WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

ENROLLED

House Bill No. 2224
(By Delegates Williams, Shaver, Tabb, Canterbury, Hamilton, Sobonya and Howard)

Passed March 8, 2003
In Effect Ninety Days from Passage
AN ACT to repeal section two, article eight, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section one, article five, chapter five of said code; to amend and reenact section two, article one, chapter eighteen-b of said code; to further amend said article by adding thereto two new sections, designated sections eight and ten; to amend and reenact section three, article one-a of said chapter; to amend and reenact section six, article one-b of said chapter; to further amend said article by adding thereto a new section, designated section ten; to amend and reenact sections three, four, and eight, article three-c of said chapter; to amend and reenact sections three, four, five, six, and seven, article five of said chapter; to further amend said article by adding thereto a new section, designated section nine; to amend article six of said chapter by adding thereto a new section, designated section four-b; to amend and reenact sections four and six, article seven of said chapter; to amend and reenact section three, article eight of said chapter; to amend and reenact sections five and ten, article nine of said chapter; to amend and reenact sections one and fourteen,
article ten of said chapter; and to amend article fourteen of said chapter by adding thereto a new section, designated section eleven, all relating to higher education; higher education policy commission; governing, advisory and visitor boards; administrative heads; faculty; staff; students; administrative and programmatic efficiencies; definitions; clarifying certain student rights; providing for Potomac state college to become a fully-integrated division of West Virginia university; limiting certain operational costs; incorporation of certain auxiliary enterprises; auxiliary service and product rates; establishing areas of academic emphasis at the Potomac campus; institutional missions; program and service contracts and collaboration; reports to the policy commission, legislative oversight commission on education accountability and Legislature; draft legislation submission requirements; peers; peer approval; appointment and evaluation of administrative heads; directing Concord college and Bluefield state college to make a joint study on progress toward meeting goals; altering sponsoring institutions for certain community and technical college components; implementation of certain institutional changes; monitoring institutional progress toward meeting goals; clarifying reporting relationships of certain provosts; establishing and redesignating certain community and technical college responsibility districts; transfer of certain property, obligations and staff; deleting references to Bluefield community and technical college and the center for higher education and workforce development at Beckley; creating new river community and technical college of Bluefield state college from existing components and entities; transfer and retention of certain academic programs; findings and intent; governance and program offerings; expenditures; contractual arrangements; responsibilities and duties of certain executive agencies and officials; expanding certain purchasing authority; eliminating bid preference for institutional print shops; modifying attorney general lease purchase agreement and contract approval; authorizing certain leasing authority for the policy commission and the governing
boards; requiring prior review of lease agreements; lease cancel­
lation and renewal; authorized signatures on approved leases;
requirements and authorizations for promulgating policies, rules
and emergency rules; adjusting purchasing threshold for requiring
vendor registration; vendor eligibility; clarifying provisions
relating to purchasing; disposal of obsolete or unusable equip­
ment, surplus supplies; application of proceeds; ensuring the
fiscal integrity of certain institutional procedures; providing for
expanded electronic transfers; expanding purchasing authority on
purchase cards; authorizing certain emergency expenditures;
consolidating certain financial and administrative operations;
authorizing fee charges for services provided; limiting certain fee
charges; authorizing certain services to be provided by higher
education institutions; reduction of low-enrollment sections of
certain courses; directing utilization of certain natural resources
and alternative fuel resources; retention of cost savings; establish­
ing staff councils; election of members and chair; meetings;
notice to probationary faculty of retention status; consideration of
need for flexibility at community and technical colleges when
reviewing institutional policies; deleting obsolete language
referencing faculty salary schedule; modifying certain salary
provisions; competitive faculty salary schedule requirement;
removing obsolete references to annual experience increment;
providing means for funding certain salary increases; participa­
tion in catastrophic leave banks; authorizing certain mandatory
auxiliary fee increases; limiting certain tuition and fee increases;
increase approval; use of fees; reduction of certain state subsidies;
return of funds to general revenue; certification of fee revenues;
expanding use of bookstore revenues; and public employees
insurance agency benefit option expansion study.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 5. SALARY INCREASE FOR STATE EMPLOYEES.

§5-5-1. Definitions.

1 For the purposes of this article:

2 (a) “Eligible employee” means either of the following:

3 (1) Any regular full-time employee of the state or any spending unit of the state who is eligible for membership in any
state retirement system of the state of West Virginia or other
retirement plan authorized by the state: Provided, That the
mandatory salary increase required by this article shall not
apply to any faculty employee at state institutions of higher
education, or any employee of the state whose compensation is
fixed by statute or by statutory schedule other than employees
described in this section. Clerks, deputy clerks and magistrate
assistants of magistrate courts are eligible for the incremental
salary increases provided in this article with the increases to be
allowable in addition to the maximum salaries and compensa-
tion for the employee offices under the magistrate court system
statutes of article one, chapter fifty of the code. This article may
not be construed to mandate an increase in the salary of any
elected or appointed officer of the state; or

(2) Any classified employee as defined in section two,
article nine, chapter eighteen-b of this code who is an employee
of a state institution of higher education or of the higher
education policy commission;

(b) “Years of service” means full years of totaled service as
an employee of the state of West Virginia; and

(c) “Spending unit” means any state office, department,
agency, board, commission, institution, bureau or other
designated body authorized to hire employees.

CHAPTER 18B. HIGHER EDUCATION.

§18B-1-2. Definitions.

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

(a) Effective the first day of July, two thousand five,
“regional campus” means West Virginia university at
Parkersburg, and West Virginia university institute of technology.

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

c) "Freestanding community and technical colleges" means southern West Virginia community and technical college, West Virginia northern community and technical college, eastern West Virginia community and technical college, which shall not be operated as branches or off-campus locations of any other state institution of higher education;

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

(e) "Community and technical college", in the singular or plural, means the freestanding community and technical colleges and other state institutions of higher education which have defined community and technical college responsibility districts and programs in accordance with the provisions of sections four and six, article three-c of this chapter;

(f) "Community and technical college education" means the programs, faculty, administration and funding associated with the mission of community and technical colleges as provided in article three-c of this chapter;

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

(h) "Higher education institution" means any institution as defined by Sections 401(f), (g) and (h) of the federal Higher Education Facilities Act of 1963, as amended;
(i) “Higher education policy commission”, “policy commission” or commission means the commission created pursuant to section one, article one-b of this chapter;

(j) “Chancellor” means the chief executive officer of the higher education policy commission employed pursuant to section five, article one-b of this chapter;

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

(l) “Post-secondary vocational education programs” means any college-level course or program beyond the high school level provided through an institution of higher education under the jurisdiction of a governing board which results in or may result in the awarding of a two-year associate degree;

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

(n) For the purposes of this chapter and chapter eighteen-c of this code, “senior administrator” means the vice chancellor for administration employed by the chancellor in accordance with section two, article four of this chapter. The vice chancellor for administration shall assume all the powers and duties that are assigned by law to the senior administrator;

(o) “State college” means Bluefield state college, Concord college, Fairmont state college, Glenville state college, Shepherd college, West Liberty state college or West Virginia state college;
(p) "State institution of higher education" means any university, college or community and technical college under the direct or indirect jurisdiction of a governing board as that term is defined in this section;

(q) "Regional campus" means West Virginia university at Parkersburg, Potomac state college of West Virginia university, and West Virginia university institute of technology;

(r) The advisory board previously appointed for the West Virginia graduate college shall be known as the "board of visitors" and shall provide guidance to the Marshall university graduate college;

(s) "Institutional compact" means a compact between a state institution of higher education and the commission, as described in section two, article one-a of this chapter;

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

(u) "Administratively linked community and technical college" means a community and technical college created pursuant to section eight, article three-c of this chapter;

(v) "Sponsoring institution" means the state institution of higher education that maintains an administrative link to a community and technical college pursuant to section eight, article three-c of this chapter;

(w) "Collaboration" means entering into an agreement with one or more providers of education services in order to enhance the scope, quality, or efficiency of education services;
(x) “Broker” or the act of “brokering” means serving as an agent on behalf of students, employers, communities or responsibility areas to obtain education services not offered by a sponsoring institution. These services include courses, degree programs or other services contracted through an agreement with a provider of education services either in-state or out-of-state; and

(y) “Joint commission for vocational-technical-occupational education” or “joint commission” means the commission established pursuant to article three-a of this chapter.

§18B-1-8. Student rights when institutions merge or become administratively-linked.

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

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

§18B-1-10. Potomac branch of West Virginia university.

(a) Notwithstanding any other provision of this code to the contrary, by the first day of July, two thousand five, Potomac state college shall merge and consolidate with West Virginia university, and become a fully integrated division of the
university. All administrative and academic units shall be consolidated with primary responsibility for direction and support assigned to West Virginia university. The advisory board previously appointed for Potomac state college shall be known as the board of visitors and shall provide guidance to the division in carrying out its mission.

(b) Operational costs for the Potomac campus may not exceed by more than ten percent the average cost per full-time equivalent student for freestanding community and technical colleges or the southern regional education board average expenditures for two-year institutions. West Virginia University shall reduce these costs to the mandated level within four years.

(c) Auxiliary enterprises shall be incorporated into the West Virginia university auxiliary enterprise system. The West Virginia university board of governors shall determine if operations at the Potomac campus can be operated on a self-sufficient basis when establishing rates for auxiliary services and products.

(d) Potomac state college has a strong reputation in agriculture and forestry instruction, pre-professional programs in business, computer science and education, and basic liberal arts instruction. These programs shall be further cultivated and emphasized as the sustaining mission of the Potomac campus over the next decade, except that the higher education policy commission may change the mission of the Potomac campus at any time the commission determines appropriate. In order to focus its resources on these programs, the campus shall contract through eastern West Virginia community and technical college to provide work force development training, literacy education and technical education programs which are most efficiently offered within a flexible community and technical college curriculum. This collaborative relationship shall serve to strengthen both institutions and generate a model relationship
between traditional and community and technical college education for institutions throughout the state.

(e) Beginning the first day of November, two thousand-three, and annually thereafter, Potomac state college and eastern West Virginia community and technical college shall report to the higher education policy commission on plans, accomplishments and recommendations in implementing the cooperative relationship authorized in subsection (d) of this section. The commission shall report to the legislative oversight commission on education accountability on the cooperative activities, results and recommendations for changes by the fifteenth day of December, two thousand three, and annually thereafter.

ARTICLE 1A. COMPACT WITH HIGHER EDUCATION FOR THE FUTURE OF WEST VIRGINIA.

§18B-1A-3. Peer institutions.

(a) The commission shall select not fewer than ten peer institutions for each state institution of higher education in West Virginia, including, but not limited to, independently accredited community and technical colleges.

(b) The peer institutions shall be selected from among institutions throughout the United States and not solely from the states that are members of the southern regional education board.

(c) The peer institutions, as selected by the commission, shall be used as benchmarks for comparison purposes only and are not intended to reflect funding goals for West Virginia institutions of higher education. Such a use is inappropriate since institutions selected as peers for a state institution may be located in an area of high per capita income or have their funding subject to other factors that make its use unrealistic for
setting funding goals in West Virginia. The peer institutions shall be used for comparison in the following areas:

(1) To determine adjustments to base operating budgets as described in section five of this article;

(2) To determine comparable levels of tuition;

(3) To determine comparable faculty and staff teaching requirements and other workloads; and

(4) For such other purposes as the law may require or the commission may find useful or necessary.

(d) The commission shall contract with a national, independent education consulting firm to assist in the unbiased selection of peer institutions for each West Virginia institution. The commission shall select peer institutions for each institution through an open, deliberative, objective process and in consultation with the institutional boards of governors, intended to achieve broad understanding of the basis for this selection in the higher education community and the Legislature. Final peer selection is subject to the approval of the legislative oversight commission on education accountability. In selecting peer institutions, the commission shall use criteria such as, but not limited to:

(1) Institutional mission;

(2) Institutional size related to full-time equivalent students;

(3) The proportions of full-time and part-time students;

(4) The level of academic programs, including, but not limited to, number of degrees granted at the associate, baccalaureate, masters, doctoral and first-professional level;
(5) The characteristics of academic programs such as health sciences, professional, technical or liberal arts and sciences; and

(6) The level of research funding from federal competitive funding sources.

(e) Subject to the approval of the legislative oversight commission on education accountability, the commission shall review and make necessary adjustments to peer institutions at least every six years or as necessary based on changes in institutional missions as approved in institutional compacts or in changes at peer institutions.

(f) Nothing herein may be construed to prevent the commission from using the same peers or peer groups for more than one institution of higher education.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

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

(a) Appointment of institutional presidents. — Appointment of presidents of the public institutions of higher education shall be made as follows:

(1) Subject to the approval of the commission, the appropriate governing board of the institution shall appoint a president for Bluefield state college, Concord college, eastern West Virginia community and technical college, Fairmont state college, Glenville state college, Marshall university, Shepherd college, southern West Virginia community and technical college, West Liberty state college, West Virginia northern community and technical college, West Virginia school of osteopathic medicine, West Virginia state college and West Virginia university;
(2) Subject to the approval of the appropriate governing board and to the provisions of article three-c of this chapter, the president of the appropriate institution shall appoint the president of the regional campuses of West Virginia university and of the community and technical colleges which remain linked administratively to a sponsoring institution. The presidents of such regional campuses and community and technical colleges shall serve at the will and pleasure of the institutional president. The president of the sponsoring institution shall appoint a president for the administratively linked community and technical college at the appropriate time as outlined in the institutional compact and approved by the commission.

(3) Subject to the approval of the commission and to the provisions of article three-c of this chapter, the president of the appropriate institution shall appoint the provost in those cases where the community and technical college remains as a component of another institution. The provost shall serve at the will and pleasure of the president of the employing institution.

(b) Other appointments. — Appointments of administrative heads of state institutions of higher education shall be made in accordance with the provisions of subsection (a) of this section except in the following instances:

(1) Effective the first day of July, two thousand three, the institutional president shall appoint a provost to be the administrative head of New River Community and Technical College; and

(2) Effective the first day of July, two thousand five, the institutional president shall appoint a provost to be the administrative head of the Potomac campus of West Virginia University;

(c) Evaluation of administrative heads. — The governing boards shall conduct written performance evaluations of each institution’s president except the presidents of regional cam-
puses shall be evaluated by the president of West Virginia university. The provosts of administratively linked community and technical colleges and other consolidated, merged or administratively linked units shall be evaluated by the president of the employing institution. Evaluations shall be done in every fourth year of employment as administrative head, recognizing unique characteristics of the institution and utilizing institutional personnel, institutional boards of advisors as appropriate, staff of the appropriate governing board and persons knowledgeable in higher education matters who are not otherwise employed by a governing board. A part of the evaluation shall be a determination of the success of the institution in meeting the requirements of its institutional compact.

§18B-1B-10. Goals of efficiency and effectiveness; findings; reports to commission and legislative oversight commission on education accountability.

(a) The Legislature finds that it is in the best interests of the citizens of West Virginia for state institutions of higher education to work diligently toward achieving the goals and objectives set forth in section one-a, article one of this chapter and in the institutional compacts. One way these goals may be achieved is through collaborative agreements between or among two or more institutions to enhance the scope, quality, or efficiency of education services.

(b) To further these goals of cooperation and coordination, to avoid unnecessary duplication of program development and delivery, and to ensure that programs and services address the public policy agenda established by the Legislature and the commission, compact elements and goals for post-secondary education, by the first day of September, two thousand three, Concord college and Bluefield state college jointly shall complete a comprehensive study of the degree to which these institutions are making progress toward meeting the goals for
post-secondary education, their institutional compacts and the public policy agenda and shall report their finding to the commission. The report shall address specific examples of collaboration, cooperation or brokering in academic programs, administrative services or any joint efforts which aim to avoid unnecessary duplication and to ensure delivery of high quality education services.

(c) The commission shall analyze the report prepared by Concord college and Bluefield state college, together with any other relevant data, and report to the legislative oversight commission on education accountability by the first day of November, two thousand three. The report shall contain findings and recommendations to address at least the following areas relevant to the two institutions:

(1) The fiscal status;

(2) The progress in meeting the goals for post-secondary education, the institutional compact, and the public policy agenda;

(3) Possible academic and fiscal advantages that might be derived from an administrative link between the two institutions; and

(4) Any changes to the programs or services of either institution required by the commission based on their findings or those of the institutions.

(d) If the commission determines that either institution has made insufficient progress toward the goals established in this chapter, in the institutional compacts, in the public policy agenda established by the commission, or has not complied with the changes required by the commission pursuant to subsection (c) of this section, the commission immediately shall
take any action necessary to further the goals and requirements of this section.

(e) The commission shall continue to monitor and review each institution’s compliance with this section.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-3. Essential conditions for community and technical college programs and services.

The Legislature hereby establishes the following essential conditions for community and technical college programs and services:

(a) Independent accreditation by the commission on institutions of higher education of the north central association of colleges and schools (NCA) reflecting external validation that academic programs, services, faculty, governance, financing and other policies are aligned with the community and technical college mission of the institution;

(b) A full range of community and technical college services offered as specified in section six of this article;

(c) Programmatic approval consistent with the provisions of section nine of this article;

(d) A fee structure competitive with its peer institutions;

(e) Basic services, some of which may be obtained under contract with existing institutions in the region. These basic services shall include, but are not limited to, the following:

(1) Student services, including, but not limited to, advising, academic counseling, financial aid and provision of the first line of academic mentoring and mediation;
(2) Instructional support services;
(3) Access to information and library services;
(4) Physical space in which courses can be offered;
(5) Access to necessary technology for students, faculty and mentors;
(6) Monitoring and assessment; and
(7) Administrative services, including, but not limited to, registration, fee collection and bookstore and other services for the distribution of learning materials;

(f) A provost who is the chief academic and administrative officer of the community and technical college appointed and serving pursuant to the terms of section six, article one-b of this chapter. The provost shall report directly to the president of the institution and shall have appropriate direct contact with the institutional board of governors. It is the responsibility of the board of governors to provide sufficient time on its agenda for each provost of a component community and technical college to discuss issues relevant to the mission of the component.

(g) An institutional board of governors or an institutional board of advisors appointed and serving as required by law;

(h) A full-time core faculty, complemented by persons engaged through contract or other arrangements, including college and university faculty, to teach community college courses and qualified business, industry and labor persons engaged as adjunct faculty in technical areas;

(i) A faculty personnel policy, formally established to be separate and distinct from that of other institutions, which includes, but is not limited to, appointment, promotion,
workload and, if appropriate, tenure pursuant to section nine of this article. These policies shall be appropriate for the community and technical college mission and may not be linked to the policies of any other institution;

(j) Community and technical colleges designed and operating as open-provider centers with the authority and flexibility to draw on the resources of the best and most appropriate provider to ensure that community and technical college services are available and delivered in the region in a highly responsive manner. A community and technical college may contract with other institutions and providers as necessary to obtain the academic programs and resources to complement those available through a sponsoring college, where applicable, in order to meet the region’s needs.

(k) Separately identified state funding allocations for each of the community and technical colleges. The provost of the community and technical college has full budgetary authority for the entity, subject to accountability to its governing board, including authority to retain all tuition and fees generated by the community and technical college for use to carry out its mission.

§18B-3C-4. Responsibility districts.

(a) Each community and technical college is hereby assigned a responsibility district within which it is responsible for providing the full array of community and technical college programs and services as defined in section six of this article. The programs and services shall address the public policy agenda, compact elements and goals for post-secondary education established in section one-a, article one of this chapter as they relate to community and technical colleges, and other goals which may be established by the commission. The responsibility districts shall be comprised of contiguous areas
of the state which have similar economic, industrial, educational, community and employment characteristics to facilitate specialization in mission and programming. For the purposes of initial implementation and organization, the districts shall be comprised as follows and assigned to the designated community and technical colleges:

1. West Virginia northern community and technical college - Ohio, Brooke, Hancock, Marshall, Tyler and Wetzel counties;

2. West Virginia university at Parkersburg - Wood, Jackson, Pleasants, Ritchie, Roane, Tyler and Wirt counties;

3. Southern West Virginia community and technical college - Logan, Boone, Lincoln, McDowell, Mingo, Raleigh and Wyoming counties;

4. Bluefield state community and technical college - Mercer, Greenbrier, McDowell, Monroe, Pocahontas, Raleigh and Summers counties;

5. Glenville state community and technical college - Gilmer, Barbour, Braxton, Calhoun, Clay, Lewis, Nicholas, Roane, Upshur and Webster counties;

6. Fairmont state community and technical college - Marion, Doddridge, Harrison, Monongalia, Preston, Randolph, Taylor and Barbour counties;

7. Shepherd community and technical college - Jefferson, Berkeley, and Morgan counties;

8. Eastern West Virginia community and technical college - Mineral, Grant, Hampshire, Hardy, Tucker and Pendleton counties;

9. West Virginia state community and technical college - Kanawha, Putnam and Clay counties;
(10) West Virginia university institute of technology community and technical college - Fayette, Clay, Kanawha, Raleigh and Nicholas counties;

(11) Marshall university community and technical college - Cabell, Kanawha, Mason, Putnam and Wayne counties; and

(12) Effective the first day of July, two thousand three, the following changes are made to the responsibility districts:

(A) The responsibility districts of the components known as Glenville state community and technical college and Bluefield state community and technical college are abolished and the counties formerly within those responsibility districts are reassigned as provided in this subsection.

(B) New river community and technical college of Bluefield state college - Clay, Fayette, Greenbrier, Mercer, McDowell, Monroe, Nicholas, Pocahontas, Raleigh, Summers, and Webster counties; and

(C) Fairmont state community and technical college - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Preston, Randolph, Taylor and Upshur counties;

(b) It is the intent of the Legislature that, where counties are listed in more than one district, the county shall be the joint responsibility of each community and technical college assigned that county or shall be divided as determined by the commission. The boundaries of the districts may be modified from time to time by the commission to serve better the needs within the districts. Such modifications are not required to follow county boundaries.

(c) Prior to the first day of July, two thousand three, Glenville state college, Fairmont state college and Bluefield
state college shall agree as to the transfer of ownership of or
title to any property, materials, equipment or supplies of the
former Glenville state community and technical college; the
transfer of any valid agreement, obligation or claim entered into
or incurred by the Glenville state community and technical
college; and the transfer, if any, of faculty and staff employed
by Glenville state college for the benefit of its community and
technical college. Any disagreement regarding these transfers
shall be submitted to the higher education policy commission
for resolution.

§18B-3C-8. Process for achieving independently-accredited
community and technical colleges.

(a) Over a six-year period beginning the first day of July,
two thousand one, West Virginia shall move from having
“component” community and technical colleges to having a
statewide network of independently-accredited community and
technical colleges serving every region of the state. This section
does not apply to the freestanding community and technical
colleges, West Virginia university at Parkersburg and Potomac
state college of West Virginia university.

(b) To be eligible for funds appropriated to develop
independently accredited community and technical colleges, a
state institution of higher education shall demonstrate the
following:

(1) That it has as a part of its institutional compact ap-
proved by the council and the commission a step-by-step plan
with measurable benchmarks for developing an independently
accredited community and technical college that meets the
essential conditions set forth in section three of this article;

(2) That it is able to offer evidence annually to the satisfac-
tion of the council and the commission that it is making
progress toward accomplishing the benchmarks established in
its institutional compact for developing an independently accredited community and technical college; and

(3) That it has submitted an expenditure schedule approved by the council and the commission which sets forth a proposed plan of expenditures for funds allocated to it from the fund.

(c) The following are recommended strategies for moving from the current arrangement of “component” community and technical colleges to the legislatively mandated statewide network of independently accredited community and technical colleges serving every region of the state. The Legislature recognizes that there may be other means to achieve this ultimate objective; however, it is the intent of the Legislature that the move from the current arrangement of “component” community and technical colleges to the legislatively-mandated statewide network of independently accredited community and technical colleges serving every region of the state shall be accomplished. The following recommendations are designed to reflect significant variations among regions and the potential impacts on the sponsoring institutions.

(1) New River Community and Technical College of Bluefield State College —

(A) Bluefield state shall retain its existing mission but place greater emphasis and priority on its community and technical college role and serving the citizens of its expanded service district. Subject to the provisions of section twelve of this article, the community and technical college will remain administratively linked to Bluefield state college. Nothing herein may be construed to require Bluefield state college to discontinue any associate degree program in areas of particular institutional strength which are closely articulated to their baccalaureate programs and missions or which are of a high-
cost nature and can best be provided in direct coordination with a baccalaureate institution.

(B) Effective the first day of July, two thousand three, the component formerly known as Bluefield state community and technical college shall become a multi-campus entity known as new river community and technical college, administratively linked to Bluefield state college. The multi-campus community and technical college shall serve Raleigh, Summers, Fayette, Greenbrier, Clay, Mercer, McDowell, Monroe, Nicholas, Pocahontas, and Webster counties and be headquartered in Beckley. The West Virginia council for community and technical college education shall appoint an institutional board of advisors, pursuant to section one, article six or this chapter, for new river community and technical college which is separate from the institutional board of governors of Bluefield state college.

(C) Bluefield state college shall take immediate steps to seek independent accreditation of new river community and technical college including all sites within its revised service district. The president and the board of governors are responsible for obtaining independent accreditation of the community and technical college by the thirty-first day of December, two thousand four. If the multi-campus entity known as new river community and technical college has not obtained independent accreditation by this date, the commission shall choose one of the following options:

(i) Create new river as a freestanding community and technical college; or

(ii) Assign the responsibility for obtaining independent accreditation to another state institution of higher education.

(D) The president and the board of governors of Bluefield state college also are accountable to the commission for
ensuring that the full range of community and technical college services is available throughout the region and that new river community and technical college adheres to the essential conditions pursuant to section three of this article.

(E) As an independently accredited community and technical college, new river also shall serve as a higher education center for its region by brokering with other colleges, universities and other providers, in-state and out-of-state, both public and private, to ensure the coordinated access of students, employers, and other clients to needed programs and services.

(F) New river community and technical college shall facilitate the planning and development of a unified effort involving multiple providers and facilities, including, but not limited to, Concord college, the college of West Virginia, Marshall university, West Virginia university, West Virginia university institute of technology and other entities to meet the documented work force development needs in the region. Nothing in this subdivision prohibits or limits any existing, or the continuation of any existing, affiliation between the college of West Virginia, West Virginia university institute of technology and West Virginia university. New river community and technical college also shall provide the facilities and support services for other public and private institutions delivering courses, programs and services in Beckley. The objective is to assure students and employers in the area that there is coordination and efficient use of resources among the separate programs and facilities, existing and planned, in the Beckley area.

(2) Fairmont state community and technical college. — Fairmont state community and technical college shall be an independently accredited community and technical college serving Marion, Doddridge, Barbour, Harrison, Monongalia, Preston, Randolph Taylor, Braxton, Calhoun, Gilmer, Lewis, and Upshur counties. The community and technical college is
developed on the base of the existing component community
and technical college of Fairmont state college. Subject to the
provisions of this section, the president and the governing board
of Fairmont state college are responsible, according to a plan
approved by the commission, for step-by-step implementation
of the independently accredited community and technical
college which adheres to the essential conditions pursuant to
section three of this article. Subject to the provisions of section
twelve of this article, the community and technical college will
remain administratively linked to Fairmont state college.
Nothing herein may be construed to require Fairmont state
college to discontinue any associate degree program in areas of
particular institutional strength which are closely articulated to
their baccalaureate programs and missions or which are of a
high-cost nature and can best be provided in direct coordination
with a baccalaureate institution.

(3) Marshall university community and technical college.
— Senate Bill 653 created an implementation board charged
with the responsibility to develop a plan, to be recommended to
the commission, for the most effective and efficient method to
deliver comprehensive community and technical college
education to the citizens and employers of the responsibility
areas of Marshall university, West Virginia state college and
West Virginia university institute of technology. Pursuant to the
recommendation of the implementation board and of the
commission, Marshall university community and technical
college shall become an independently accredited community
and technical college. It shall serve Cabell, Kanawha, Mason,
Putnam and Wayne counties. The new community and technical
college is developed on the base of the existing component
community and technical college of Marshall university.
Subject to the provisions of this section, the president and the
governing board of Marshall university are responsible,
according to a plan approved by the commission, for
step-by-step implementation of the new independently accred-
(4) **Shepherd community and technical college.** — Shepherd community and technical college shall become an independently accredited community and technical college. It shall serve Jefferson, Berkeley and Morgan counties. The new community and technical college is developed on the base of the existing component community and technical college of Shepherd college. Subject to the provisions of this section, the president and the governing board of Shepherd college are responsible, according to a plan approved by the commission, for step-by-step implementation of the new independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section twelve of this article, the community and technical college will remain administratively linked to Shepherd college. Nothing herein may be construed to require Shepherd college to discontinue any associate degree program in areas of particular institutional strength which are closely articulated to their baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution.

(5) **West Virginia state community and technical college.** — Senate Bill 653 created an implementation board charged with the responsibility to develop a plan, to be recommended to the commission, for the most effective and efficient method to...
deliver comprehensive community and technical college education to the citizens and employers of the responsibility areas of Marshall university, West Virginia state college and West Virginia university institute of technology. Pursuant to the recommendation of the implementation board and of the commission, West Virginia state community and technical college shall become an independently accredited community and technical college. It shall serve Kanawha, Putnam and Clay counties. The new community and technical college is developed on the base of the existing component community and technical college of West Virginia state college. Subject to the provisions of this section, the president and the governing board of West Virginia state college are responsible, according to a plan approved by the commission, for step-by-step implementation of the new independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section twelve of this article, the community and technical college will remain administratively linked to West Virginia state college. Nothing herein may be construed to require West Virginia state college to discontinue any associate degree program in areas of particular institutional strength which are closely articulated to their baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution.

(6) West Virginia university institute of technology. — Senate Bill 653 created an implementation board charged with the responsibility to develop a plan, to be recommended to the commission, for the most effective and efficient method to deliver comprehensive community and technical college education to the citizens and employers of the responsibility areas of Marshall university, West Virginia state college and West Virginia university institute of technology. Pursuant to the recommendation of the implementation board and of the commission, West Virginia university institute of technology
community and technical college shall become an independently accredited community and technical college. It shall serve Fayette, Clay, Kanawha, Raleigh and Nicholas counties. The new community and technical college is developed on the base of the existing component community and technical college of West Virginia university institute of technology. Subject to the provisions of this section, the president and the governing board of West Virginia university institute of technology are responsible, according to a plan approved by the commission, for step-by-step implementation of the new independently accredited community and technical college which adheres to the essential conditions pursuant to section three of this article. Subject to the provisions of section twelve of this article, the community and technical college will remain administratively linked to West Virginia university institute of technology. Nothing herein may be construed to require West Virginia university institute of technology to discontinue any associate degree program in areas of particular institutional strength which are closely articulated to their baccalaureate programs and missions or which are of a high-cost nature and can best be provided in direct coordination with a baccalaureate institution.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

§18B-5-3. Authority to contract for programs, services and facilities.

The governing boards and the commission are authorized and empowered to enter into contracts and expend funds for programs, services and facilities provided by public and private education institutions, associations, boards, agencies, consortia, corporations, partnerships, individuals and local, state and federal governmental bodies within and outside of West Virginia in order that maximum higher education opportunities of high quality may be provided to the citizens of the state in the most economical manner. In no event may a contract for

such services and facilities be entered into unless the commission or the governing boards have determined that such services and facilities are necessary and would be at a savings to the state.

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

(a) The commission and each governing board, through the vice chancellor for administration, shall purchase or acquire all materials, supplies, equipment, services and printing required for that governing board or the commission, as appropriate, and the state institutions of higher education under their jurisdiction. The commission shall adopt rules governing and controlling acquisitions and purchases in accordance with the provisions of this section. The rules shall assure that the commission and the governing boards:

(1) Do not preclude any person from participating and making sales thereof to the governing board or to the commission except as otherwise provided in section five of this article. Provision of consultant services such as strategic planning services will not preclude or inhibit the governing boards or the commission from considering any qualified bid or response for delivery of a product or a commodity because of the rendering of those consultant services;

(2) Establish and prescribe specifications, in all proper cases, for materials, supplies, equipment, services and printing to be purchased; and

(3) Adopt and prescribe such purchase order, requisition or other forms as may be required;

(4) 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) Advertise for bids on all purchases exceeding twenty-five thousand dollars, to purchase by means of sealed bids and competitive bidding or to effect advantageous purchases through other accepted governmental methods and practices;

(6) Post notices of all acquisitions and purchases for which competitive bids are being solicited in the purchasing 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) Provide for purchasing in the open market;

(8) Make provision for vendor notification of bid solicitation and emergency purchasing; and

(9) Provide that competitive bids are not required for purchases of five thousand dollars or less.

(b) The commission or each governing board, through the vice chancellor for administration, may issue a check in advance to a company supplying postage meters for postage used by that board, the commission and by the state institutions of higher education under their jurisdiction.

(c) When a purchase is to be made by bid, any or all bids may be rejected. However, all purchases based on advertised bid requests shall be awarded to the lowest responsible bidder taking into consideration the qualities of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the governing boards, the commission and delivery terms. The preference for resident vendors as provided in section thirty-seven, article three, chapter five-a of
this code apply to the competitive bids made pursuant to this section.

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

(e) The commission also shall adopt rules to prescribe qualifications to be met by any person who is to be employed as a buyer pursuant to this section. These rules shall require that no person may be employed as a buyer unless that person, at the time of employment, either is:

(1) A graduate of an accredited college or university; or

(2) Has at least four years’ experience in purchasing for any unit of government or for any business, commercial or industrial enterprise.

(f) Any person making purchases and acquisitions pursuant to this section shall execute a bond in the penalty of fifty thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, in form prescribed by the
attorney general and conditioned upon the faithful performance
of all duties in accordance with sections four through eight of
this article and the rules of the interim governing board and the
commission. In lieu of separate bonds for such buyers, a blanket
surety bond may be obtained. Any such bond shall be filed with
the secretary of state. The cost of any such bond shall be paid
from funds appropriated to the applicable governing board or
commission.

(g) All purchases and acquisitions shall be made in consid-
eration and within limits of available appropriations and funds
and in accordance with applicable provisions of article two,
chapter five-a of this code, relating to expenditure schedules
and quarterly allotments of funds.

(h) The governing boards and the commission may make
requisitions upon the auditor for a sum to be known as an
advance allowance account, in no case to exceed five percent of
the total of the appropriations for the governing board or the
commission, and the auditor shall draw a warrant upon the
treasurer for such accounts. All advance allowance accounts
shall be accounted for by the applicable governing board or
commission once every thirty days or more often if required by
the state auditor.

(i) Contracts entered into pursuant to this section shall be
signed by the applicable governing board or the commission in
the name of the state and shall be approved as to form by the
attorney general. A contract which requires approval as to form
by the attorney general and for which the attorney general has
not responded within fifteen days of presentation of the
contract, the contract shall be considered approved. A contract
or a change order for that contract and notwithstanding any
other provision of this code to the contrary, associated docu-
ments such as performance and labor/material payments, bonds
and certificates of insurance which use terms and conditions or
standardized forms previously approved by the attorney general and do not make substantive changes in the terms and conditions of the contract do not require approval by the attorney general. The attorney general shall make a list of those changes which he or she deems to be substantive and the list, and any changes thereto, shall be published in the state register. A contract that exceeds fifteen thousand dollars shall be filed with the state auditor. If requested to do so, the governing boards or the commission shall make all contracts available for inspection by the state auditor. The governing board or the commission, as appropriate, shall prescribe the amount of deposit or bond to be submitted with a bid or contract, if any, and the amount of deposit or bond to be given for the faithful performance of a contract.

(j) If the governing board or the commission purchases or contracts for materials, supplies, equipment, services and printing contrary to the provisions of sections four through seven of this article or the rules pursuant thereto, such purchase or contract shall be void and of no effect.

(k) Any governing board or the commission, as appropriate, may request the director of purchases to make available, from time to time, the facilities and services of that department to the governing boards or the commission in the purchase and acquisition of materials, supplies, equipment, services and printing and the director of purchases shall cooperate with that governing board or the commission, as appropriate, in all such purchases and acquisitions upon such request.

(l) Each governing board or the commission, as appropriate, shall permit private institutions of higher education to join as purchasers on purchase contracts for materials, supplies, services and equipment entered into by that governing board or the commission. Any private school desiring to join as purchasers on such purchase contracts shall file with that governing
board or the commission an affidavit signed by the president of
the institution of higher education or a designee requesting that
it be authorized to join as purchaser on purchase contracts of
that governing board or the commission, as appropriate. The
private school shall agree that it is bound by such terms and
conditions as that governing board or the commission may
prescribe and that it will be responsible for payment directly to
the vendor under each purchase contract.

(m) Notwithstanding any other provision of this code to the
contrary, the governing boards and the commission, as appro-
priate, may make purchases from cooperative buying groups,
consortia, the federal government or from federal government
contracts if the materials, supplies, services, equipment or
printing to be purchased is available from cooperative buying
groups, consortia, the federal government or from a federal
contract and purchasing from the cooperative buying groups,
consortia, federal government or from a federal government
contract would be the most financially advantageous manner of
making the purchase.

(n) An independent performance audit of all purchasing
functions and duties which are performed at any institution of
higher education shall be performed each fiscal year. The joint
committee on government and finance shall conduct the
performance audit and the governing boards and the commis-
sion, as appropriate, shall be responsible for paying the cost of
the audit from funds appropriated to the governing boards or the
commission.

(o) The governing boards shall require each institution
under their respective jurisdictions to notify and inform every
vendor doing business with that institution of the provisions of
section fifty-four, article three, chapter five-a of this code, also
known as the “prompt pay act of 1990”.
(p) Consultant services, such as strategic planning services, may not preclude or inhibit the governing boards or the commission from considering any qualified bid or response for delivery of a product or a commodity because of the rendering of those consultant services.

(q) After the commission has granted approval for lease-purchase arrangements by the governing boards, a governing board may enter into lease-purchase arrangements for capital improvements, including equipment. Any lease-purchase arrangement so entered shall constitute a special obligation of the state of West Virginia. The obligation under a lease-purchase arrangement so entered may be from any funds legally available to the institution and must be cancelable at the option of the governing board or institution at the end of any fiscal year. The obligation, any assignment or securitization thereof, shall never constitute an indebtedness of the state of West Virginia or any department, agency or political subdivision thereof, within the meaning of any constitutional provision or statutory limitation, and may not be a charge against the general credit or taxing powers of the state or any political subdivision thereof; and such facts shall be plainly stated in any lease-purchase agreement. Further, the lease-purchase agreement shall prohibit assignment or securitization without consent of the lessee and the approval of the attorney general of West Virginia. Proposals for any arrangement must be requested in accordance with the requirements of this section and any rules or guidelines of the commission. In addition, any lease-purchase agreement which exceeds one hundred thousand dollars total shall be approved by the attorney general of West Virginia. The interest component of any lease-purchase obligation shall be exempt from all taxation of the state of West Virginia, except inheritance, estate and transfer taxes. It is the intent of the Legislature that if the requirements set forth in the internal revenue code of one thousand nine hundred eighty-six, as amended, and any regulations promulgated pursuant thereto are
met, the interest component of any lease-purchase obligation also shall be exempt from the gross income of the recipient for purposes of federal income taxation and may be designated by the governing board or the president of the institution as a bank-qualified obligation.

(r) Notwithstanding any other provision of this code to the contrary, the commission and the governing boards have the authority, in the name of the state, to lease, or offer to lease, as lessee, any grounds, buildings, office or other space in accordance with this paragraph and as provided below:

(1) The commission and the governing boards have sole authority to select and to acquire by contract or lease all grounds, buildings, office space or other space, the rental of which is necessarily required by the commission or governing boards for the institutions under their jurisdiction. The chief executive officer of the commission or an institution shall certify the following:

(A) That the grounds, buildings, office space or other space requested is necessarily required for the proper function of the commission or institution;

(B) That the commission or institution will be responsible for all rent and other necessary payments in connection with the contract or lease; and

(C) That satisfactory grounds, buildings, office space or other space is not available on grounds and in buildings now owned or leased by the commission or the institution.

Before executing any rental contract or lease, the commission or a governing board shall determine the fair rental value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall
contract for or lease the premises at a price not to exceed the
fair rental value.

(2) The commission and the governing boards are autho-
ized to enter into long-term agreements for buildings, land and
space for periods longer than one fiscal year, but not to exceed
forty years. Any purchases of real estate, any lease-purchase
agreement and any construction of new buildings or other
acquisition of buildings, office space or grounds resulting
therefrom, pursuant to the provisions of this subsection shall be
presented by the policy commission to the joint committee on
government and finance for prior review. Any such lease shall
contain, in substance, all the following provisions:

(A) That the commission or the governing board, as lessee,
have the right to cancel the lease without further obligation on
the part of the lessee upon giving thirty days’ written notice to
the lessor at least thirty days prior to the last day of the succeed-
ing month;

(B) That the lease shall be considered canceled without
further obligation on the part of the lessee if the Legislature or
the federal government fails to appropriate sufficient funds
therefor or otherwise acts to impair the lease or cause it to be
canceled; and

(C) That the lease shall be considered renewed for each
ensuing fiscal year during the term of the lease unless it is
canceled by the commission or the governing board before the
end of the then-current fiscal year.

(3) The commission or an institution which is granted any
grounds, buildings, office space or other space leased in
accordance with this section may not order or make permanent
changes of any type thereto, unless the commission or the
governing board, as appropriate, has first determined that the
change is necessary for the proper, efficient and economically
sound operation of the institution. For purposes of this section, a “permanent change” means any addition, alteration, improvement, remodeling, repair or other change involving the expenditure of state funds for the installation of any tangible thing which cannot be economically removed from the grounds, buildings, office space or other space when vacated by the institution.

(4) Leases and other instruments for grounds, buildings, office or other space, once approved by the commission or governing board, may be signed by the chief executive officer of the commission or the institution. Any lease or instrument exceeding one hundred thousand dollars annually shall be approved as to form by the attorney general. A lease or other instrument for grounds, buildings, office or other space that contains a term, including any options, of more than six months for its fulfillment shall be filed with the state auditor.

(5) The commission may promulgate rules it considers necessary to carry out the provisions of this section.

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

(a) Every person, firm or corporation selling or offering to sell to the commission or the governing boards, upon competitive bids or otherwise, any materials, equipment, services or supplies in excess of twenty-five thousand dollars:

1. Shall comply with the provisions of section twelve, article three, chapter five-a of this code;

2. Shall file with the director of the purchasing division of the state of West Virginia the affidavit required herein; and

3. If presently in compliance with said section may not be required to requalify thereunder to be able to transact business with the commission or the governing boards.
(b) Any person, firm or corporation failing or refusing to comply with said statute as herein required shall be ineligible to sell or offer to sell materials, supplies, equipment, services or printing to the commission or the governing boards as hereinafter set forth. Any person suspended under the provisions of section thirty-two, article three, chapter five-a of this code is not eligible to sell or offer to sell materials, supplies, equipment, services or printing to the commission or the governing boards. The commission or the governing boards may suspend, for a period not to exceed one year, the right and privilege of a person to bid on purchases of the commission or the governing boards when there is reason to believe that such person has violated any of the provisions in sections four through seven of this article or the rules of the governing boards pursuant thereto. Any person whose right to bid has been so suspended shall be notified thereof by a letter posted by registered mail containing the reason for the suspension and has the right to have the action of the commission or the governing board, as applicable, reviewed in accordance with section thirty-three, article three, chapter five-a of this code. A vendor who has been debarred pursuant to the provisions of sections thirty-three-a through thirty-three-f, article three, chapter five-a of this code, may not bid on or be awarded a contract under this section.

§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; application of bribery statute.

The provisions of article three, chapter five-a of this code do not control or govern the purchase, acquisition or other disposition of any equipment, materials, supplies, services or printing by the commission or the governing boards, except as
Provided in sections four through seven of this article. Sections twenty-nine, thirty and thirty-one, article three, chapter five-a of this code apply to all purchasing activities of the commission and the governing boards.

Neither the commission, the governing boards, nor any employee of the commission or governing boards, may be financially interested, or have any beneficial personal interest, directly or indirectly, in the purchase of any equipment, materials, supplies, services or printing, nor in any firm, partnership, corporation or association furnishing them, except as may be authorized by the provisions of chapter six-b of this code. Neither the commission, the governing boards nor any employee of the commission or governing boards may accept or receive directly or indirectly from any person, firm or corporation, known by the commission, governing boards or such employee to be interested in any bid, contract or purchase, by rebate, gift or otherwise, any money or other thing of value whatsoever or any promise, obligation or contract for future reward or compensation, except as may be authorized by the provisions of chapter six-b of this code.

A person who violates any of the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in jail not less than three months nor more than one year, or fined not less than fifty nor more than one thousand dollars, or both imprisoned and fined, in the discretion of the court. Any person who violates any provisions of this section by receiving money or other thing of value under circumstances constituting the crime of bribery under the provisions of section three, article five-a, chapter sixty-one of this code, shall, upon conviction of bribery, be punished as provided in section nine of said article.

§18B-5-7. Disposition of obsolete and unusable equipment, surplus supplies and other unneeded materials.
(a) The commission and the governing boards shall dispose
of obsolete and unusable equipment, surplus supplies and other
unneeded materials, either by transfer to other governmental
agencies or institutions, by exchange or trade, or by sale as junk
or otherwise. The commission and each governing board shall
adopt rules governing and controlling the disposition of all such
equipment, supplies and materials. At least ten days prior to the
disposition, the commission or the governing boards, as
applicable, shall advertise, by newspaper publication as a Class
II legal advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, in the county in
which the equipment, supplies and materials are located the
availability or sales of such disposable equipment, supplies and
materials. The commission or governing boards, as applicable,
may sell the disposable equipment, supplies and materials, in
whole or in part, at public auction or by sealed bid, or may
transfer, exchange or trade the same to other governmental
agencies or institutions (if by transfer, exchange or trade, then
without advertising), in whole or in part, as sound business
practices may warrant under existing circumstances and
conditions.

(b) The commission or governing board, as appropriate,
shall report semiannually to the legislative auditor, all sales of
commodities made during the preceding six months. The report
shall include a description of the commodities sold, the name of
the buyer to whom each commodity was sold, and the price
paid by the buyer.

(c) The proceeds of sales or transfers shall be deposited in
the state treasury to the credit on a pro rata basis of the fund or
funds from which the purchase of the particular commodities or
expendable commodities was made. The commission or
governing board, as appropriate, may charge and assess fees
reasonably related to the costs of care and handling with respect
to the transfer, warehousing, sale and distribution of state
property that is disposed of or sold pursuant to the provisions of this section.


(a) The commission shall ensure the fiscal integrity of any electronic process conducted at its offices or at any institution using best business and management practices.

(b) The commission shall implement a process whereby, to the maximum extent practicable, employees of the commission and any state institution of higher education receive their wages via electronic transfer or direct deposit.

(c) Notwithstanding the provisions of section ten-a, article three, chapter twelve of this code, the amount of any purchase made with a purchasing card used by the commission or an institution may not exceed five thousand dollars. Subject to approval of the purchasing division of the department of administration, any routine, regularly-scheduled payment, including, but not limited to, utility payments and real property rental fees may exceed this amount limit. The commission or an institution may use a purchasing card for travel expenses directly related to the job duties of the traveling employee. Traveling expenses may include registration fees and airline and other transportation reservations, if approved by the administrative head of the institution. Traveling expenses may not include fuel or food purchases. The commission and each institution shall maintain one purchase card for use only in and for situations declared an emergency by the president of the institution and approved by the chancellor. Such emergencies may include, but are not limited to, partial or total destruction of a campus facility; loss of a critical component of utility infrastructure; heating, ventilation, or air conditioning failure in an essential academic building; loss of campus road, parking lot
or campus entrance; or a local, regional, or national emergency situation that has a direct impact on the campus.

(d) Notwithstanding the provisions of section ten-f, article three, chapter twelve of this code, or any other provision of this code or law to the contrary, by the thirtieth day of June, two thousand four, the auditor shall accept any receiving report submitted in a format utilizing electronic media and from the effective date of this section shall conduct any audit or investigation of the commission or any institution at its own expense and at no cost to the commission or institution.

(e) The Legislature finds that an emergency exists, and, therefore, by the first day of July, two thousand three, the commission shall file an emergency legislative rule in accordance with the provisions of article three-a, chapter twenty-nine-a of this code. The rule shall provide for institutions individually or cooperatively to maximize their use of any of the following purchasing practices that are determined to provide a financial advantage:

(1) Bulk purchasing;
(2) Reverse bidding;
(3) Electronic marketplaces; and
(4) Electronic remitting.

(f) Each institution shall establish a consortium with at least one other institution in the most cost-efficient manner feasible, to consolidate the following operations and student services:

(1) Payroll operations;
(2) Human resources operations;
(3) Warehousing operations;
(4) Financial transactions;

(5) Student financial aid application, processing and disbursement;

(6) Standard and bulk purchasing; and

(7) Any other operation or service appropriate for consolidation as determined by the commission.

(g) An institution may charge a fee to each institution for which it provides a service or performs an operation. The fee rate shall be in the best interest of both the institution being served and the providing institution, as approved by the commission.

(h) Any community and technical college, college and university may provide the services authorized by this section for the benefit of any governmental body or public or private institution.

(i) Commencing with the two thousand four fall academic term, each institution shall reduce its number of low-enrollment sections of introductory courses. To the maximum extent practicable, institutions shall use distance learning to consolidate the course sections. The commission shall report the progress of the reduction to the legislative oversight commission on education accountability by the first day of December, two thousand four.

(j) An institution shall use its natural resources and alternative fuel resources to the maximum extent feasible. The institution may supply the resources for its own use and for use by any other institution. The institution may supply the resources to the general public at fair market value. An institution shall maximize all federal or grant funds available for research regarding alternative energy sources, and may develop research parks to further the purpose of this section and to expand the economic development opportunities in the state.
(k) Any cost-savings realized or fee procured or retained by an institution pursuant to implementation of the provisions of this section shall be retained by the institution.

(l) In assuring the fiscal integrity of processes implemented under this section, at a minimum, the commission has the following responsibilities:

(1) To conduct a performance audit of the policies, procedures and results of the procurement of goods and services by the state institutions of higher education;

(2) To make progress reports on the implementation of this section to the legislative oversight commission on education accountability throughout the two thousand three interim meetings period;

(3) To make a comprehensive report to the legislative oversight commission on education accountability by the first day of December, two thousand three, on the results of the performance audit, together with any recommendations for additional actions that might be taken to improve the efficiency, effectiveness and economy of the administrative operations of the state institutions of higher education and the commission.

(m) The commission shall report annually to the legislative oversight commission on education accountability regarding any savings achieved by implementing the provisions of this section.

ARTICLE 6. ADVISORY COUNCILS.

§18B-6-4b. Institutional classified employee council.

(a) For the purposes of this section the following words have the specified meanings unless the context clearly indicates a different meaning:

(1) “Council” or “staff council” means the advisory group of classified employees formed on each campus of state
(2) "State institutions of higher education" means all institutions as defined in section two, article one of this chapter and, additionally, Potomac state college of West Virginia university, West Virginia university at Parkersburg, West Virginia university institute of technology, Robert C. Byrd health sciences Charleston division of West Virginia university, the Marshall university graduate college, new river community and technical college, the higher education policy commission and the West Virginia network for educational telecomputing.

(b) Effective the first day of April, two thousand three, there is established at each state institution of higher education an institutional classified employees advisory council to be known as the staff council. Current members of staff councils and their officers who have been duly elected shall continue to serve with all the rights, privileges and responsibilities prescribed by this section until the time that members elected as set forth in subsection (c) of this section assume office.

(1) During the month of April of each odd-numbered year, beginning in the year two thousand three, each president or other administrative head of a state institution of higher education, at the direction of the council, and in accordance with procedures established by the council, shall convene a meeting or otherwise institute a balloting process to elect members of the staff council as follows:

(A) Two classified employees from the administrative/managerial sector;

(B) Two classified employees from the professional/non-teaching sector;

(C) Two classified employees from the paraprofessional sector;
(D) Two classified employees from the secretarial/clerical sector;

(E) Two classified employees from the physical plant/maintenance sector; and

(F) The member who is elected to serve on the advisory council of classified employees pursuant to section four-a of this article. This person shall serve as an ex officio, voting member of the staff council and shall report to the council on meetings of the advisory council and the board of governors.

(2) Classified employees at Marshall university and West Virginia university may elect five classified employees from each of the five sectors to serve on the staff council.

(3) Members shall serve a term of two years which term shall begin on the first day of July of each odd-numbered year. Members of the council are eligible to succeed themselves.

(4) Classified employees shall select one of their members to serve as chair. All classified employees at the institution are eligible to vote for the chair by any method approved by a majority of their members. The chair is eligible to succeed himself or herself.

(5) The staff council shall meet at least monthly or at the call of the chair. With appropriate notification to the institutional president, the chair may convene staff council meetings for the purpose of sharing information and discussing issues affecting the classified employees or the efficient and effective operations of the institution.

(6) The president of the institution shall meet at least quarterly with the staff council to discuss matters affecting classified employees.

(7) The governing board shall meet at least annually with the staff council to discuss matters affecting classified employees and the effective and efficient management of the institution.
ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-4. Notice to probationary faculty members of retention or nonretention; hearing.

(a) The president or other administrative head of each state institution of higher education shall give written notice to probationary faculty members concerning their retention or nonretention for the ensuing academic year: (1) Not later than the first day of March for those probationary faculty members who are in their first academic year of service; (2) not later than the fifteenth day of December for those probationary faculty members who are in their second academic year of service; and (3) at least one year before the expiration of an appointment for those probationary faculty members who have been employed two or more years with the institution. Such notice to those probationary faculty members not being retained shall be by certified mail, return receipt requested.

(b) For any probationary faculty member employed after the effective date of this section, the president or other administrative head of each institution shall give written notice concerning retention or nonretention for the ensuing academic year not later than the first day of March.

(c) If a request is made by the probationary faculty member not retained, the president or other administrative head of the institution shall inform the probationary faculty member by certified mail within ten days of the reasons for nonretention. Any probationary faculty member who desires to appeal the decision shall use the grievance procedure established in article six-a, chapter twenty-nine of this code. If it is concluded that the reasons for nonretention are arbitrary or capricious or without a factual basis, the faculty member shall be retained for the ensuing academic year.

(d) The term “probationary faculty member” shall be defined according to rules promulgated by the governing boards. The rights provided to probationary faculty members by
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32 this section are in addition to, and not in lieu of, other rights
33 afforded them by other rules and other provisions of law.

§18B-7-6. Adjunct faculty; part-time and temporary classified employees.

(a) Each governing board, with the advice and assistance of
the faculty senate, shall establish a policy regarding the role of
adjunct faculty at state institutions of higher education and
define an appropriate balance between full-time and adjunct
faculty members.

(b) Each governing board, with the advice and assistance of
the staff council shall establish a policy regarding the role of
part-time classified employees. Such policy shall discourage the
hiring of part-time employees solely to avoid the payment of
benefits or in lieu of full-time employees and shall provide all
qualified classified employees with nine-month or ten-month
contracts with the opportunity to accept part-time or full-time
summer employment before new persons are hired for the part-
time or full-time employment.

(c) Each governing board shall establish the policies
required by this section by the first day of July, two thousand
three. The commission shall report to the legislative oversight
commission on education accountability by the first day of
December, two thousand three, regarding the development and
implementation of these policies, including the number of
adjunct faculty and part-time employees at each institution and
the level of compliance with the policies. In making determina-
tions regarding the development, implementation and compli-
ance with the policies required by this section, the commission
shall take into account the special flexibility needs of commu-
nity and technical colleges and shall allow greater discretion for
these institutions to make decisions regarding employing
adjunct faculty.

ARTICLE 8. HIGHER EDUCATION FULL-TIME FACULTY SALARIES.
§18B-8-3. Faculty salary policies; reductions in salary prohibited; salary increase upon promotion in rank.

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

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

(c) Upon promotion in rank, each faculty member shall receive a salary increase of up to ten percent, as determined by the salary policy adopted by the governing board.

ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND CLASSIFICATION SYSTEM.

§18B-9-5. Classified employee salary.

(a) Any classified employee may receive merit increases and salary adjustments in accordance with policies established by the board of governors: Provided, That merit raises may be granted only pursuant to a rule adopted by the board of governors, and approved by the chancellor, which provides a fair and equitable basis for granting merit raises pursuant to regular evaluations based upon reasonable performance standards.

(b) The current annual salary of any classified employee may not be reduced by the provisions of this article nor by any other action inconsistent with the provisions of this article, and nothing in this article may be construed to prohibit promotion of any classified employee to a job title carrying a higher pay grade if the promotion is in accordance with the provisions of this article and the personnel classification system established by the appropriate governing board.

(c) The cost of providing any salary increase pursuant to the provisions of section two, article five, chapter five of this code, shall be borne by the commission or institution from its existing budget. The commission or institution may not increase tuition
and fee charges, increase auxiliary fee charges, or receive additional general revenue funds to recover the costs of the increase. Notwithstanding any other provision of this code or law to the contrary, if insufficient funding is available to an institution or the commission to implement the provisions of said section two, funding may be derived from reducing employee positions to any level, in the discretion of the institution or commission, that is sufficient to provide adequate funds, and without regard to seniority.


(a) For the purposes of this section, “employee” means:

(1) A classified or nonclassified employee who is employed by a higher education governing board or by the policy commission; or

(2) A faculty member, as defined in section one, article eight of this chapter, who is eligible to accrue sick leave.

(b) An employee may donate sick and annual leave to a leave bank established and operated in accordance with the provisions of subsection (d) of this section or directly to another employee in accordance with the provisions of subsection (e) of this section. No employee may be compelled to donate sick or annual leave. Any leave donated by an employee pursuant to this section shall be used only for the purpose of catastrophic illness or injury as defined in subsection (c) of this section and shall reduce, to the extent of such donation, the number of days of annual or sick leave to which the employee is entitled.

(c) For the purpose of this section, a catastrophic illness or injury is one that is expected to incapacitate the employee and create a financial hardship because the employee has exhausted all sick and annual leave and other paid time off. Catastrophic illness or injury also includes an incapacitated immediate family member as defined by a governing board or the policy commission, as appropriate, if this results in the employee
being required to take time off from work for an extended period of time to care for the family member and if the employee has exhausted all sick and annual leave and other paid time off.

(d) A leave bank or banks may be established at each state institution of higher education and the policy commission to which employees may donate either sick or annual leave. The bank or banks may be established jointly by the policy commission and the governing boards or may be established for the policy commission and each of the governing boards. Sick or annual leave may be deposited in the leave bank, and such deposit shall be reflected as a day-for-day deduction from the sick or annual leave balance of the depositing employee.

Donated leave may be withdrawn by any employee experiencing a catastrophic illness or injury when the following conditions are met:

(1) The president of the institution or the chancellor of the policy commission, as appropriate, verifies that the employee is unable to work due to the catastrophic illness or injury; and

(2) The president of the institution or the chancellor, as appropriate, approves the withdrawal and provides written notice to the personnel office.

The withdrawal shall be reflected as a day-for-day addition to the leave balance of the withdrawing employee.

(e) Sick or annual leave may be donated to any employee experiencing a catastrophic illness or injury. Such leave shall be donated at the request of the employee after appropriate verification that the employee is unable to work due to the catastrophic illness or injury as determined by the president of the institution or the chancellor. When transfer of sick or annual leave is approved by the president of the institution or the chancellor, any employee may donate sick or annual leave in one-day increments by providing written notice to the personnel office. Donations shall be reflected as a day-for-day deduction
from the sick or annual leave balance of the donating employee. An employee receiving the donated sick or annual leave shall have any time which is donated credited to his or her account in one-day increments and reflected as a day-for-day addition to the leave balance of the receiving employee.

(f) Use of donated credits may not exceed a maximum of twelve continuous calendar months for any one catastrophic illness or injury. The total amount of sick or annual leave withdrawn or received may not exceed an amount sufficient to ensure the continuance of regular compensation and may not be used to extend insurance coverage pursuant to section thirteen, article sixteen, chapter five of this code. An employee withdrawing or receiving donations of sick or annual leave pursuant to this section shall use any leave personally accrued on a monthly basis prior to receiving additional donated sick or annual leave.

(g) Donated sick or annual leave deposited in an institutional leave bank or transferred under subsection (d) of this section may be inter-institutional in accordance with the policies of the appropriate governing board. Each institution and the policy commission is responsible for the administration of the sick or annual leave deposits, withdrawals and transfers of its employees. Rules implementing the provisions of this section may be adopted jointly or separately by the governing boards and the policy commission in accordance with article three-a, chapter twenty-nine-a of this code.

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

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

(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories of students enrolling at each state institution of higher education under its jurisdiction and may include among such fees any one or more of the following:
(1) Health service fees;

(2) Infirmary fees;

(3) Student activities, recreational, athletic and extracurricular fees, which fees may be used to finance a students’ attorney to perform legal services for students in civil matters at such institutions. Such legal services are limited to only those types of cases, programs or services approved by the administrative head of the institution where the legal services are to be performed; and

(4) Graduate center fees and branch college fees, or either, if the establishment and operations of graduate centers or branch colleges are otherwise authorized by law.

(b) All fees collected at any graduate center or at any branch college shall be paid into special funds and shall be used solely for the maintenance and operation of the graduate center or branch college at which they were collected. The commission shall set tuition and fee goals for residents at each institution after examining tuition and fees at the institutions’ peers. Tuition and fees for nonresident, undergraduate students shall, at a minimum, cover actual instructional costs as determined in accordance with commission policy. Students enrolled in undergraduate courses offered at off-campus locations shall pay an off-campus instruction fee and may not be required to pay the athletic fee and the student activity fee.

(c) The off-campus instruction fee shall be used solely for the support of off-campus courses offered by the institution. Off-campus locations for each institution shall be defined by the appropriate governing board. The schedule of all fees, and any changes therein, shall be entered in the minutes of the meeting of the appropriate governing board, and the board shall file with the legislative auditor a certified copy of such schedule and changes.

(d) In addition to the fees mentioned in the preceding paragraph, each governing board may impose and collect a
student union building fee. All such building fees collected at an institution shall be paid into a special student union building fund for such institution, which is hereby created in the state treasury. Pursuant to the provisions of section ten of this article, the fees shall be used only for the following purposes:

1. The construction, operation and maintenance of a student union building or a combination student union and dining hall building;

2. The payment of the principal of and interest on any bond issued to finance part or all of the construction of a student union building or a combination student union and dining hall building; or

3. The renovation of an existing structure for use as a student union building or a combination student union and dining hall building, all as more fully provided in section ten of this article.

Any moneys in such funds not needed immediately for such purposes may be invested in any such bonds or other securities as are now or hereafter authorized as proper investments for state funds.

(e) The boards shall establish the rates to be charged full-time students enrolled during a regular academic term.

1. For fee purposes, a full-time undergraduate student is one enrolled for twelve or more credit hours in a regular term, and a full-time graduate student is one enrolled for nine or more credit hours in a regular term.

2. Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour, and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.
(3) Fees for students enrolled in summer terms or other
nontraditional time periods shall be prorated based upon the
number of credit hours for which the student enrolls in accor-
dance with the above provisions.

(f) All fees are due and payable by the student upon
enrollment and registration for classes except as provided for in
this subsection:

(1) The governing boards shall permit fee payments to be
made in up to three installments over the course of the aca-
demic term. All fees shall be paid prior to the awarding of
course credit at the end of the academic term.

(2) The governing boards also shall authorize the accep-
tance of credit cards or other payment methods which may be
generally available to students for the payment of fees. The
governing boards may charge the students for the reasonable
and customary charges incurred in accepting credit cards and
other methods of payment.

(3) If a governing board determines that a student’s
finances are affected adversely by a legal work stoppage, it may
allow the student an additional six months to pay the fees for
any academic term. The governing board shall determine on a
case-by-case basis if the finances of a student are affected
adversely.

(g) The rule related to assessment, payment and refund of
fees including refund of fees upon voluntary or involuntary
withdrawal from classes, shall comply with all applicable state
and federal laws and shall be uniformly applied throughout the
system.

(h) In addition to the other fees provided in this section,
each governing board may impose, collect and distribute a fee
to be used to finance a nonprofit, student-controlled public
interest research group if the students at the institution demon-
strate support for the increased fee in a manner and method
established by that institution’s elected student government.
The fee may not be used to finance litigation against the institution.

(i) Institutions shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with a revised tuition policy adopted by the respective governing boards and approved by the commission. The revised tuition policy shall:

(1) Provide a basis for establishing nonresident tuition and fees;

(2) Allow institutions to charge different tuition and fees for different programs.

(3) Provide that a board of governors may propose to the commission a mandatory auxiliary fee under the following conditions:

(A) The fee shall be approved by the commission and either the students at the institution or the Legislature before becoming effective.

(B) Increases may not exceed previous state subsidies by more than ten percent.

(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores.

(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees and that amount shall be returned to general revenue. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee was implemented.

(E) The commission shall certify to the Legislature by the first day of October in the fiscal year following implementation of the fee, and annually thereafter, the amount of fees collected for each of the five years.
(4) Establish methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for community and technical college students in all independently accredited community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

(j) A penalty may not be imposed by the commission upon any institution based upon the number of nonresidents who attend the institution unless the commission determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of the resident students to attend the institution or participate in the programs of the institution. The institutions shall report annually to the commission on the numbers of nonresidents and such other enrollment information as the commission may request.

(k) Tuition and fee increases of the governing boards are subject to rules adopted by the commission pursuant to subsection (a), section four, article one-b of this chapter.

(1) A governing board may propose tuition and fee increases of up to nine and one-half percent for undergraduate resident students for any fiscal year except that proposed tuition and fees increases for community and technical colleges may be up to four and three quarters percent. Any proposed increase shall be approved by the commission. The commission shall examine individually each request from a governing board for an increase. Approval for any increase shall be based on a determination by the commission that the institution has met the following conditions:

(A) Has maximized resources available through nonresident tuition and fee charges to the satisfaction of the commission;

(B) Is consistently achieving the benchmarks established in the compact of the institution pursuant to the provisions of article one-a of this chapter;
(C) Is continuously pursuing the statewide goals for post-secondary education and the statewide compact established in articles one and one-a of this chapter;

(D) Is implementing the efficiency measures required by section nine, article five of this chapter;

(E) Has demonstrated to the satisfaction of the commission that an increase will be used to maintain high-quality programs at the institution;

(F) Has demonstrated to the satisfaction of the commission that the institution is making adequate progress toward achieving the goals for education established by the southern regional education board; and

(G) To the extent authorized, will increase by up to five percent the available tuition and fee waivers provided by the institution. The increased waivers may not be used for athletics.

(2) In making a determination on tuition and fee proposals, the commission also may take into consideration whether the per capita income in an institution’s service region exceeds the state per capita income. For the purposes of this subdivision only:

(A) Service region is the county in which the main campus of the institution is located and the contiguous West Virginia counties; and

(B) Per capita income for the service region shall be computed using the most current annual, county-level per capita income data published by the United States department of commerce, bureau of economic analysis, weighted by the compatible year population estimates published by the United States census bureau.

(3) This section may not be construed to require equal increases among institutions or to require any level of increase at an institution.
(4) The commission shall report to the legislative oversight commission on education accountability regarding the basis for each approval or denial as determined using the criteria established in subdivision (1) of this subsection.


The appropriate governing board of each state institution of higher education shall have the authority to establish and operate a bookstore at the institution. The bookstore shall be operated for the use of the institution itself, including each of its schools and departments, in making purchases of books, stationery and other school and office supplies generally carried in college stores, and for the benefit of students and faculty members in purchasing such products for their own use, but no sales shall be made to the general public. The prices to be charged the institution, the students and the faculty for such products shall be fixed by the governing board, shall not be less than the prices fixed by any fair trade agreements, and shall in all cases include in addition to the purchase price paid by the bookstore a sufficient handling charge to cover all expenses incurred for personal and other services, supplies and equipment, storage, and other operating expenses, to the end that the prices charged shall be commensurate with the total cost to the state of operating the bookstore.

Each governing board shall also ensure that bookstores operated at institutions under its jurisdiction meet the additional objective of minimizing the costs to students of purchasing textbooks by adopting policies which may require the repurchase and resale of textbooks on an institutional or a statewide basis and provide for the use of certain basic textbooks for a reasonable number of years.

All moneys derived from the operation of the store shall be paid into a special revenue fund as provided in section two, article two, chapter twelve of this code. Each governing board shall, subject to the approval of the governor, fix, and, from
time to time, change the amount of the revolving fund necessary for the proper and efficient operation of each bookstore.

Moneys derived from the operation of the bookstore shall be used first to replenish the stock of goods and to pay the costs of operating and maintaining the store. From any balance in the Marshall university bookstore fund not needed for operation and maintenance and replenishing the stock of goods, the governing board of that institution shall have authority to expend a sum not to exceed two hundred thousand dollars for the construction of quarters to house the bookstore in the university center at Marshall university. Until such quarters for housing the bookstore are completed, the governing board of Marshall university and the governor shall take this authorization into account in fixing the amount of the revolving fund for the Marshall university bookstore. Notwithstanding any other provision of this section, any institution that has contracted with a private entity for bookstore operation shall deposit into an appropriate account all revenue generated by the operation and ensuring to the benefit of the institution. The institution shall use the funds for non-athletic scholarships.

ARTICLE 14. MISCELLANEOUS.

§18B-14-11. Health insurance coverage option study.

(a) Together, the commission and the public employees insurance agency shall submit to the legislative oversight commission on education accountability by the first day of December, two thousand three, draft legislation regarding benefits offered by the agency.

(b) The draft legislation shall provide:

(1) Incentives for employees insured by the agency to decline benefits from the agency. Incentives may include:

(A) Optional purchase of supplemental benefits;
(B) Payment of a percentage of the savings realized by the employer due to cancellation of insurance coverage for the employee; and

(C) Any other incentive determined appropriate by the agency and commission;

(2) A requirement that a public employee may decline benefits from the agency only if that employee verifies that he or she has health insurance coverage by an alternate provider;

(3) A procedure for verifying the alternate coverage required by subdivision (2) of this subsection at least annually; and

(4) A procedure whereby an employee who has declined coverage pursuant to this section will be reinstated automatically in the agency’s program immediately following loss of the alternate coverage.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill approved this the 13th day of March, 2003.

Governor