiscal years, one
182 thousand nine hundred ninety-seven, through and
183 including, fiscal year two thousand one, at a rate of at
184 least three and twenty-five one hundredths percent per
185 year to assist the institutions in achieving their strategic
186 plan of change, subject to demonstrated effort by the
187 institutions as determined by the Legislature to refocus
188 and restructure their missions, leadership, resources and
189 programs to meet said plans in accordance with this
190 section. In any fiscal year in which the state appropri-
191 ated funds are less than such expressed intent, the
192 governing boards may adjust the targets set forth in the
193 strategic plans for change by a like proportion. Begin-
194 ning with legislative appropriations under this subsec-
195 tion for the fiscal year one thousand nine hundred
196 ninety-seven—ninety-eight, the Legislature shall appro-
197 priate such funds, if any, to a separate account known as
198 the "Higher Education Efficiency Fund" in the state
199 budget. Appropriations to the fund shall be allocated to
200 the institutions that are in compliance with their strate-
201 gic plan for change as certified by the secretary of

202 education and the arts pursuant to section one, article
203 ten of this chapter. Such allocations shall be made in
204 accordance with the resource allocation model and
205 policies. Any portion of the fund which is not so allo-
206 cated shall be appropriated to the higher education grant
207 program, pursuant to article five, chapter eighteen-c of
208 this code, or if such program is fully funded, for expen-
209 diture among all institutions for scholarships and
210 student grant programs.

§18B-1-1d. Increasing flexibility and capacity for change.

1 (a) *Retirement and separation incentives.* — Notwith-
2 standing any other provisions of this code to the con-
3 trary, each state institution of higher education may
4 include in their strategic plans, pursuant to section one-c
5 of this article, policies that offer various incentives for
6 voluntary, early or phased retirement of employees, or
7 voluntary separation from employment, when necessary
8 to implement programmatic changes effectively pursuant
9 to the findings, directives, goals and objectives of this
10 article: *Provided*, That such incentives for voluntary,
11 early or phased retirement of employees, or voluntary
12 separation from employment must be submitted by the
13 governing board to the legislative joint committee on
14 pensions and retirement and approved before such
15 policies are adopted as part of the institution's strategic
16 plan. The policies may include the following provisions:

17 (1) Payment of a lump sum to an employee to resign or
18 retire;

19 (2) Continuation of full salary to an employee for a
20 predetermined period of time prior to the employee's
21 resignation or retirement and a reduction in the em-
22 ployee's hours of employment during the predetermined
23 period of time;

24 (3) Continuation of insurance coverage pursuant to the
25 provisions of article sixteen, chapter five of this code for
26 a predetermined period;

27 (4) Continuation of full employer contributions to an
28 employee's retirement plan during a phased retirement
29 period; and

30 (5) That an employee retiring pursuant to an early or
31 phased retirement plan may begin collecting an annuity
32 from the employee's retirement plan prior to the statuto-
33 rily designated retirement date without terminating their
34 service with the institution.

35 No incentive provided for in this section shall be
36 granted except in furtherance of programmatic changes
37 undertaken pursuant to the findings, directives, goals
38 and objectives set forth in this article.

39 No incentive proposed by an institution pursuant to
40 this section shall become a part of the institution's
41 approved strategic plan or be implemented without
42 approval of the legislative joint committee on pensions
43 and retirement.

44 Any costs associated with any incentive adopted or
45 implemented in accordance with this section shall be
46 borne entirely by the institutions and no incentive shall
47 be granted that imposes costs on the retirement systems
48 of the state or the public employees insurance agency
49 unless those costs are paid entirely by the institutions.

50 The Legislature further finds and declares that there is
51 a compelling state interest in restricting the availability
52 and application of these incentives to individual employ-
53 ees determined by the institutions to be in furtherance of
54 the aims of this section and nothing herein shall be
55 interpreted as granting a right or entitlement of any such
56 incentive to any individual or group of individuals. Any
57 employee granted incentives shall be ineligible for
58 reemployment by the institutions during or after the
59 negotiated period of their incentive concludes including
60 contract employment in excess of five thousand dollars
61 per fiscal year.

62 (b) *Pilot flexibility initiative.* — The board of directors

63 is directed to submit a plan for a pilot flexibility initia-
64 tive to the legislative oversight commission on education
65 accountability on or before the first of October one
66 thousand nine hundred ninety-five. The plan shall
67 include at least the following: (1) A system whereby the
68 state institutions of higher education in the state college
69 system may apply to the board of directors for a waiver
70 of board policies and rules; (2) A detailed application for
71 institutions seeking to participate in the pilot flexibility
72 initiative which shall set forth at a minimum: (i) a
73 statement of the specific goals and objectives that the
74 institution proposes to accomplish if the application is
75 approved; (ii) the specific board policies and rules which
76 the institution seeks to have waived for all or a portion
77 of the waiver period; and (iii) proposed rules and policies
78 under which the institution would operate during the
79 period of waiver; (3) The process by which the board of
80 directors will review the application; (4) The person or
81 body who shall have the final authority to approve the
82 application of not more than two institutions; (5) The
83 time period for which the waiver will be granted; (6) The
84 specific board policies and rules which the institution
85 may request to have waived; (7) The process by which the
86 rules and policies of the institutions participating in the
87 pilot flexibility initiative may modify its rules and
88 policies; and (8) The person or body to whom the institu-
89 tions shall be reporting during the period of waiver.

90 (c) It is the intent of this Legislature to review the pilot
91 flexibility plan and after such review to establish a pilot
92 flexibility initiative in the legislative session of one
93 thousand nine hundred ninety-six.

§18B-1-2. Definitions.

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

5 (a) "Governing board" or "board" means the university

6 of West Virginia board of trustees or the board of
7 directors of the state college system, whichever is
8 applicable within the context of the institution or
9 institutions referred to in this chapter or in other provi-
10 sions of law;

11 (b) "Governing boards" or "boards" means both the
12 board of trustees and the board of directors;

13 (c) "Freestanding community colleges" means southern
14 West Virginia community and technical college and West
15 Virginia northern community and technical college,
16 which shall not be operated as branches or off-campus
17 locations of any other state institution of higher educa-
18 tion;

19 (d) "Community college" or "community colleges"
20 means community and technical college or colleges as
21 those terms are defined in this section;

22 (e) "Community and technical college", in the singular
23 or plural, means the freestanding community and
24 technical colleges, community and technical education
25 programs at branch campuses of West Virginia univer-
26 sity, and divisions of state institutions of higher educa-
27 tion which have a defined community and technical
28 college district and offer community and technical
29 college education in accordance with the provisions of
30 section three-a, article three of this chapter;

31 (f) "Community and technical college education"
32 means the programs, faculty, administration and funding
33 associated with the mission of community and technical
34 colleges as provided in section three-a, article three of
35 this chapter, and also shall include post-secondary
36 vocational education programs in the state as those
37 terms are defined in this section. Community and
38 technical college education shall be delivered through a
39 system which includes eleven community and technical
40 college districts assigned to state institutions of higher
41 education under the jurisdiction of the board of directors

42 and the board of trustees, respectively;

43 (g) "Directors" or "board of directors" means the
44 board of directors of the state college system created
45 pursuant to article three of this chapter or the members
46 thereof;

47 (h) "Higher educational institution" means any institu-
48 tion as defined by Sections 401(f), (g) and (h) of the
49 federal Higher Education Facilities Act of 1963, as
50 amended;

51 (i) "Post-secondary vocational education programs"
52 means any college-level course or program beyond the
53 high school level provided through an institution of
54 higher education which results in or may result in the
55 awarding of a two-year associate degree, under the
56 jurisdiction of the board of directors;

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

60 (k) "Senior administrator" means the person hired by
61 the governing boards in accordance with section one,
62 article four of this chapter, with such powers and duties
63 as may be provided for in section two of said article;

64 (l) "State college" means Bluefield state college,
65 Concord college, Fairmont state college, Glenville state
66 college, Shepherd college, West Liberty state college,
67 West Virginia institute of technology or West Virginia
68 state college;

69 (m) "State college system" means the state colleges and
70 community and technical colleges, and also shall include
71 post-secondary vocational education programs in the
72 state as those terms are defined in this section;

73 (n) "State college system community and technical
74 colleges" means the freestanding community and techni-
75 cal colleges and community and technical colleges
76 operated on the campuses of state colleges under the

77 jurisdiction of the board of directors of the state college
78 system and all of their associated branches, centers and
79 off-campus locations;

80 (o) "State institution of higher education" means any
81 university, college or community and technical college in
82 the state university system or the state college system as
83 those terms are defined in this section;

84 (p) "Trustees" and "board of trustees" means the
85 university of West Virginia board of trustees created
86 pursuant to article two of this chapter or the members
87 thereof;

88 (q) "University", "university of West Virginia" and
89 "state university system" means the multi-campus,
90 integrated university of the state, consisting of West
91 Virginia university including West Virginia university at
92 Parkersburg, Potomac state college of West Virginia
93 university and the West Virginia university school of
94 medicine; Marshall university including the Marshall univ-
95 ersity school of medicine and the Marshall univer-
96 sity community and technical college; the West Virginia
97 graduate college; and the West Virginia school of osteo-
98 pathic medicine.

99 (r) "University system community and technical
100 colleges" means Marshall university community and
101 technical college, community and technical education
102 programs at West Virginia university at Parkersburg and
103 community and technical education programs at Poto-
104 mac state college of West Virginia university under the
105 jurisdiction of the university of West Virginia board of
106 trustees and all their associated branches, centers and
107 off-campus locations.

§18B-1-8. Powers and duties of governing boards generally.

1 (a) Each governing board shall separately have the
2 power and duty to:

3 (1) Determine, control, supervise and manage the

4 financial, business and educational policies and affairs
5 of the state institutions of higher education under its
6 jurisdiction;

7 (2) Prepare a master plan for the state institutions of
8 higher education under its jurisdiction, setting forth the
9 goals, missions, degree offerings, resource requirements,
10 physical plant needs, state personnel needs, enrollment
11 levels and other planning determinates and projections
12 necessary in such a plan to assure that the needs of the
13 state for a quality system of higher education are ad-
14 dressed: *Provided*, That the master plan for post-sec-
15 ondary vocational education is subject to approval by the
16 joint commission for vocational-technical-occupational
17 education. The plan shall also address the roles and
18 missions of private post-secondary education providers
19 in the state. Each board shall involve the executive and
20 legislative branches of state government and the general
21 public in the development of all segments of the plan for
22 post-secondary education in the state. The plan shall be
23 established for periods of not less than five nor more
24 than ten years and shall be periodically revised as
25 necessary, including the addition or deletion of degree
26 programs as, in the discretion of the boards, may be
27 necessary. Whenever a state institution of higher
28 education desires to establish a new degree program,
29 such program proposal shall not be implemented until
30 the same is filed with both governing boards. Upon
31 objection thereto within sixty days by either governing
32 board, such program proposal shall be filed with the
33 secretary of education and the arts, who shall approve or
34 disapprove such proposal within one year of the filing of
35 said program proposal;

36 (3) Prescribe and allocate among the state institutions
37 of higher education under its jurisdiction, in accordance
38 with its master plan, specific functions and responsibili-
39 ties to meet the higher education needs of the state and
40 to avoid unnecessary duplication;

41 (4) Consult with the executive branch and the Legisla-
42 ture in the establishment of funding parameters, priori-
43 ties and goals;

44 (5) Establish guidelines for and direct the preparation
45 of budget requests for each of the state institutions of
46 higher education under its jurisdiction, such requests to
47 relate directly to missions, goals and projections in its
48 state master plan;

49 (6) Consider, revise and submit to the appropriate
50 agencies of the executive and legislative branches of
51 state government separate budget requests on behalf of
52 the state institutions of higher education under its
53 jurisdiction or a single budget for the state institutions
54 of higher education under its jurisdiction: *Provided,*
55 That when a single budget is submitted, that budget
56 shall be accompanied by a tentative schedule of pro-
57 posed allocations of funds to the separate state institu-
58 tions of higher education under its jurisdiction;

59 (7) Prepare and submit to the speaker of the House of
60 Delegates and the president of the Senate, no later than
61 the first day of each regular session of the Legislature
62 and to any member of the Legislature upon request, an
63 analysis of the budget request submitted under subdivi-
64 sion (6) of this subsection. The analysis shall summarize
65 all amounts and sources of funds outside of the general
66 revenue fund anticipated to be received by each state
67 institution of higher education under its jurisdiction and
68 the effect of such funds on the budget request;

69 (8) Prepare and submit to the legislative auditor, no
70 later than the first day of July of each year, the approved
71 operating budgets of each state institution of higher
72 education under its jurisdiction for the fiscal year
73 beginning on that date and, no later than the first day of
74 August, a summary of federal and other external funds
75 received at each such institution during the previous
76 fiscal year;

77 (9) Establish a system of information and data manage-
78 ment that can be effectively utilized in the development
79 and management of higher education policy, mission and
80 goals;

81 (10) Review, at least every five years, all academic
82 programs offered at the state institutions of higher
83 education under its jurisdiction. The review shall
84 address the viability, adequacy and necessity of the
85 programs in relation to its master plan and the educa-
86 tional and work force needs of the state. As a part of
87 such review, each governing board shall require each of
88 its institutions to conduct periodic studies of its gradu-
89 ates and their employers to determine placement pat-
90 terns and the effectiveness of the educational experience.
91 Where appropriate, these studies should make use of the
92 studies required of many academic disciplines by their
93 accrediting bodies. The governing boards shall also
94 ensure that the sequence and availability of academic
95 programs and courses is such that students have the
96 maximum opportunity to complete programs in the time
97 frame normally associated with program completion,
98 that the needs of nontraditional college age students are
99 appropriately addressed, and that core course work
100 completed at any state institution of higher education is
101 transferable to another state institution of higher
102 education for credit with the grade earned. Notwith-
103 standing any other provision of this code to the contrary,
104 after the effective date of this section the appropriate
105 governing board shall have the exclusive authority to
106 approve the teacher education programs offered in the
107 institutions under their control. In order to permit
108 graduates of teacher education programs to receive a
109 degree from a nationally accredited program and in
110 order to prevent expensive duplication of program
111 accreditation, the boards may select and utilize one
112 nationally recognized teacher education program accred-
113 itation standard as the appropriate standard for program
114 evaluation;

115 (11) Utilize faculty, students and classified staff in
116 institutional level planning and decisionmaking when
117 those groups are affected;

118 (12) Administer a uniform system of personnel classifi-
119 cation and compensation for all employees other than
120 faculty and policy level administrators;

121 (13) Establish a uniform system for the hearing of
122 employee grievances and appeals therefrom, so that
123 aggrieved parties may be assured of timely and objective
124 review;

125 (14) Solicit and utilize or expend voluntary support,
126 including financial contributions and support services,
127 for the state institutions of higher education;

128 (15) Appoint a president or other administrative head
129 for each institution of higher education from candidates
130 submitted by the search and screening committees of the
131 institutional boards of advisors pursuant to section one,
132 article six of this chapter;

133 (16) Conduct written performance evaluations of each
134 institution's president in every fourth year of employ-
135 ment as president, recognizing unique characteristics of
136 the institution and utilizing institutional personnel,
137 institutional boards of advisors, staff of the appropriate
138 governing board and persons knowledgeable in higher
139 education matters who are not otherwise employed by a
140 governing board;

141 (17) Submit to the joint committee on government and
142 finance, no later than the first day of December of each
143 year, an annual report of the performance of the system
144 of higher education under its jurisdiction during the
145 previous fiscal year as compared to stated goals in its
146 master plan and budget appropriations for that fiscal
147 year; and

148 (18) The governing boards shall have the power and
149 authority to enter into contracts or consortium agree-

150 ments with the public schools, private schools or private
151 industry to provide technical, vocational, college prepa-
152 ratory, remedial and customized training courses at
153 locations either on campuses of public institutions of
154 higher education or at off-campus locations in such
155 institutions' regional educational service areas. To
156 accomplish this goal, the boards are permitted to share
157 resources among the various groups in the community.
158 The governing boards shall promulgate uniform legisla-
159 tive rules providing for entering into said contracts and
160 consortium agreements and for determining and granting
161 credit for work experience for courses offered by the
162 consortium.

163 (b) The power, herein given to each governing board to
164 prescribe and allocate among the state institutions of
165 higher education under its jurisdiction specific functions
166 and responsibilities to meet the higher educational needs
167 of the state and avoid unnecessary duplication, shall not
168 be restricted by any provision of law assigning specified
169 functions and responsibilities to designated state institu-
170 tions of higher education, and such power shall super-
171 sede any such provision of law: *Provided*, That each
172 governing board may delegate, with prescribed stan-
173 dards and limitations, such part of its power and control
174 over the business affairs of a particular state institution
175 of higher education to the president or other administra-
176 tive head of such state institution of higher education in
177 any case where it deems such delegation necessary and
178 prudent in order to enable such institution to function in
179 a proper and expeditious manner: *Provided, however*,
180 That such delegation shall not be interpreted to include
181 classification of employees, lawful appeals made by
182 students in accordance with the appropriate governing
183 board's policy, lawful appeals made by faculty or staff or
184 final review of new or established academic or other
185 programs. Any such delegation of power and control
186 may be rescinded by the appropriate governing board at
187 any time, in whole or in part.

188 (c) The governing boards shall promulgate uniform
189 legislative rules by the first day of September, one
190 thousand nine hundred ninety-three, setting forth
191 standards for acceptance of advanced placement credit
192 for their respective institutions. Individual departments
193 at institutions of higher education may, upon approval of
194 the institutional faculty senate, require higher scores on
195 the advanced placement test than scores designated by
196 the appropriate governing board when the credit is to be
197 used toward meeting a requirement of the core curricu-
198 lum for a major in that department.

199 (d) Each governing board and/or an individual ap-
200 pointed by the president of each institution shall consult,
201 cooperate and work with the state treasurer and the
202 state auditor to develop an efficient and cost-effective
203 system for the financial management and expenditure of
204 special revenue and appropriated state funds for higher
205 education that ensures that properly submitted requests
206 for payment be paid on or before due date, but in any
207 event, within fifteen days of receipt in the state auditor's
208 office. The system shall be established and implemented
209 as soon as practical and the governing boards shall
210 report to the legislative oversight commission on educa-
211 tion accountability prior to the first day of January, one
212 thousand nine hundred ninety-four, regarding the
213 efficacy of the system.

214 (e) The governing boards in consultation with the
215 secretary of the department of administration shall
216 develop a plan and report such plan to the legislative
217 oversight commission on education accountability by the
218 first day of December, one thousand nine hundred
219 ninety-five. Such plan shall establish a consistent
220 method of conducting personnel transactions including,
221 but not limited to, hiring, dismissal, promotions and
222 transfers at all institutions under their jurisdiction.
223 Each such personnel transaction shall be accompanied
224 by the appropriate standardized system or forms which
225 will be submitted to the respective governing boards,

226 and the department of finance and administration. Such
227 plan shall be developed with a contemplated target
228 implementation date of the first day of July, one thou-
229 sand nine hundred ninety-six.

230 (f) Notwithstanding any other provision of this code to
231 the contrary, the governing boards and the secretary of
232 education and the arts shall have the authority to
233 transfer funds from any account specifically appropri-
234 ated for their use to any corresponding line item in a
235 general revenue account at any agency or institution
236 under their jurisdiction as long as such transferred funds
237 are used for the purposes appropriated. The governing
238 boards also shall have the authority to transfer funds
239 from appropriated special revenue accounts for capital
240 improvements under their jurisdiction to special revenue
241 accounts at agencies or institutions under their jurisdic-
242 tion as long as such transferred funds are used for the
243 purposes appropriated.

244 (g) Notwithstanding any other provision of this code to
245 the contrary, the governing boards or senior administra-
246 tor may acquire such legal services as are deemed
247 necessary, including representation of the governing
248 boards, their institutions, employees and officers before
249 any court or administrative body. Such counsel may be
250 employed either on a salaried basis or on a reasonable
251 fee basis. In addition, the governing boards or senior
252 administrator may, but are not required to, call upon the
253 attorney general for legal assistance and representation
254 as provided by law.

**§18B-1-8a. Higher education accountability; institutional
and statewide report cards.**

1 (a) The governing boards are directed to make informa-
2 tion available to parents, students, faculty, staff, state
3 policymakers and the general public on the quality and
4 performance of public higher education. This informa-
5 tion shall be consistent and comparable between and
6 among the state institutions of higher education and, if

7 applicable, comparable with information from peer
8 institutions in the region and nation.

9 (b) On or before the first day of November, one thou-
10 sand nine hundred ninety-five, the governing boards are
11 directed to adopt a rule pursuant to the provisions of
12 article three-a, chapter twenty-nine-a of this code,
13 providing for the collection, analysis and dissemination
14 of data and information on the performance of the state
15 institutions of higher education, including health sci-
16 ences education, in relation to the findings, directives,
17 goals and objectives set forth in sections one-a and one-b
18 of this article and in comparison to their peers in the
19 region and nation. In developing the rule, the governing
20 boards shall consult with the governor, the legislative
21 oversight commission on education accountability and
22 the state department of education regarding the relevant
23 areas of data and information deemed necessary for
24 inclusion in a higher education report card. Upon
25 approval of the rule by the legislative oversight commis-
26 sion on education accountability, and the effective date
27 of the rule, the provisions of subsection (c) of this section
28 shall be null and void: *Provided*, That the statewide
29 report card due on the first day of December, one
30 thousand nine hundred ninety-five, pursuant to that
31 section, shall be compiled and disseminated pursuant to
32 said subsection. Such legislative rules shall provide the
33 legislative oversight commission on education account-
34 ability with full and accurate information while mini-
35 mizing the institutional burden of recordkeeping and
36 reporting. Such legislative rules shall include uniform
37 definitions for the various indicators of student and
38 institutional performance and guidelines for the collec-
39 tion and reporting of data and the preparation, printing
40 and distribution of report cards under this section. The
41 report card forms shall provide for brief, concise report-
42 ing in nontechnical language of required information.
43 Any technical or explanatory material which an institu-
44 tion or governing board wishes to include shall be

45 contained in a separate appendix available to the general
46 public upon request.

47 (c) The president or chief executive officer of each
48 public college, university or community college shall
49 prepare and submit annually all requested data to the
50 appropriate governing board at such time as the govern-
51 ing board may establish. The governing boards shall
52 prepare institutional report cards for institutions under
53 their jurisdiction and systemwide report cards which
54 shall include the information required in the following
55 subdivisions:

56 (1) For all undergraduate students and for all institu-
57 tions having undergraduate programs, the institution
58 shall report the following as available and applicable:
59 Average scores of incoming freshmen and transfer
60 students on the American college test (ACT) or scholastic
61 aptitude test (SAT); percentage of incoming freshmen
62 enrolled in developmental classes; student performance
63 as measured by grade point average and/or appropriate
64 testing measures; the graduation or completion rate as
65 may be defined by federal law or regulation for the
66 student body as a whole and separately for students at
67 the institution who received athletically-related student
68 aid categorized by sex and athletic program; the rate at
69 which individuals who complete or graduate from the
70 program of an institution pass applicable licensure or
71 certification examinations required for employment in a
72 particular vocation, trade or professional field; student
73 mobility (transfers in, transfers out and withdrawals);
74 number and percentage of student body receiving tuition
75 fee waivers; and number, percentage and dollar value of
76 tuition fee waivers categorized by whether such waiver
77 is for athletic participation or is an academic waiver and
78 by whether the recipient is a resident or nonresident of
79 this state.

80 (2) For professional schools, defined for the purposes
81 of this section as academic programs leading to profes-

82 sions in which licensing is normally required and for
83 which an undergraduate degree is a general prerequisite,
84 the institution shall report the following as available and
85 applicable: Average scores of beginning students and
86 transfer students on standardized entrance examina-
87 tions; number and percentage of student body receiving
88 tuition fee waivers; number, percentage and dollar value
89 of tuition fee waivers categorized by whether the recipi-
90 ent is a resident or nonresident of this state; the number
91 of degrees granted; the graduation or completion rate as
92 may be defined by federal law or regulation for the
93 student body as a whole; the rate at which individuals
94 who complete or graduate from the program of an
95 institution pass applicable licensure or certification
96 examinations required for employment in the particular
97 professional field; the total number of students in each
98 program, including the percentage of those students who
99 are state residents, the percentage of students who are
100 nonresidents of the state, the percentage of students who
101 are women and the percentage of students who are
102 minorities as the term is defined by federal law; and the
103 ratio of expenditures per pupil directly attributable to
104 students enrolled in the professional school as compared
105 to expenditures per pupil calculated as to students
106 enrolled in the institution as a whole.

107 (3) For graduate schools, defined for the purposes of
108 this section as academic programs leading to advanced
109 degrees (masters or doctorates of philosophy in fields for
110 which bachelor's degree programs are available) and for
111 which an undergraduate degree is a general prerequisite,
112 the institution shall report the following as available and
113 applicable: Average scores of beginning students and
114 transfer students on standardized entrance examina-
115 tions; number and percentage of student body receiving
116 tuition fee waivers; number, percentage and dollar value
117 of tuition fee waivers categorized by whether the recipi-
118 ent is a resident or nonresident of this state; the number
119 of degrees granted; the graduation or completion rate as

120 may be defined by federal law or regulation for the
121 student body as a whole; the rate at which individuals
122 who complete or graduate from the program of an
123 institution pass applicable licensure or certification
124 examinations required for employment; and the total
125 number of students in each program, including the
126 percentage of those students who are state residents, the
127 percentage of students who are nonresidents of the state,
128 the percentage of students who are women and the
129 percentage of students who are minorities as the term is
130 defined by federal law.

131 (4) In addition to any and all information required by
132 subdivision (2) of this subsection, each health sciences
133 school shall assist the vice chancellor for health sciences
134 in providing information for the institutional and
135 statewide report cards, which shall include reports on
136 the following:

137 (A) Information on graduates, including, but not
138 limited to, placement of interns and residents, retention
139 rates in the state, retention rates in underserved areas as
140 determined by the division of health, the percentage
141 practicing in primary care in this state to be defined as
142 family medicine, internal medicine, pediatrics and
143 obstetrics/gynecology, and other information pertinent
144 to health sciences education as it relates to health care
145 delivery in this state such as recruitment programs to
146 attract health care providers to West Virginia; reasons
147 obtained from graduate surveys as to why health care
148 graduates are leaving West Virginia; programs developed
149 to direct graduates into primary care practices and
150 specialty shortage areas in this state; and ways in which
151 the health sciences schools intend to assist in meeting the
152 projected health care needs of this state, including
153 specialty and subspecialty health care professional needs
154 and where such needs are expected to arise, as those
155 needs are defined by the division of health or such other
156 state agency as the division of health may deem appro-
157 priate;

158 (B) Contractual and financial arrangements between
159 the health sciences schools and such nonprofit and for-
160 profit entities receiving moneys from the health sciences
161 schools that the board of trustees determines have a
162 significant impact on the provision of health sciences
163 education in this state, such report to state the entity, the
164 amount of funds paid to such entity and what the
165 payment is for;

166 (C) The roles and missions of the health sciences
167 schools and evaluation of each school's performance in
168 accordance with outcome measures developed to evalu-
169 ate the attainment of the roles, missions and programs
170 developed for each school;

171 (D) The annual audit of the expenditures of each health
172 sciences school and any audit received by the board from
173 such nonprofit and for-profit entities determined by the
174 board of trustees to have a significant affiliation to any
175 health sciences school;

176 (E) Findings regarding management and operation of
177 the health sciences schools, such findings to be based on
178 the annual audits and to include proposals for and
179 barriers to improving efficiency and generating cost
180 savings in health sciences education;

181 (F) The quality of health sciences education, including,
182 but not limited to, a review of any accrediting agency's
183 report on health sciences education at any state-funded
184 health sciences school;

185 (G) The clinical health care services and programs
186 offered or delivered by the health sciences schools,
187 including, but not limited to, programs which use
188 existing state facilities for the purposes of clinical
189 rotations;

190 (H) Matters relating to the funding and budgeting of
191 health sciences education in this state, including, but not
192 limited to, ways in which such budget effectuates the
193 roles and missions of the health sciences schools;

194 (I) The financing of health sciences education subse-
195 quent to an annual, comprehensive review thereof, which
196 report shall include anticipated capital costs, projected
197 operating expenses, and future growth and recommenda-
198 tions on the allocation of any state or other tax dedicated
199 to the funding of health sciences education; and

200 (J) Such other administrative, budgetary, financial,
201 educational and other concerns as the board of trustees
202 may deem necessary or helpful in providing information
203 about the health sciences schools pursuant to this
204 subsection.

205 (5) For all public institutions of higher education in the
206 state, the following indicators of institutional perfor-
207 mance in comparison with the aggregate of all other
208 institutions in the state, region and nation as applicable
209 and to the extent comparison data are available:
210 Student-faculty ratio by school; student-administrator
211 ratio; faculty turnover by school; educational and
212 general expenditure per full-time equivalent (FTE)
213 student; expenditure by fund in graphic display; the
214 academic rank and years of experience of the faculty and
215 administrators at the institution; percentage minorities
216 comprise of faculty and major administrative staff;
217 percentage women comprise of faculty and major
218 administrative staff; percentage of classes taught by
219 adjunct or part-time faculty; statistics concerning the
220 occurrence on campus during the most recent school year
221 and during the preceding school years for which data are
222 available of criminal offenses reported to campus
223 security authorities or local police; and statistics con-
224 cerning the number of arrests for crimes occurring on
225 campus during the most recent school year and during
226 the preceding school years for which data are available.

227 The statewide report card shall include the data for
228 each institution for each separately listed applicable
229 indicator and the aggregate of the data for all institu-
230 tions under the jurisdiction of the board of trustees of

231 the university of West Virginia and for all institutions
232 under the jurisdiction of the board of directors of the
233 state college system for each indicator.

234 The statewide report cards shall be prepared using
235 actual institutional, state, regional and national data as
236 applicable and available indicating the present perfor-
237 mance of the individual institutions and the state
238 systems of higher education and shall also include goals
239 and trends for the institutions and the higher education
240 systems. Each governing board as part of its assessment
241 of the individual institutions under its jurisdiction shall
242 include the number and gross dollar amount of grants
243 received for academic research for each institution and
244 a succinct review of research projects including a brief
245 description of each project and the numbers of faculty,
246 graduate and undergraduate students involved in each
247 project. In assessing progress toward meeting goals and
248 in developing trend information, the governing boards
249 shall review report card data in relation to previously
250 adopted board goals, five-year plans, regional and
251 national higher education trends and the resource
252 allocation model.

253 (d) The higher education central office staff under the
254 direction of the senior administrator shall provide
255 technical assistance to each institution and governing
256 board in data collection and reporting and shall be
257 responsible for assembling the statewide report card
258 from information submitted by each governing board.

259 Each governing board shall prepare report card
260 information in accordance with the guidelines set forth
261 in this section and rules promulgated hereunder. The
262 statewide report card shall be presented at a regular
263 board meeting of the appropriate governing board
264 subject to applicable notice requirements.

265 The statewide report cards shall be completed and
266 disseminated with copies to the legislative oversight
267 commission on education accountability prior to the first

268 day of December, one thousand nine hundred ninety-
269 two, and each year thereafter. Statewide report cards
270 shall be based upon information for the current school
271 year or for the most recent school year for which such
272 information is available, in which case such year shall be
273 clearly footnoted.

274 The governing boards shall make copies of both the
275 institutional and statewide report cards available to any
276 individual requesting them.

ARTICLE 3. BOARD OF DIRECTORS OF THE STATE COLLEGE SYSTEM.

**§18B-3-1. Composition of board; terms and qualifications of
members; vacancies; eligibility for reappoint-
ment; oath of office; removal from office.**

1 (a) The board of directors of the state college system
2 shall consist of twenty persons, of whom one shall be the
3 chancellor of the university of West Virginia board of
4 trustees, ex officio, who shall not be entitled to vote; one
5 shall be the state superintendent of schools, ex officio,
6 who shall not be entitled to vote; one shall be the chair
7 of the joint commission for vocational-technical-occupa-
8 tional education, ex officio, who shall not be entitled to
9 vote; one shall be the chairman of the advisory council of
10 students, ex officio, who shall be entitled to vote; one
11 shall be the chairman of the advisory council of faculty,
12 ex officio, who shall be entitled to vote; and one shall be
13 the chairman of the advisory council of classified em-
14 ployees, ex officio, who shall be entitled to vote. The
15 other fourteen directors shall be citizens of the state,
16 appointed by the governor, by and with the advice and
17 consent of the Senate.

18 Each of the directors appointed to the board by the
19 governor shall represent the public interest and shall be
20 especially qualified in the field of higher education by
21 virtue of the person's knowledge, learning, experience or
22 interest in the field. The relative enrollments of bacca-
23 laurate and community and technical students in the
24 state college system shall be considered by the governor

25 when making such appointments and the governor shall
26 use his or her best efforts to achieve a balance among the
27 members who reflect the various interests, goals and
28 concerns reflected by the relative enrollments.

29 Except for the ex officio directors, no person shall be
30 eligible for appointment to membership on the board of
31 directors who is an officer, employee or member of an
32 advisory board of any state college or university, an
33 officer or member of any political party executive
34 committee, the holder of any other public office or public
35 employment under the government of this state or any of
36 its political subdivisions, or an appointee or employee of
37 the board of trustees or board of directors: *Provided*,
38 That if there are no ethical restrictions under state or
39 federal law, a federal employee may serve as a member
40 of the board of directors. Of the fourteen directors
41 appointed by the governor from the public at large, not
42 more than seven thereof shall belong to the same politi-
43 cal party and at least two directors of the board shall be
44 appointed from each congressional district: *Provided*,
45 *however*, That after the effective date of this section, the
46 governor shall make appointments so that, as soon as
47 practicable, at least four directors of the board shall be
48 appointed from each congressional district.

49 Except as provided in this section, no other person may
50 be appointed to the board.

51 (b) The governor shall appoint twelve directors as soon
52 after the first day of July, one thousand nine hundred
53 eighty-nine, as is practicable, and the original terms of
54 all directors shall commence on that date. The terms of
55 the directors appointed by the governor shall be for
56 overlapping terms of six years, except, of the original
57 appointments, four shall be appointed to terms of two
58 years, four shall be appointed to terms of four years and
59 four shall be appointed to terms of six years: *Provided*,
60 That the governor shall appoint two additional directors
61 on or before the first day of July, one thousand nine

62 hundred ninety-five, and their original terms shall
63 commence on the first day of July, one thousand nine
64 hundred ninety-five and be for five years. Each subse-
65 quent appointment which is not for the purpose of filling
66 a vacancy in an unexpired term shall be appointed to a
67 term of six years.

68 The governor shall appoint a director to fill any
69 vacancy among the twelve directors appointed by the
70 governor, by and with the advice and consent of the
71 Senate, which director appointed to fill such vacancy
72 shall serve for the unexpired term of the vacating
73 director. The governor shall fill the vacancy within sixty
74 days of the occurrence of the vacancy.

75 All directors appointed by the governor shall be
76 eligible for reappointment: *Provided*, That a person who
77 has served as a director or trustee during all or any part
78 of two consecutive terms shall be ineligible to serve as a
79 director for a period of three years immediately follow-
80 ing the second of the two consecutive terms.

81 The chairman of the advisory council of students, ex
82 officio; the chairman of the advisory council of faculty,
83 ex officio; and the chairman of the advisory council of
84 classified employees, ex officio, shall serve the terms for
85 which they were elected by their respective advisory
86 councils. These members shall be eligible to succeed
87 themselves.

88 (c) Before exercising any authority or performing any
89 duties as a director, each director shall qualify as such
90 by taking and subscribing to the oath of office pre-
91 scribed by section five, article IV of the constitution of
92 West Virginia, and the certificate thereof shall be filed
93 with the secretary of state.

94 (d) No director appointed by the governor shall be
95 removed from office by the governor except for official
96 misconduct, incompetence, neglect of duty or gross
97 immorality, and then only in the manner prescribed by

98 law for the removal by the governor of the state elective
99 officers.

§18B-3-3. Additional duties of board of directors.

1 (a) The board of directors of the state college system
2 shall govern the state college system.

3 (b) The board of directors shall determine programs to
4 be offered by state institutions of higher education under
5 its jurisdiction, shall clarify the missions of the institu-
6 tions under its jurisdiction and, in so doing, ensure that
7 Fairmont state and West Virginia institute of technology
8 are given primary responsibility for technical prepara-
9 tion teacher training programs.

10 (c) The board of directors shall govern state college
11 system community and technical colleges in accordance
12 with the provisions of section three-a of this article.

13 (d) The board of directors shall adopt a faculty salary
14 program with an overall goal of attaining salaries equal
15 to the average faculty salaries within similar groups of
16 disciplines and program levels at comparable peer
17 institutions within member states of the southern
18 regional education board.

**§18B-3-3a. Community and technical college education;
establishment; state level governance; forma-
tion of districts; college level administration
and governance; programs; district consortia;
implementation process; and implementation
team.**

1 (a) *General.* — The purpose of this section is to estab-
2 lish community and technical college education that is
3 well articulated with the public schools and four year
4 colleges; that makes maximum use of shared facilities,
5 faculty, staff, equipment and other resources; that
6 encourages traditional and nontraditional students and
7 adult learners to pursue a life-time of learning; that
8 serves as an instrument of economic development; and

9 that has the independence and flexibility to respond
10 quickly to changing needs. The respective governing
11 boards shall provide for community and technical college
12 education at state institutions of higher education under
13 their jurisdiction to have the administrative, program-
14 matic and budgetary control necessary to allow maxi-
15 mum flexibility and responsiveness to district and
16 community needs consistent with the goal of sharing
17 facilities, faculty, staff, equipment and other resources
18 within and among the districts, the other systems of
19 public and higher education and other education and
20 training programs.

21 (b) *State level governance.* — The board of directors
22 and the board of trustees shall jointly employ a vice
23 chancellor for community and technical college educa-
24 tion. The vice chancellor for community and technical
25 college education shall report directly to and provide
26 assistance to the board of directors and the board of
27 trustees on matters related to community and technical
28 college education and shall serve at their will and
29 pleasure. The vice chancellor for community and
30 technical college education shall advise, assist and
31 consult regularly with the administrative heads, institu-
32 tional boards of advisors, and district consortia commit-
33 tees of each state institution of higher education in-
34 volved in community and technical college education.

35 In appointing members to the institutional boards of
36 advisors within the state college system pursuant to
37 section one, article six of this chapter, the board of
38 directors shall consider the relative distribution of
39 baccalaureate and community and technical college
40 enrollments of the respective institutions and shall make
41 up to three of such appointments from the membership
42 of district consortia committee on the basis of such
43 proportional enrollments. All appointments shall be
44 reflective of the economic, industrial, educational,
45 community and employment characteristics of the
46 institution's region and be geographically dispersed to

47 the extent practical.

48 (c) *Formation of community and technical college*
49 *districts.* — The eleven community and technical college
50 districts shall be comprised of contiguous areas of the
51 state which have similar economic, industrial, educa-
52 tional, community and employment characteristics to
53 facilitate specialization in mission and programming.
54 For the purposes of initial implementation and organiza-
55 tion, the districts shall be comprised as follows:

56 (1) Ohio, Brooke, Hancock, Marshall, Tyler and Wetzel
57 counties;

58 (2) Wood, Jackson, Pleasants, Ritchie, Roane, Tyler and
59 Wirt counties;

60 (3) Kanawha, Putnam and Clay counties;

61 (4) Cabell, Mason, Putnam and Wayne counties;

62 (5) Fayette, Clay, Kanawha, Raleigh and Nicholas
63 counties;

64 (6) Logan, Boone, Lincoln, McDowell, Mingo, Raleigh
65 and Wyoming counties;

66 (7) Mercer, Greenbrier, McDowell, Monroe, Poca-
67 hontas, Raleigh and Summers counties;

68 (8) Gilmer, Barbour, Braxton, Calhoun, Clay, Lewis,
69 Nicholas, Upshur and Webster counties;

70 (9) Marion, Doddridge, Harrison, Monongalia, Preston,
71 Randolph, Taylor, Barbour and Tucker counties;

72 (10) Jefferson, Berkeley, Grant, Hardy and Morgan
73 counties;

74 (11) Mineral, Grant, Hampshire, Hardy and Pendleton
75 counties.

76 It is the intent of the Legislature that counties which
77 are listed in more than one district shall be served by the
78 associated community and technical colleges as a coop-

79 erative service area, or shall be divided as the board of
80 directors determines. The boundaries of the eleven
81 districts may be modified from time to time by the board
82 of directors upon request of the affected community and
83 technical colleges to better serve the needs within the
84 districts. Such modifications are not required to follow
85 county boundaries.

86 Subject to any restrictions imposed by the board of
87 directors, the district boundaries shall not be employed
88 to restrict other state institutions of higher education
89 from offering programs of strength to meet underserved
90 needs, consistent with the objective of not duplicating
91 efforts as determined by the governing boards: *Pro-*
92 *vided*, That nothing herein shall be construed to prevent
93 state institutions of higher education from offering
94 courses at off-campus centers or locations now operating
95 or established in the future which are not duplicative.
96 Distance learning technology, resource networking and
97 other cooperative and collaborative efforts shall be used
98 to the maximum extent prudent and practical to avoid
99 unnecessary duplication of program development and
100 delivery.

101 The main campus of the community and technical
102 college shall be identified under the name of the commu-
103 nity and technical college for the district and the district
104 shall be known as the "community and technical college
105 district". In addition, the name of all branches, centers
106 and programs shall reflect the name of the district.

107 (d) *Allocation of resources and budgets.* — All funds for
108 community and technical college education shall be
109 appropriated by the Legislature in an institutional
110 control account under the jurisdiction of the board of
111 directors. The board of directors shall establish by rule
112 a formula for the allocation of such funds to the individ-
113 ual university system and state college system commu-
114 nity and technical colleges, which rule shall include
115 uniform guidelines for the allocation and reporting of

116 student enrollments, costs, reimbursements and revenues
117 for community and technical colleges located on the
118 campus of another state institution of higher education.

119 (e) *College level administration and governance.* — The
120 administrative head of a state college system community
121 and technical college shall be the president, in the case
122 of the freestanding community and technical colleges,
123 and the provost of the community and technical college
124 in the case of all other state college system community
125 and technical colleges. Such provost shall be employed
126 by the president of the state institution of higher educa-
127 tion upon which the main campus of the community and
128 technical college is located and the provost shall serve at
129 the will and pleasure of the president. The administra-
130 tive head shall be responsible for coordination and other
131 administrative arrangements with the host institution
132 and other duties assigned pursuant to this section.
133 Nothing in this section shall prohibit a current employee
134 in community and technical education from being
135 employed as a provost. The administrative and business
136 offices and functions of community and technical
137 colleges, except freestanding, shall be consolidated with
138 those of the host institution to the extent practical. To
139 enhance program flexibility and mobility, to enhance
140 program coordination and delivery in the public schools
141 and to take advantage of the expertise and experience of
142 persons in business and industry, community and
143 technical colleges shall make extensive use of combined
144 courses with four-year colleges and universities, employ
145 by contract or other arrangements college and university
146 faculty to teach community and technical college cours-
147 es, employ qualified public school teachers as adjunct
148 professors and employ qualified business, industry and
149 labor persons as adjunct professors in technical areas.

150 (f) *Community and technical college programs.* — The
151 mission of each community and technical college shall
152 include the following programs which may be offered on
153 or off campus, at the work site, in the public schools and

154 at other locations at times that are convenient for the
155 intended population:

156 (1) Career and technical education certificate, associate
157 of applied science and selected associate of science
158 degree programs for students seeking immediate employ-
159 ment, individual entrepreneurship skills; occupational
160 development, skill enhancement and career mobility;

161 (2) Transfer education associate of arts and associate
162 of science degree programs for students whose educa-
163 tional goal is to transfer into a baccalaureate degree
164 program;

165 (3) Developmental/remedial education courses, tutori-
166 als, skills development labs and other services for
167 students who need to improve their skills in mathemat-
168 ics, English, reading, study skills, computers and other
169 basic skill areas;

170 (4) Work force training and retraining contract educa-
171 tion with business and industry to train or retrain
172 employees;

173 (5) Continuing development assistance and education
174 credit and noncredit courses for professional and self-
175 development, certification and licensure and literacy
176 training; and

177 (6) Community service workshops, lectures, seminars,
178 clinics, concerts, theatrical performances and other
179 noncredit activities to meet the cultural, civic and
180 personal interests and needs of the community.

181 All administrative, programmatic and budgetary
182 control over community and technical education within
183 the district shall be vested in the administrative head
184 and the institutional board of advisors of state college
185 system community and technical colleges, subject to
186 rules adopted by the board of directors. The administra-
187 tive head and institutional board of advisors shall be
188 responsible for the regular review, revision, elimination

189 and establishment of programs within the district to
190 assure that the needs of the district for community and
191 technical college programs are met. It is the intent of the
192 Legislature that the program review and approval
193 process for community and technical education be
194 separate and distinct from baccalaureate education. The
195 administrative head and institutional board of advisors
196 shall seek assistance from and utilize a district consortia
197 committee in fulfilling this responsibility.

198 (g) *District consortia committee.* — The administrative
199 head of each university system and state college system
200 community and technical college shall form a district
201 consortia committee which shall include representatives
202 distributed geographically to the extent practical of the
203 major community college branches, vocational technical
204 centers, comprehensive high schools, four-year colleges
205 and universities, community service or cultural organi-
206 zations, economic development organizations, business,
207 industry, labor, elected public officials and employment
208 and training programs and offices within the district.
209 The consortia committee shall be chaired by the admin-
210 istrative head or his or her designee and shall advise and
211 assist the administrative head with the following:

212 (1) Completing a comprehensive assessment of the
213 district to determine what education and training
214 programs are necessary to meet the short and long term
215 work force development needs of the district;

216 (2) Coordinating efforts with regional labor market
217 information systems that identify the ongoing needs of
218 business and industry, both current and projected, and
219 provide information to assist in an informed program of
220 planning and decisionmaking;

221 (3) Planning and development of a unified effort to
222 meet the documented work force development needs of
223 the district through individual and cooperative pro-
224 grams, shared facilities, faculty, staff, equipment and
225 other resources and the development and use of distance

226 learning and other educational technologies;

227 (4) Increasing the integration of secondary and post-
228 secondary curriculum and programs that are targeted to
229 meet regional labor market needs, including the planning
230 and implementation of a comprehensive school-to-work
231 transition system that helps students focus on career
232 objectives, builds upon current programs such as high
233 schools that work, tech prep associate degree programs,
234 registered apprenticeships and rural entrepreneurship
235 through action learning and addresses the needs of at-
236 risk students and school dropouts;

237 (5) Planning and implementation of integrated profes-
238 sional development activities for secondary and post-
239 secondary faculty, staff and administrators and other
240 consortia partners throughout the district;

241 (6) Ensuring that program graduates have attained the
242 competencies required for successful employment
243 through the involvement of business, industry and labor
244 in establishing student credentialling;

245 (7) Performance assessment of student knowledge and
246 skills which may be gained from multiple sources so that
247 students gain credit toward program completion and
248 advance more rapidly without repeating coursework in
249 which they already possess competency;

250 (8) Establishing one-stop-shop career centers with
251 integrated employment and training and labor market
252 information systems that enable job seekers to assess
253 their skills, identify and secure needed education train-
254 ing and secure employment and employers to locate
255 available workers;

256 (9) Increasing the integration of adult literacy, adult
257 basic education, federal job opportunities and basic
258 skills, and community and technical college programs
259 and services to expedite the transition of adults from
260 welfare to gainful employment; and

261 (10) Establish a single point of contact for employers
262 and potential employers to access education and training
263 programs throughout the district.

264 (h) *Implementation process.* — The implementation of
265 community and technical college education as set forth
266 in this article shall be accomplished over a three-year
267 period. Major program elements shall be accomplished
268 within the following time frames:

269 (1) One thousand nine hundred ninety-five—ninety-six.

270 (i) Form necessary governance structures and make
271 necessary appointments;

272 (ii) Form consortia committees and complete a survey
273 of the educational and training needs of the community
274 college district;

275 (iii) Establish the information necessary to separately
276 budget the community and technical college education
277 for fiscal year one thousand nine hundred ninety-
278 six—ninety-seven, including the rules required pursuant
279 to subsection (d) of this section;

280 (iv) Establish an ongoing method of providing funding
281 for appropriate staff from the public schools and the
282 community and technical colleges for personnel and
283 other costs related to shared facility projects, including
284 recommendations for any necessary legislative enact-
285 ments;

286 (v) Make recommendations to the governor and Legis-
287 lature as may be necessary.

288 (2) One thousand nine hundred ninety-six—ninety-
289 seven.

290 (i) Begin separate budgeting;

291 (ii) Begin full operations of the community and techni-
292 cal colleges as provided in this article.

293 (3) One thousand nine hundred ninety-seven—ninety-

294 eight.

295 (i) Review and evaluation.

296 (i) *Implementation team.* — There is hereby established
297 an implementation team to monitor and oversee imple-
298 mentation of the community and technical college
299 education in accordance with the provisions of this
300 article. The implementation team shall report to the
301 governor and the legislative oversight commission on
302 education accountability no later than the first day of
303 December, in the years one thousand nine hundred
304 ninety-five, one thousand nine hundred ninety-six and
305 one thousand nine hundred ninety-seven on the status of
306 such implementation and any further needs for legisla-
307 tive enactment. The implementation oversight team
308 shall be composed of the secretary of education and the
309 arts, one representative of public education, one repre-
310 sentative of community and technical colleges, one
311 representative of four-year colleges, one representative
312 of the private sector, one representative of employment
313 and training programs, one representative of vocational-
314 technical-occupational education, four members of the
315 Senate and four members of the House of Delegates, all
316 appointed by the governor. The secretary of education
317 and the arts shall be responsible for staffing the imple-
318 mentation oversight team utilizing existing personnel,
319 equipment and offices of the affected agencies.

**§18B-3-4. Community and technical colleges; tuition and fees;
memoranda of agreements; and joint adminis-
trative boards.**

1 (a) Effective the first day of July, one thousand nine
2 hundred eighty-nine, the following institutions are
3 hereby established or continued as freestanding commu-
4 nity and technical colleges: Southern West Virginia
5 community and technical college and West Virginia
6 northern community and technical college. Such free-
7 standing community and technical colleges shall not be
8 operated as branches or off-campus locations of any

9 other state institution of higher education.

10 (b) The directors, in accordance with article two-b,
11 chapter eighteen of this code, shall cooperate with the
12 state board of education, the state council of vocational-
13 technical education and the joint commission for
14 vocational-technical-occupational education to develop
15 a comprehensive system of academic, vocational, techni-
16 cal and career development programs to serve the
17 educational needs of adults for college preparatory, two-
18 year associate degree, continuing education, work force
19 training and retraining and other such programs within
20 the state. The board of directors shall delegate such
21 authority as they deem prudent to the community and
22 technical college presidents, provosts or other adminis-
23 trative heads, to work with district consortia committees
24 to assess the work force needs of business and industry
25 within their service areas, regularly review and revise
26 curricula to ensure that the work force needs are met,
27 develop new programs and phase out or modify existing
28 programs as appropriate to meet such needs, provide
29 professional development opportunities for faculty and
30 staff, establish cooperative programs and student
31 internships with business and industry, streamline
32 procedures for designing and implementing customized
33 training programs and to accomplish such other comple-
34 ments of a quality comprehensive community and
35 technical college. In developing such a system, the
36 various educational agencies shall establish cooperative
37 relationships to utilize existing community and technical
38 colleges and programs, public school vocational centers
39 and other existing facilities to serve the identified needs
40 within the community and technical college district.

41 (c) A separate division of community and technical
42 colleges shall be established under the board of direc-
43 tors. Unless approved by the board, programs at com-
44 munity and technical colleges shall be two years or less
45 in duration.

46 (d) The board of directors may fix tuition and establish
47 and set such other fees to be charged students at state
48 college system community and technical colleges as it
49 deems appropriate, and shall pay such tuition and fees
50 collected into a revolving fund for the partial or full
51 support, including the making of capital improvements,
52 of any state college system community and technical
53 college. Funds collected at any such community and
54 technical college may be used only for the benefit of that
55 community and technical college. The board of directors
56 may also establish special fees for such purposes as,
57 including, but not limited to, health services, student
58 activities, student recreation, athletics or any other
59 extracurricular purposes. Such special fees shall be paid
60 into special funds in the state treasury and used only for
61 the purposes for which collected.

62 (e) The board of directors may allocate funds from the
63 appropriations for the state college system for the
64 operation of individual university system and state
65 college system community and technical colleges in
66 accordance with rules adopted by the board pursuant to
67 the provisions of subsection (d), section three-a of this
68 article, and for the capital improvement of any state
69 college system community and technical college. The
70 board of directors may accept federal grants and funds
71 from county boards of education, other local government-
72 tal bodies, corporations or persons. The directors may
73 enter into memoranda of agreements with such govern-
74 mental bodies, corporations or persons for the use or
75 acceptance of local facilities and/or the acceptance of
76 grants or contributions toward the cost of the acquisition
77 or construction of such facilities. Such local government-
78 tal bodies may convey capital improvements, or lease the
79 same without monetary consideration, to the board of
80 directors for the use by the community and technical
81 college and the board of directors may accept such
82 facilities, or the use or lease thereof, and grants or
83 contributions for such purposes from such governmental

84 bodies, the federal government or any corporation or
85 person.

86 (f) To facilitate the administration, operation and
87 financing of programs in shared facilities of the state
88 college system or the university of West Virginia system
89 and a county board or boards of education, the affected
90 governing board and county board or boards of educa-
91 tion may appoint a joint administrative board consisting
92 of such membership and possessing such delegated
93 authorities as the respective boards deem necessary and
94 prudent for the operation of such shared facilities. Such
95 joint administrative board may consist of five members
96 to be appointed as follows: The county board of educa-
97 tion shall appoint two members in consultation with the
98 county superintendent of schools; the appropriate
99 governing board shall appoint two members in consulta-
100 tion with the president of the affected state institution of
101 higher education; and one at-large member, who shall
102 chair the joint administrative board, shall be appointed
103 by mutual agreement of the respective boards in consul-
104 tation with their superintendent and president. When
105 two or more county boards of education are participating
106 in such shared program, such county board appoint-
107 ments shall be made by mutual agreement of each of the
108 participating county boards in consultation with their
109 respective superintendents. Members shall serve for
110 staggered terms of three years. With respect to initial
111 appointments, one member appointed by the county
112 board or boards of education and one member appointed
113 by the governing board shall serve for one year, one
114 member appointed by the county board or boards of
115 education and one member appointed by the governing
116 board shall serve for two years and the at-large member
117 shall serve for three years. Subsequent appointments
118 shall be for three years. A member may not serve more
119 than two consecutive terms. Members shall be reim-
120 bursed for reasonable and necessary expenses actually
121 incurred in the performance of their duties as board

122 members from funds allocated to the shared facility,
123 except that members who are employed by a board of
124 education, governing board or state institution of higher
125 education shall be reimbursed by their employer.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-1. Officers of governing boards; employment of chancellors and senior administrator; offices.

1 (a) At its annual meeting in June of each year, each
2 governing board shall elect from its members appointed
3 by the governor a president and such other officers as it
4 may deem necessary or desirable: *Provided*, That the
5 initial annual meeting shall be held during July, one
6 thousand nine hundred eighty-nine. The president and
7 such other officers shall be elected for a one-year term
8 commencing on the first day of July following the annual
9 meeting and ending on the thirtieth day of June of the
10 following year. The president of the board shall serve no
11 more than two consecutive terms.

12 (b) Each governing board shall employ a chancellor
13 who shall serve at the will and pleasure of the employing
14 board and shall assist the governing board in the perfor-
15 mance of its duties and responsibilities. No chancellor
16 may hold or retain any other administrative position
17 within the system of higher education while employed as
18 chancellor. Each chancellor is responsible for carrying
19 out the directives of the governing board by which
20 employed and shall work with such board in developing
21 policy options. For the purpose of developing or evaluat-
22 ing policy options, the chancellors may request the
23 assistance of the presidents and other administrative
24 heads of the institutions under their jurisdiction and
25 their staffs. The respective chancellors shall jointly
26 agree to and shall hire one senior administrator who
27 shall serve at their will and pleasure in accordance with
28 section two of this article.

29 (c) The director of health shall serve as the vice chan-
30 cellor for health affairs, who shall coordinate the West

31 Virginia university school of medicine, the Marshall
32 university school of medicine and the West Virginia
33 school of osteopathic medicine. The vice chancellor for
34 health affairs shall conduct a special study of the West
35 Virginia university school of medicine, the Marshall
36 university school of medicine and the West Virginia
37 school of osteopathic medicine to determine the role and
38 mission of said institutions in the reorganized system of
39 higher education in the state. The special study shall
40 include, but is not limited to, coordinating medical
41 education, training and delivery of health services in the
42 state; preparing nurse-midwives, nurse practitioners,
43 medical technologists and other members of the allied
44 health professions; and providing for rural health care.
45 The vice chancellor shall submit a report on said study
46 to the governor and to the Legislature by the first day of
47 December, one thousand nine hundred eighty-nine.

48 (d) Suitable offices for the senior administrator and
49 other staff shall be provided in Charleston.

50 (e) The governing boards shall jointly employ a vice
51 chancellor for instructional technology to establish a
52 plan and funding recommendations for development and
53 implementation of a multifaceted instructional technol-
54 ogy strategy that includes, but is not limited to, a goal
55 that every full-time freshman student beginning in the
56 fall semester, one thousand nine hundred ninety-six, and
57 thereafter, and as many other students and faculty as
58 possible will own or lease a computer, and alternatively
59 that computers be available for part-time students
60 through on-site labs; integrating computer usage into all
61 course work; involving faculty in the development and
62 use of technology-based instruction and instructional
63 courseware for community and technical colleges,
64 colleges and universities; and expanding distance
65 learning and technology networks throughout the higher
66 education systems to enhance teaching and learning,
67 promote access to quality educational offerings with
68 minimum duplication of effort, increase the delivery of

69 instruction to nontraditional students, provide services
70 to business and industry, and increase the management
71 capabilities of the higher education system. The plan
72 shall be submitted to the Legislature on or before the
73 first day of January, one thousand nine hundred ninety-
74 six.

75 The vice chancellor for instructional technology shall
76 supervise the administration, oversight, coordination and
77 implementation of such plan, or portions thereof, subject
78 to the availability of funds and the direction of the
79 governing boards. In addition, the vice chancellor shall
80 review all technology related matters within the depart-
81 ment of education and the arts and suggest appropriate
82 integration and compatibility of the technology systems
83 within the department and the institutions governed by
84 the board.

85 (f) The governing boards shall jointly employ a vice
86 chancellor for community and technical education
87 pursuant to the terms of section three-a, article three of
88 this chapter.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

§18B-5-2b. Resource allocation policy relief.

1 For fiscal year one thousand nine hundred ninety-six
2 only, the board of directors of the state college system
3 may use all special priority funds, as identified and
4 distributed by legislative rule title 131, series 5, effective
5 the twenty-eighth day of March, one thousand nine
6 hundred ninety-four, to help relieve state institutions of
7 higher education of the financial obligation created by
8 the requirement that each institution increase faculty
9 salaries pursuant to section three-a, article eight of this
10 chapter, and increase classified employee salaries
11 pursuant to section eleven, article nine of this chapter.

§18B-5-2c. Review of resource allocation model and policies.

1 The Legislature hereby finds that the establishment
2 and development of community and technical education,

3 the restructuring and refocusing of institutional missions
4 and programs to respond to change and the necessity of
5 achieving the goals established for post-secondary
6 education by the citizens of West Virginia will require a
7 review of the methods for distributing higher education
8 funding.

9 It is the intent of the Legislature that increased state
10 appropriated funds shall be allocated using the resource
11 allocation model and resource allocation policies in
12 effect at the time of each appropriation. Given the
13 changes of institutional missions, leadership, resources
14 and programs as well as the establishment of targets and
15 goals for faculty and staff salaries, the Legislature
16 recognizes the need for a comprehensive review of the
17 resource allocation model and resource allocation
18 policies. The governing boards shall review and recom-
19 mend changes to the resource allocation model and
20 resource allocation policies contained in article five of
21 this chapter. The governing boards shall submit a
22 written report describing this review and the recom-
23 mended changes to the legislative oversight commission
24 on education accountability by the first day of Decem-
25 ber, one thousand nine hundred ninety-five.

**§18B-5-4. Purchase or acquisition of materials, supplies,
equipment and printing.**

1 (a) Each governing board, through the senior adminis-
2 trator, shall purchase or acquire all materials, supplies,
3 equipment and printing required for that board, and the
4 state institutions of higher education under its jurisdic-
5 tion. The governing boards shall adopt rules governing
6 and controlling acquisitions and purchases in accor-
7 dance with the provisions of this section. Such rules
8 shall assure that the governing board: (1) Shall not
9 preclude any person from participating and making sales
10 thereof to the board except as otherwise provided in
11 section five of this article: *Provided*, That the providing
12 of consultant services such as strategic planning services

13 will not preclude or inhibit the governing boards from
14 considering any qualified bid or response for delivery of
15 a product or a commodity because of the rendering of
16 those consultant services; (2) shall establish and pre-
17 scribe specifications, in all proper cases, for materials,
18 supplies, equipment and printing to be purchased; (3)
19 shall adopt and prescribe such purchase order, requisition or other forms as may be required; (4) shall negotiate for and make purchases and acquisitions in such quantities, at such times and under contract, in the open market or through other accepted methods of governmental purchasing as may be practicable in accordance with general law; (5) shall advertise for bids on all purchases exceeding fifteen thousand dollars, to purchase by means of sealed bids and competitive bidding or to effect advantageous purchases through other accepted governmental methods and practices: *Provided, however,* That for printing services, bids shall be
31 advertised by written notification of such bids to any
32 print shop, affiliated with an institution of higher
33 education and operated by classified employees, on all
34 purchases exceeding five thousand dollars; (6) shall post
35 notices of all acquisitions and purchases for which
36 competitive bids are being solicited in the purchasing
37 office of the specified institution involved in the purchase, at least two weeks prior to making such purchases and ensure that the notice is available to the public during business hours; (7) shall provide for purchasing in the open market; (8) shall make provision for vendor notification of bid solicitation and emergency purchasing; and (9) provide that competitive bids shall not be
44 required for purchases of one thousand dollars or less.

45 (b) Each governing board, through the senior administrator may issue a check in advance to a company
46 supplying postage meters for postage used by that board
47 and by the state institutions of higher education under
48 its jurisdiction.
49

50 (c) When a purchase is to be made by bid, any or all

51 bids may be rejected. However, all purchases based on
52 advertised bid requests shall be awarded to the lowest
53 responsible bidder taking into consideration the quali-
54 ties of the articles to be supplied, their conformity with
55 specifications, their suitability to the requirements of the
56 governing boards and delivery terms: *Provided*, That the
57 preference for resident vendors as provided in section
58 thirty-seven, article three, chapter five-a of this code
59 shall apply to the competitive bids made pursuant to this
60 section.

61 (d) The governing boards shall maintain a purchase
62 file, which shall be a public record and open for public
63 inspection. After the award of the order or contract, the
64 governing boards shall indicate upon the successful bid
65 that it was the successful bid, and shall further indicate
66 why bids are rejected and, if the mathematical low
67 vendor is not awarded the order or contract, the reason
68 therefor. No records in the purchase file shall be de-
69 stroyed without the written consent of the legislative
70 auditor. Those files in which the original documentation
71 has been held for at least one year and in which the
72 original documents have been reproduced and archived
73 on microfilm or other equivalent method of duplication
74 may be destroyed without the written consent of the
75 legislative auditor. All files, no matter the storage
76 method, shall be open for inspection by the legislative
77 auditor upon request.

78 (e) The governing boards shall also adopt rules to
79 prescribe qualifications to be met by any person who is
80 to be employed as a buyer pursuant to this section.
81 These rules shall require that no person shall be em-
82 ployed as a buyer unless that person, at the time of
83 employment, either is: (1) A graduate of an accredited
84 college or university; or (2) has at least four years'
85 experience in purchasing for any unit of government or
86 for any business, commercial or industrial enterprise.
87 Any person making purchases and acquisitions pursuant
88 to this section shall execute a bond in the penalty of fifty

89 thousand dollars, payable to the state of West Virginia,
90 with a corporate bonding or surety company authorized
91 to do business in this state as surety thereon, in form
92 prescribed by the attorney general and conditioned upon
93 the faithful performance of all duties in accordance with
94 sections four through eight of this article and the rules of
95 the governing boards. In lieu of separate bonds for such
96 buyers, a blanket surety bond may be obtained. Any
97 such bond or bonds shall be filed with the secretary of
98 state. The cost of any such bond or bonds shall be paid
99 from funds appropriated to the applicable governing
100 board.

101 (f) All purchases and acquisitions shall be made in
102 consideration and within limits of available appropria-
103 tions and funds and in accordance with applicable
104 provisions of article two, chapter five-a of this code,
105 relating to expenditure schedules and quarterly allot-
106 ments of funds.

107 (g) The governing boards may make requisitions upon
108 the auditor for a sum to be known as an advance allow-
109 ance account, in no case to exceed five percent of the
110 total of the appropriations for the board, and the auditor
111 shall draw a warrant upon the treasurer for such ac-
112 counts; and all such advance allowance accounts shall be
113 accounted for by the applicable governing board once
114 every thirty days or more often if required by the state
115 auditor. Such authority shall not be delegated to any
116 state institution under the control and supervision of the
117 board.

118 (h) Contracts entered into pursuant to this section shall
119 be signed by the applicable governing board in the name
120 of the state and shall be approved as to form by the
121 attorney general: *Provided*, That a contract or a change
122 order for that contract which in total does not exceed
123 fifteen thousand dollars and which uses terms and
124 conditions or standardized forms previously approved by
125 the attorney general and does not make substantive

126 changes in the terms and conditions of the contract does
127 not require approval by the attorney general: *Provided,*
128 *however,* That the attorney general shall make a list of
129 those changes which he or she deems to be substantive
130 and the list, and any changes thereto, shall be published
131 in the state register. A contract that exceeds fifteen
132 thousand dollars shall be filed with the state auditor:
133 *Provided further,* That upon request, the governing
134 boards shall make all contracts available for inspection
135 by the state auditor. The governing board shall pre-
136 scribe the amount of deposit or bond to be submitted
137 with a bid or contract, if any, and the amount of deposit
138 or bond to be given for the faithful performance of a
139 contract. If the governing board purchases or contracts
140 for materials, supplies, equipment and printing contrary
141 to the provisions of sections four through seven of this
142 article or the rules pursuant thereto, such purchase or
143 contract shall be void and of no effect.

144 (i) Either governing board may request the director of
145 purchases to make available, from time to time, the
146 facilities and services of that department to the board in
147 the purchase and acquisition of materials, supplies,
148 equipment and printing, and the director of purchases
149 shall cooperate with that governing board in all such
150 purchases and acquisitions upon such request.

151 (j) Each governing board shall permit private institu-
152 tions of higher education to join as purchasers on
153 purchase contracts for materials, supplies and equip-
154 ment entered into by that governing board. Any private
155 school desiring to join as purchasers on such purchase
156 contracts shall file with that governing board an affida-
157 vit signed by the president of the institution of higher
158 education or a designee requesting that it be authorized
159 to join as purchaser on purchase contracts of that
160 governing board and agreeing that it will be bound by
161 such terms and conditions as that governing board may
162 prescribe, and that it will be responsible for payment
163 directly to the vendor under each purchase contract.

164 (k) Notwithstanding any other provision of this code to
165 the contrary, the governing boards may make purchases
166 from the federal government or from federal government
167 contracts if the materials, supplies, equipment or print-
168 ing to be purchased is available from the federal govern-
169 ment or from a federal contract and purchasing from the
170 federal government or from a federal government
171 contract would be the most financially advantageous
172 manner of making the purchase.

173 (l) An independent performance audit of all purchasing
174 functions and duties which are performed at any institu-
175 tion of higher education shall be performed each fiscal
176 year. The joint committee on government and finance
177 shall conduct the performance audit and the governing
178 boards shall be responsible for paying the cost of the
179 audit from funds appropriated to the governing boards.

180 (m) The governing boards shall require each institution
181 under their respective jurisdiction to notify and inform
182 every vendor doing business with that institution of the
183 provisions of section fifty-four, article three, ~~section~~ *D.H. Chapter*
184 five-a of this code, also known as the "Prompt Pay Act of
185 1990".

186 (n) Consultant services, such as strategic planning
187 services, shall not preclude or inhibit the governing
188 boards from considering any qualified bid or response
189 for delivery of a product or a commodity because of the
190 rendering of those consultant services.

**§18B-5-5. Prequalification disclosure by vendors; register of
vendors; exceptions; suspension of vendors.**

1 (a) Every person, firm or corporation selling or offering
2 to sell to the governing boards, upon competitive bids or
3 otherwise, any materials, equipment or supplies in
4 excess of fifteen thousand dollars shall comply with all
5 of the provisions of section twelve, article three, chapter
6 five-a of this code and shall file with the director of the
7 purchasing division of the state of West Virginia the

8 affidavit required herein: *Provided*, That every such
9 person, firm or corporation who is presently in compli-
10 ance with said section shall not be required to requalify
11 thereunder to be able to transact business with the
12 governing boards.

13 (b) Any person, firm or corporation failing or refusing
14 to comply with said statute as herein required shall be
15 ineligible to sell or offer to sell commodities or printing
16 to the governing boards as hereinafter set forth: *Pro-*
17 *vided*, That any person suspended under the provisions
18 of section thirty-nine, ~~of said article three~~, shall not be
19 eligible to sell or offer to sell commodities or printing to
20 the governing boards: *Provided, however*, That the
21 governing boards shall have the power and authority to
22 suspend, for a period not to exceed one year, the right
23 and privilege of a person to bid on purchases of the
24 governing boards when there is reason to believe that
25 such person has violated any of the provisions in sections
26 four through seven of this article or the rules of the
27 governing boards pursuant thereto. Every person whose
28 right to bid has been so suspended shall be notified
29 thereof by a letter posted by registered mail containing
30 the reason for such suspension and shall have the right
31 to have the appropriate governing board's action re-
32 viewed in accordance with section forty, article three,
33 chapter five-a of this code.

DH
Chapter five-a
of this code

**§18B-5-6. Other code provisions relating to purchasing not
controlling; exceptions; criminal provisions and
penalties; financial interest of governing
boards, etc.; receiving anything of value from
interested party and penalties therefor; appli-
cation of bribery statute.**

1 The provisions of article three, chapter five-a of this
2 code shall not control or govern the purchase, acquisi-
3 tion or other disposition of any equipment, materials,
4 supplies or printing by the governing boards, except as
5 provided in sections four through seven of this article:

6 *Provided*, That sections twenty-nine, thirty and thirty-
7 one, article three of said chapter five-a shall apply to all
8 purchasing activities of the governing boards.

9 Neither the governing boards, nor any employee of the
10 governing boards, shall be financially interested, or have
11 any beneficial personal interest, directly or indirectly, in
12 the purchase of any equipment, materials, supplies or
13 printing, nor in any firm, partnership, corporation or
14 association furnishing them. Neither the governing
15 boards nor any employee of said boards shall accept or
16 receive directly or indirectly from any person, firm or
17 corporation, known by the governing boards or such
18 employee to be interested in any bid, contract or pur-
19 chase, by rebate, gift or otherwise, any money or other
20 thing of value whatsoever or any promise, obligation or
21 contract for future reward or compensation.

22 A person who violates any of the provisions of this
23 section shall be guilty of a misdemeanor, and, upon
24 conviction thereof, shall be imprisoned in jail not less
25 than three months nor more than one year, or fined not
26 less than fifty nor more than one thousand dollars, or
27 both imprisoned and fined, in the discretion of the court:
28 *Provided*, That any person who violates any of such
29 provisions by receiving money or other thing of value
30 under circumstances constituting the crime of bribery
31 under the provisions of section three, article five-a,
32 chapter sixty-one of this code, shall, upon conviction of
33 bribery, be punished as provided in section nine of said
34 article.

**§18B-5-7. Disposition of obsolete and unusable equipment,
surplus supplies and other unneeded materials;
inventories.**

1 The governing boards shall dispose of obsolete and
2 unusable equipment, surplus supplies and other un-
3 needed materials, either by transfer to other governmen-
4 tal agencies or institutions, by exchange or trade, or by
5 sale as junk or otherwise. The governing boards shall

6 adopt rules governing and controlling the disposition of
7 all such equipment, supplies and materials. At least ten
8 days prior to the disposition, the governing boards shall
9 advertise, by newspaper publication as a Class II legal
10 advertisement in compliance with the provisions of
11 article three, chapter fifty-nine of this code, in the
12 county in which the equipment, supplies and materials
13 are located the availability or sales of such disposable
14 equipment, supplies and materials and may sell the
15 disposable equipment, supplies and materials, in whole
16 or in part, at public auction or by sealed bid, or may
17 transfer, exchange or trade same to other governmental
18 agencies or institutions (if by exchange or trade, then
19 without advertising), in whole or in part, as sound
20 business practices may warrant under existing circum-
21 stances and conditions.

§18B-5-8. Report card on West Virginia business.

1 The governing boards shall make an annual report to
2 the finance committees of the House of Delegates and the
3 Senate regarding the entities with which the governing
4 boards contracted in the previous year. This report shall
5 be submitted on or before the fifteenth day of January of
6 each year and shall be cumulative in nature. The report
7 shall include, but not be limited to, information regard-
8 ing the number of out-of-state entities with which the
9 governing board contracted, the number of in-state firms
10 with which the governing board contracted, the dollar
11 amount of each contract; the equipment, commodity or
12 service for which the contract was let; the governing
13 board's recommendations, if any, on the manner in
14 which the purchasing procedures could be improved.

ARTICLE 6. OTHER BOARDS AND ADVISORY COUNCILS.

§18B-6-1. Institutional boards of advisors.

1 (a) There shall be established at each state institution
2 of higher education, hereinafter referred to as the
3 "institution", excluding centers and branches thereof, an
4 institutional board of advisors. The board of advisors

5 shall consist of eleven members, including an adminis-
6 trative officer of the institution appointed by the presi-
7 dent of the institution; a full-time member of the faculty
8 with the rank of instructor or above duly elected by the
9 faculty; a member of the student body in good academic
10 standing, enrolled for college credit work and duly
11 elected by the student body; a member of the institu-
12 tional classified staff duly elected by the classified staff;
13 and, appointed by the appropriate governing board,
14 seven lay citizens of the state who have demonstrated a
15 sincere interest in and concern for the welfare of that
16 institution and who are representative of its population
17 and fields of study, including at least two alumni of the
18 institution. Of the seven lay citizen members, no more
19 than four may be of the same political party.

20 The administrative officer and student member shall
21 serve for a term of one year; the faculty member and the
22 classified staff member shall serve for a term of two
23 years and the seven lay citizen members shall serve
24 terms of four years each. All members, except the
25 administrative officer, shall be eligible to succeed
26 themselves for no more than one additional term. A
27 vacancy in an unexpired term of a member shall be filled
28 within sixty days of the occurrence thereof in the same
29 manner as the original appointment or election. Except
30 in the case of a vacancy, all elections shall be held and
31 all appointments shall be made no later than the thirti-
32 eth day of April preceding the commencement of the
33 term.

34 Each board of advisors shall hold a regular meeting at
35 least quarterly, commencing in July of each year.
36 Additional meetings may be held upon the call of the
37 chairman, president of the institution or upon the
38 written request of at least four members. A majority of
39 the members shall constitute a quorum for conducting
40 the business of the board of advisors.

41 (b) One of the seven lay citizen members shall be

42 elected as chairman by the board of advisors in July of
43 each year: *Provided*, That no member shall serve as
44 chairman for more than two consecutive years at a time.

45 The president of the institution shall make available
46 resources of the institution for conducting the business
47 of the board of advisors. The members of the board of
48 advisors shall be reimbursed for all reasonable and
49 necessary expenses actually incurred in the performance
50 of their official duties under this section upon presenta-
51 tion of an itemized sworn statement thereof. All ex-
52 penses incurred by the board of advisors and the institu-
53 tion under this section shall be paid from funds allocated
54 to the institution for such purpose.

55 (c) The board of advisors shall review, prior to the
56 submission by the president to its governing board, all
57 proposals of the institution in the areas of mission,
58 academic programs, budget, capital facilities and such
59 other matters as requested by the president of the
60 institution or its governing board or otherwise assigned
61 to it by law. The board of advisors shall comment on
62 each such proposal in writing, with such recommenda-
63 tions for concurrence therein or revision or rejection
64 thereof as it deems proper. Such written comments and
65 recommendations shall accompany the proposal to the
66 governing board and the governing board shall include
67 such comments and recommendations in its consider-
68 ation of and action on the proposal. The governing
69 board shall promptly acknowledge receipt of the com-
70 ments and recommendations and shall notify the board
71 of advisors in writing of any action taken thereon.

72 (d) The board of advisors shall review, prior to their
73 implementation by the president, all proposals regarding
74 institution-wide personnel policies. The board of
75 advisors may comment on such proposals in writing.

76 (e) The board of advisors shall provide advice and
77 assistance to the president in establishing closer connec-
78 tions between higher education and business, labor,

79 government, community and economic development
80 organizations to give students greater opportunities to
81 experience the world of work, such as business and
82 community service internships, apprenticeships and
83 cooperative programs; to communicate better and serve
84 the current work force and work force development
85 needs of their service area, including the needs of
86 nontraditional students for college-level skills upgrading
87 and retraining and the needs of employers for specific
88 programs of limited duration; and to assess the perfor-
89 mance of the institution's graduates and assist in job
90 placement. The administrative officer of the institution
91 serving on the advisory council may be assigned the
92 responsibility for coordinating the institution's activities
93 related to economic development.

94 (f) Upon the occurrence of a vacancy in the office of
95 president of the institution, the board of advisors shall
96 serve as a search and screening committee for candidates
97 to fill the vacancy under guidelines established by its
98 governing board. When serving as a search and screen-
99 ing committee, the board of advisors and its governing
100 board are each authorized to appoint up to three addi-
101 tional persons to serve on the committee as long as the
102 search and screening process is in effect. The three
103 additional appointees of the board of advisors shall be
104 faculty members of the institution. Only for the pur-
105 poses of the search and screening process, such addi-
106 tional members shall possess the same powers and rights
107 as the regular members of the board of advisors, includ-
108 ing reimbursement for all reasonable and necessary
109 expenses actually incurred. Following the search and
110 screening process, the committee shall submit the names
111 of at least three candidates to the governing board for
112 consideration and appointment. If the governing board
113 rejects all candidates so submitted, the committee shall
114 submit the names of at least three additional candidates,
115 and this process shall be repeated until the governing
116 board appoints one of the candidates so submitted. The

117 governing board shall provide all necessary staff assis-
118 tance to the board of advisors in its role as a search and
119 screening committee.

ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-1. Seniority for full-time classified personnel; seniority to be observed in reducing work force; preferred recall list; renewal of listing; notice of vacancies.

1 (a) Definitions for terms used in this section shall be in
2 accordance with those provided in section two, article
3 nine of this chapter except that the provisions of this
4 section shall apply only to classified employees whose
5 employment, if continued, shall accumulate to a mini-
6 mum total of one thousand forty hours during a calendar
7 year and extend over at least nine months of a calendar
8 year: *Provided*, That this section shall also apply for one
9 year to any classified employee who is involuntarily
10 transferred to a position in nonclassified status for
11 which he or she did not apply.

12 (b) All decisions by the appropriate governing board or
13 their agents at state institutions of higher education
14 concerning reductions in work force of full-time classi-
15 fied personnel, whether by temporary furlough or
16 permanent termination, shall be made in accordance
17 with this section. For layoffs by classification for reason
18 of lack of funds or work, or abolition of position or
19 material changes in duties or organization and for recall
20 of employees so laid off, consideration shall be given to
21 an employee's seniority as measured by permanent
22 employment in the service of the state system of higher
23 education. In the event that the institution wishes to lay
24 off a more senior employee, the institution must demon-
25 strate that the senior employee cannot perform any other
26 job duties held by less senior employees of that institu-
27 tion in the same job class or any other equivalent or
28 lower job class for which the senior employee is quali-
29 fied: *Provided*, That if an employee refuses to accept a

30 position in a lower job class, such employee shall retain
31 all rights of recall hereinafter provided. If two or more
32 employees accumulate identical seniority, the priority
33 shall be determined by a random selection system
34 established by the employees and approved by the
35 institution.

36 (c) Any employee laid off during a furlough or reduc-
37 tion in work force shall be placed upon a preferred recall
38 list and shall be recalled to employment by the institu-
39 tion on the basis of seniority. An employee's listing with
40 an institution shall remain active for a period of one
41 calendar year from the date of termination or furlough
42 or from the date of the most recent renewal. If an
43 employee fails to renew the listing with the institution,
44 the employee's name may be removed from the list. An
45 employee placed upon the preferred list shall be recalled
46 to any position opening by the institution within the
47 classification(s) in which the employee had previously
48 been employed or to any lateral position for which the
49 employee is qualified. An employee on the preferred
50 recall list shall not forfeit the right to recall by the
51 institution if compelling reasons require such employee
52 to refuse an offer of reemployment by the institution.

53 The institution shall be required to notify all employ-
54 ees maintaining active listings on the preferred recall list
55 of all position openings that from time to time exist.
56 Such notice shall be sent by certified mail to the last
57 known address of the employee. It shall be the duty of
58 each employee listed to notify the institution of any
59 change in address and to timely renew the listing with
60 the institution. No position openings shall be filled by
61 the institution, whether temporary or permanent, until
62 all employees on the preferred recall list have been
63 properly notified of existing vacancies and have been
64 given an opportunity to accept reemployment.

65 (d) A nonexempt classified employee, including a
66 nonexempt employee who has not accumulated a mini-

67 mum total of one thousand forty hours during the
68 calendar year or whose contract does not extend over at
69 least nine months of a calendar year, who meets the
70 minimum qualifications for a job opening at the institu-
71 tion where the employee is currently employed, whether
72 the job be a lateral transfer or a promotion, and applies
73 for same shall be transferred or promoted before a new
74 person is hired unless such hiring is affected by man-
75 dates in affirmative action plans or the requirements of
76 Public Law 101-336, the Americans with Disabilities
77 Act. If more than one qualified, nonexempt classified
78 employee applies, the best-qualified nonexempt classi-
79 fied employee shall be awarded the position. In in-
80 stances where such classified employees are equally
81 qualified, the nonexempt classified employee with the
82 greatest amount of continuous seniority at that state
83 institution of higher education shall be awarded the
84 position. A nonexempt classified employee is one to
85 whom the provisions of the federal Fair Labor Standards
86 Act, as amended, apply.

**§18B-7-11. Compensatory time off in lieu of overtime; writ-
ten agreement; other conditions.**

1 (a) Notwithstanding any other provision of this code to
2 the contrary, employees of the governing boards may
3 receive in lieu of overtime compensation, compensatory
4 time off at a rate not less than one and one-half hours for
5 each hour of employment. Said employees may receive
6 compensatory time only pursuant to written agreements
7 arrived at between the employer and the employee
8 before the performance of the work, and recorded in the
9 employer's record of hours worked, and if the employee
10 has not accrued compensatory time in excess of the
11 limits prescribed herein. Any written agreement may be
12 modified at the request of either the employer or em-
13 ployee, but under no circumstances shall changes in the
14 agreement deny an employee compensatory time hereto-
15 fore acquired.

16 (b) An employee may accrue up to four hundred eighty
17 hours of compensatory time if the employee's work is a
18 public safety activity, an emergency response activity or
19 a seasonal activity. An employee engaged in other work
20 for the governing board may accrue up to two hundred
21 forty hours of compensatory time. Any such employee
22 who has accrued four hundred eighty or two hundred
23 forty hours of compensatory time, as the case may be,
24 shall, for additional overtime hours of work, be paid
25 overtime compensation. If compensation is paid to an
26 employee for accrued compensatory time off, such
27 compensation shall be paid at the regular rate earned by
28 the employee at the time the employee received such
29 payment.

30 (c) An employee who has accrued compensatory time
31 off pursuant to this section, shall, upon termination of
32 employment, be paid for the unused compensatory time
33 at a rate of compensation not less than:

34 (1) The average regular rate received by such employee
35 during the first three years of the employee's employ-
36 ment; or

37 (2) The final regular rate received by such employee,
38 whichever is higher.

39 (d) An employee of the governing boards who has
40 accrued compensatory time off authorized to be provided
41 under this section, and who has requested the use of
42 compensatory time, shall be permitted by the employee's
43 employer to use such time within a reasonable time after
44 making the request if the use of the compensatory time
45 does not unduly disrupt the operation of the employing
46 agency. Compensatory time must be used within one
47 year from the time it is accrued.

48 (e) For purposes of this section, the terms "compensa-
49 tory time" and "compensatory time off" mean hours
50 during which the employee is not working, which are not
51 counted as hours worked toward during the applicable

52 work week or other work period for purposes of overtime
53 compensation, and for which the employee is compen-
54 sated at the employee's regular rate.

**ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND CLASSIFI-
CATION SYSTEM.**

§18B-9-2. Definitions.

1 As used in this article:

2 (a) "Classified employee or employee" means any
3 regular full-time or regular part-time employee of a
4 governing board, including all employees of the West
5 Virginia network for educational telecomputing and
6 beginning the first day of July, one thousand nine
7 hundred ninety, includes employees at the central office
8 of the governing boards, who hold a position that is
9 assigned a particular job title and pay grade in accor-
10 dance with the personnel classification system estab-
11 lished by the appropriate governing board and shall
12 include all employees of the West Virginia network for
13 educational telecomputing;

14 (b) "Nonclassified employee" means an individual who
15 is responsible for policy formation at the department or
16 institutional level or reports directly to the president:
17 *Provided*, That the percentage of personnel placed in the
18 category of "nonclassified" at any given institution shall
19 not exceed ten percent of the total number of employees
20 of that institution who are eligible for membership in
21 any state retirement system of the state of West Virginia
22 or other retirement plan authorized by the state. Final
23 approval of such placement shall be with the appropriate
24 governing board;

25 (c) "Job description" means the specific listing of
26 duties and responsibilities as determined by the appro-
27 priate governing board and associated with a particular
28 job title;

29 (d) "Job title" means the name of the position or job as

30 defined by the appropriate governing board;

31 (e) "Merit increases and salary adjustments" means the
32 amount of additional salary increase allowed on a merit
33 basis or to rectify salary inequities or accommodate
34 competitive market conditions in accordance with rules
35 established by the appropriate governing board;

36 (f) "Pay grade" means the number assigned by the
37 appropriate governing board to a particular job title and
38 refers to the vertical column heading of the salary
39 schedule established in section three of this article;

40 (g) "Personnel classification system" means the process
41 of job categorization adopted by the appropriate govern-
42 ing board by which job title, job description, pay grade
43 and placement on the salary schedule are determined;

44 (h) "Salary" means the amount of compensation paid
45 through the state treasury per annum to a classified
46 employee;

47 (i) "Schedule" or "salary schedule" means the grid of
48 annual salary figures established in section three of this
49 article; and

50 (j) "Years of experience" means the number of years a
51 person has been an employee of the state of West Vir-
52 ginia and refers to the horizontal column heading of the
53 salary schedule established in section three of this
54 article. For the purpose of placement on the salary
55 schedule pursuant to said section, employment for nine
56 months or more shall equal one year of experience, but
57 no classified employee may accrue more than one year of
58 experience during any given fiscal year. Employment for
59 less than full time or less than nine months during any
60 fiscal year shall be prorated. For the purpose of deter-
61 mining the amount of annual salary increase pursuant to
62 subsection (b), section five of this article, employment
63 for less than twelve months during any fiscal year shall
64 be prorated. In accordance with rules established by the
65 appropriate governing board, a classified employee may

66 be granted additional years of experience not to exceed
67 the actual number of years of prior, relevant work or
68 experience at accredited institutions of higher education
69 other than state institutions of higher education.

§18B-9-6. Biennial review of equitable system of job classifications.

1 The secretary of education and the arts shall, on or
2 before the first day of July, one thousand nine hundred
3 ninety-six, conduct a review of the progress made on
4 implementation of the equitable system of job classifica-
5 tions established by board rule pursuant to the provi-
6 sions of section four of this article. A similar review
7 shall be conducted biennially thereafter until the secre-
8 tary determines that the goals of the rule establishing the
9 system have been achieved.

§18B-9-12. Probationary employees.

1 Each full-time classified employee hired by the gov-
2 erning boards shall serve an initial six-month probation-
3 ary period. At the end of said probationary period the
4 employee shall receive a written evaluation of his or her
5 performance. The employee's supervisor shall meet with
6 the employee and explain the contents of said evaluation
7 and whether the employee is being offered regular
8 employment.

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

§18B-10-1. Enrollment, tuition and other fees at educational institutions; refund of fees.

1 (a) Each governing board shall fix tuition and other
2 fees for each school term for the different classes or
3 categories of students enrolling at each state institution
4 of higher education under its jurisdiction and may
5 include among such fees any one or more of the follow-
6 ing: (1) Health service fees; (2) infirmary fees; (3) student
7 activities, recreational, athletic and extracurricular fees,
8 which said fees may be used to finance a student's

9 attorney to perform legal services for students in civil
10 matters at such institutions: *Provided*, That such legal
11 services shall be limited to only those types of cases,
12 programs or services approved by the administrative
13 head of such institution where such legal services are to
14 be performed; and (4) graduate center fees and branch
15 college fees, or either, if the establishment and opera-
16 tions of graduate centers or branch colleges are other-
17 wise authorized by law. All fees collected at any gradu-
18 ate center or at any branch college shall be paid into
19 special funds and shall be used solely for the mainte-
20 nance and operation of the graduate center or branch
21 college at which they were collected: *Provided, however*,
22 That the governing boards shall use the median of the
23 average tuition and required fees at similarly classified
24 institutions in member states of the southern regional
25 education board as a goal in establishing tuition and
26 required fee levels for residents at state institutions of
27 higher education under their jurisdiction: *Provided*
28 *further*, That the governing boards shall use the actual
29 instructional cost as the same shall be determined in
30 accordance with board rule, in establishing nonresident
31 undergraduate fees, with the goal of having tuition and
32 fees cover the actual cost by fiscal year one thousand
33 nine hundred ninety-six: *And provided further*, That
34 students enrolled in undergraduate courses offered at
35 off-campus locations shall pay an off-campus instruction
36 fee and shall not pay the athletic fee and the student
37 activity fee. The off-campus instruction fee shall be used
38 solely for the support of off-campus courses offered by
39 the institution. Off-campus locations for each institu-
40 tion shall be defined by the appropriate governing board.
41 The schedule of all fees, and any changes therein, shall
42 be entered in the minutes of the meeting of the appropri-
43 ate governing board, and the board shall file with the
44 legislative auditor a certified copy of such schedule and
45 changes.

46 (b) In addition to the fees mentioned in the preceding

47 paragraph, each governing board may impose and collect
48 a student union building fee. All such building fees
49 collected at an institution shall be paid into a special
50 student union building fund for such institution, which
51 is hereby created in the state treasury, and shall be used
52 only for the construction, operation and maintenance of
53 a student union building or a combination student union
54 and dining hall building or for the payment of the
55 principal of and interest on any bond issued to finance
56 part or all of the construction of a student union building
57 or a combination student union and dining hall building
58 or the renovation of an existing structure for use as a
59 student union building or a combination student union
60 and dining hall building, all as more fully provided in
61 section ten of this article. Any moneys in such funds not
62 immediately needed for such purposes may be invested
63 in any such bonds or other securities as are now or
64 hereafter authorized as proper investments for state
65 funds.

66 (c) The boards shall establish the rates to be charged
67 full-time students enrolled during a regular academic
68 term. For fee purposes a full-time undergraduate
69 student shall be one enrolled for twelve or more credit
70 hours in a regular term, and a full-time graduate student
71 shall be one enrolled for nine or more credit hours in a
72 regular term. Undergraduate students taking fewer than
73 twelve credit hours in a regular term shall have their fees
74 reduced pro rata based upon one twelfth of the full-time
75 rate per credit hour, and graduate students taking fewer
76 than nine credit hours in a regular term shall have their
77 fees reduced pro rata based upon one ninth of the full-
78 time rate per credit hour.

79 Fees for students enrolled in summer terms or other
80 nontraditional time periods shall be prorated based upon
81 the number of credit hours for which the student enrolls
82 in accordance with the above provisions.

83 (d) All fees are due and payable by the student upon

84 enrollment and registration for classes except as pro-
85 vided for in this subsection:

86 (1) The governing boards shall permit fee payments to
87 be made in up to three installments over the course of
88 the academic term. The payments shall include interest
89 at a rate set by the governing board: *Provided*, That all
90 fees must be paid prior to the awarding of course credit
91 at the end of the academic term.

92 (2) The governing boards shall also authorize the
93 acceptance of credit cards or other payment methods
94 which may be generally available to students for the
95 payment of fees: *Provided*, That the governing boards
96 may charge the students for the reasonable and custom-
97 ary charges incurred in accepting credit cards and other
98 methods of payment.

99 (3) If a governing board determines that any student
100 was adversely, financially affected by a legal work
101 stoppage that commenced on or after the first day of
102 January, one thousand nine hundred ninety-three, it may
103 allow the student an additional six months to pay the
104 fees for any academic term: *Provided*, That the govern-
105 ing board shall determine if a student was adversely,
106 financially affected on a case-by-case basis.

107 (e) The governing boards shall establish legislative
108 rules regarding the refund of any fees upon the voluntary
109 or involuntary withdrawal from classes of any student
110 which rules shall comply with all applicable state and
111 federal laws and shall be uniformly applied throughout
112 the systems.

113 (f) The governing boards shall establish legislative
114 rules using the fee structure or other penalties to provide
115 a disincentive for students to register for classes in
116 excess of the typical full-time course load, that being
117 from twelve to eighteen credit hours for an undergradu-
118 ate student and from nine to fifteen credit hours for a
119 graduate student, and then to withdraw from such

120 excess classes after the semester has begun.

121 (g) In addition to the fees mentioned in the preceding
122 subsections, each governing board may impose, collect
123 and distribute a fee to be used to finance a nonprofit,
124 student-controlled public interest research group:
125 *Provided*, That the students at such institution demon-
126 strate support for the increased fee in a manner and
127 method established by that institution's elected student
128 government: *Provided, however*, That such fees shall not
129 be used to finance litigation against the institution.

130 (h) Any proposed fee increase which would become
131 effective on or after the first day of July, one thousand
132 nine hundred ninety-seven, which has been approved by
133 the governing boards, shall then be submitted by the
134 governing boards to the secretary of education and the
135 arts for approval. Such approval shall only be granted
136 upon the certification that such institution requesting a
137 fee increase is in compliance with the strategic plans
138 required to be submitted, pursuant to section one-b,
139 article one of this chapter. Notice, in the form of a
140 report, shall be provided by the secretary to the legisla-
141 tive oversight commission on education accountability
142 describing such fee increases and showing of how such
143 increases compare with the average tuition and fees
144 charged at comparable peer institutions in member
145 states of the southern regional education board.

ARTICLE 11. MISCELLANEOUS INSTITUTES AND CENTERS.

§18B-11-5. Institute for instructional technology.

1 The governing boards are hereby authorized to create
2 an institute for instructional technology which shall be
3 located within the higher education central office. The
4 governing boards are hereby authorized to enter into
5 research agreements pursuant to article twelve of this
6 chapter with respect to the institute for instructional
7 technology. The vice chancellor for instructional tech-
8 nology shall perform such functions, tasks and duties as
9 may be prescribed by law and shall share resources with

10 the higher education central office, the state institutions
11 of higher education and other agencies to the extent
12 practical to avoid unnecessary duplication of staff and
13 other administrative efforts.

ARTICLE 14. MISCELLANEOUS.

§18B-14-5. Authorization to sell property generally.

1 Notwithstanding any other provisions of this code to
2 the contrary, the governing boards are hereby authorized
3 and empowered to sell any surplus real property and
4 deposit the net proceeds into a special revenue account
5 in the state treasury to be appropriated by the Legisla-
6 ture for the purchase of additional real property or
7 technology, or for capital improvements at the institu-
8 tion that sold the surplus real property: *Provided*, That
9 prior to such action the appropriate governing board
10 shall have the property appraised by two licensed
11 appraisers and shall not sell the property for less than
12 the average of the two appraisals: *Provided, however*,
13 That before such action, the governing boards shall
14 provide notice to the public by a Class II legal advertise-
15 ment as defined in section two, article three, chapter
16 fifty-nine of this code and shall hold a public hearing on
17 the issue.

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

Randy Schoonover
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect from passage.

Darrell K. Hoops
Clerk of the Senate

Donald L. Hepp
Clerk of the House of Delegates

Earl Ray Tomlin
President of the Senate

Paul Wilson
Speaker House of Delegates

The within *is approved* this the *24th* day of *March*, 1995.

Robert Capen
Governor

PRESENTED TO THE

GOVERNOR

Date

3/21/95

Time

3:09 pm