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CLARENCE M. BENTLEY
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 101

(By Mr. Speaker, Mr. Kiss, and Delegates Michael,
Mezzatesta, Williams, Doyle, Leach and Tabb)



Passed March 21, 2004

In Effect from Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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H. B. 101

(BY MR. SPEAKER, MR. KISS, AND DELEGATES MICHAEL,
MEZZATESTA, WILLIAMS, DOYLE, LEACH AND TABB)

[Passed March 21, 2004; in effect from passage.]

AN ACT to repeal §18B-10-3, §18B-10-4a and §18B-10-10 of the code of West Virginia, 1931, as amended; to amend and reenact §18B-5-4 of said code; to amend said code by adding thereto a new section, designated §18B-9-2a; to amend and reenact §18B-10-1, §18B-10-2, §18B-10-4, §18B-10-4b, §18B-10-5, §18B-10-6, §18B-10-7a, §18B-10-8, §18B-10-9, §18B-10-11, §18B-10-12, §18B-10-13, §18B-10-14 and §18B-10-15 of said code; to amend said code by adding thereto a new section, designated §18B-10-1b; and to amend and reenact §18C-3-1 of said code, all relating to fees collected and moneys expended by state institutions of higher education; tuition and fee simplification for public higher education; clarifying authority of the West Virginia council for community and technical college education related to community and technical college tuition and fees; repealing obsolete language; expanding certain purchasing authority; modifying certain purchasing procedures; expanding certain employee classifications; creating classifications of fees; authorizing deferred payment plans for students; requiring maintenance of support for certain instructional and student

activities; clarifying authority of commission to enter into trust agreements; clarifying purposes for which fees may be used; deleting certain restrictions on bookstore sales; clarifying certain tuition and fee waiver provisions; and clarifying terms and conditions for the health education student loan program.

Be it enacted by the Legislature of West Virginia:

That §18B-10-3, §18B-10-4a and §18B-10-10 of the code of West Virginia, 1931, as amended, be repealed; that §18B-5-4 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-9-2a; that §18B-10-1, §18B-10-2, §18B-10-4, §18B-10-4b, §18B-10-5, §18B-10-6, §18B-10-7a, §18B-10-8, §18B-10-9, §18B-10-11, §18B-10-12, §18B-10-13, §18B-10-14 and §18B-10-15 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-10-1b; and that §18C-3-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

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

1 (a) The council, commission and each governing board,
2 through the vice chancellor for administration, shall purchase
3 or acquire all materials, supplies, equipment, services and
4 printing required for that governing board or the council or
5 commission, as appropriate, and the state institutions of higher
6 education under their jurisdiction. The commission and council
7 jointly shall adopt rules governing and controlling acquisitions
8 and purchases in accordance with the provisions of this section.
9 The rules shall assure that the council, commission and govern-
10 ing boards:

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

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

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

24 (4) Negotiate for and make purchases and acquisitions in
25 such quantities, at such times and under contract, in the open
26 market or through other accepted methods of governmental
27 purchasing as may be practicable in accordance with general
28 law;

29 (5) Advertise for bids on all purchases exceeding
30 twenty-five thousand dollars, to purchase by means of sealed
31 bids and competitive bidding or to effect advantageous pur-
32 chases through other accepted governmental methods and
33 practices;

34 (6) Post notices of all acquisitions and purchases for which
35 competitive bids are being solicited in the purchasing office of
36 the specified institution involved in the purchase, at least two
37 weeks prior to making such purchases and ensure that the notice
38 is available to the public during business hours;

39 (7) Provide for purchasing in the open market;

40 (8) Provide for vendor notification of bid solicitation and
41 emergency purchasing;

42 (9) Provide that competitive bids are not required for
43 purchases of twenty-five thousand dollars or less; and

44 (10) Provide for not fewer than three bids where bidding is
45 required. If fewer than three bids are submitted, an award may
46 be made from among those received.

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

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

62 (d) The governing boards, council and commission shall
63 maintain a purchase file, which shall be a public record and
64 open for public inspection. After the award of the order or
65 contract, the governing boards, council and commission shall
66 indicate upon the successful bid that it was the successful bid
67 and shall further indicate why bids are rejected and, if the
68 mathematical low vendor is not awarded the order or contract,
69 the reason therefor. A record in the purchase file may not be
70 destroyed without the written consent of the legislative auditor.
71 Those files in which the original documentation has been held

72 for at least one year and in which the original documents have
73 been reproduced and archived on microfilm or other equivalent
74 method of duplication may be destroyed without the written
75 consent of the legislative auditor. All files, no matter the
76 storage method, shall be open for inspection by the legislative
77 auditor upon request.

78 (e) The commission and council also jointly shall adopt
79 rules to prescribe qualifications to be met by any person who is
80 to be employed as a buyer pursuant to this section. These rules
81 shall require that a person may not be employed as a buyer
82 unless that person, at the time of employment, either is:

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

84 (2) Has at least four years' experience in purchasing for any
85 unit of government or for any business, commercial or indus-
86 trial enterprise.

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

101 (g) All purchases and acquisitions shall be made in consid-
102 eration and within limits of available appropriations and funds
103 and in accordance with applicable provisions of article two,

104 chapter five-a of this code relating to expenditure schedules and
105 quarterly allotments of funds. Notwithstanding any other
106 provision of this code to the contrary, only those purchases
107 exceeding the dollar amount for competitive sealed bids in this
108 section are required to be encumbered and they may be entered
109 into the state's centralized accounting system by the staff of the
110 commission, council or governing boards to satisfy the require-
111 ments of article two, chapter five-a, and specifically sections
112 twenty-six, twenty-seven and twenty-eight of said article two,
113 to determine whether the amount of the purchase is within the
114 commission's, council's or governing board's quarterly
115 allotment, is in accordance with the approved expenditure
116 schedule, and otherwise conforms to the provisions of article
117 two, chapter five-a of this code.

118 (h) The governing boards, council and commission may
119 make requisitions upon the auditor for a sum to be known as an
120 advance allowance account, not to exceed five percent of the
121 total of the appropriations for the governing board, council or
122 commission, and the auditor shall draw a warrant upon the
123 treasurer for such accounts. All advance allowance accounts
124 shall be accounted for by the applicable governing board or the
125 council or commission once every thirty days or more often if
126 required by the state auditor.

127 (i) Contracts entered into pursuant to this section shall be
128 signed by the applicable governing board or the council or
129 commission in the name of the state and shall be approved as to
130 form by the attorney general. A contract which requires
131 approval as to form by the attorney general is considered
132 approved if the attorney general has not responded within
133 fifteen days of presentation of the contract. A contract or a
134 change order for that contract and notwithstanding any other
135 provision of this code to the contrary, associated documents
136 such as performance and labor/material payments, bonds and
137 certificates of insurance which use terms and conditions or

138 standardized forms previously approved by the attorney general
139 and do not make substantive changes in the terms and condi-
140 tions of the contract do not require approval by the attorney
141 general. The attorney general shall make a list of those changes
142 which he or she deems to be substantive and the list, and any
143 changes thereto, shall be published in the state register. A
144 contract that exceeds the dollar amount requiring competitive
145 sealed bids in this section shall be filed with the state auditor.
146 If requested to do so, the governing boards, council or commis-
147 sion shall make all contracts available for inspection by the
148 state auditor. The governing board, council or commission, as
149 appropriate, shall prescribe the amount of deposit or bond to be
150 submitted with a bid or contract, if any, and the amount of
151 deposit or bond to be given for the faithful performance of a
152 contract.

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

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

167 (l) Each governing board or the council or commission, as
168 appropriate, shall permit private institutions of higher education
169 to join as purchasers on purchase contracts for materials,
170 supplies, services and equipment entered into by that governing

171 board or the council or commission. Any private school
172 desiring to join as purchasers on such purchase contracts shall
173 file with that governing board or the council or commission an
174 affidavit signed by the president of the institution of higher
175 education or a designee requesting that it be authorized to join
176 as purchaser on purchase contracts of that governing board or
177 the council or commission, as appropriate. The private school
178 shall agree that it is bound by such terms and conditions as that
179 governing board or the council or commission may prescribe
180 and that it will be responsible for payment directly to the
181 vendor under each purchase contract.

182 (m) Notwithstanding any other provision of this code to the
183 contrary, the governing boards, council and commission, as
184 appropriate, may make purchases from cooperative buying
185 groups, consortia, the federal government or from federal
186 government contracts if the materials, supplies, services,
187 equipment or printing to be purchased is available from
188 cooperative buying groups, consortia, the federal government
189 or from a federal contract and purchasing from the cooperative
190 buying groups, consortia, federal government or from a federal
191 government contract would be the most financially advanta-
192 geous manner of making the purchase.

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

201 (o) The governing boards shall require each institution
202 under their respective jurisdictions to notify and inform every
203 vendor doing business with that institution of the provisions of

204 section fifty-four, article three, chapter five-a of this code, also
205 known as the “prompt pay act of 1990”.

206 (p) Consultant services, such as strategic planning services,
207 may not preclude or inhibit the governing boards, council or
208 commission from considering any qualified bid or response for
209 delivery of a product or a commodity because of the rendering
210 of those consultant services.

211 (q) After the commission or council, as appropriate, has
212 granted approval for lease-purchase arrangements by the
213 governing boards, a governing board may enter into
214 lease-purchase arrangements for capital improvements,
215 including equipment. Any lease-purchase arrangement so
216 entered shall constitute a special obligation of the state of West
217 Virginia. The obligation under a lease-purchase arrangement so
218 entered may be from any funds legally available to the institu-
219 tion and must be cancelable at the option of the governing
220 board or institution at the end of any fiscal year. The obligation,
221 any assignment or securitization thereof, never constitutes an
222 indebtedness of the state of West Virginia or any department,
223 agency or political subdivision thereof, within the meaning of
224 any constitutional provision or statutory limitation, and may not
225 be a charge against the general credit or taxing powers of the
226 state or any political subdivision thereof. Such facts shall be
227 plainly stated in any lease-purchase agreement. Further, the
228 lease-purchase agreement shall prohibit assignment or securiti-
229 zation without consent of the lessee and the approval of the
230 attorney general of West Virginia. Proposals for any arrange-
231 ment must be requested in accordance with the requirements of
232 this section and any rules or guidelines of the commission and
233 council. In addition, any lease-purchase agreement which
234 exceeds one hundred thousand dollars total shall be approved
235 by the attorney general of West Virginia. The interest compo-
236 nent of any lease-purchase obligation is exempt from all
237 taxation of the state of West Virginia, except inheritance, estate

238 and transfer taxes. It is the intent of the Legislature that if the
239 requirements set forth in the Internal Revenue Code of 1986, as
240 amended, and any regulations promulgated pursuant thereto are
241 met, the interest component of any lease-purchase obligation
242 also is exempt from the gross income of the recipient for
243 purposes of federal income taxation and may be designated by
244 the governing board or the president of the institution as a
245 bank-qualified obligation.

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

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

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

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

264 (C) That satisfactory grounds, buildings, office space or
265 other space is not available on grounds and in buildings
266 currently owned or leased by the commission, council or the
267 institution.

268 Before executing any rental contract or lease, the commis-
269 sion, council or a governing board shall determine the fair
270 rental value for the rental of the requested grounds, buildings,
271 office space or other space, in the condition in which they exist,
272 and shall contract for or lease the premises at a price not to
273 exceed the fair rental value.

274 (2) The commission, council and governing boards are
275 authorized to enter into long-term agreements for buildings,
276 land and space for periods longer than one fiscal year but not to
277 exceed forty years. Any purchase of real estate, any
278 lease-purchase agreement and any construction of new build-
279 ings or other acquisition of buildings, office space or grounds
280 resulting therefrom, pursuant to the provisions of this subsec-
281 tion shall be presented by the policy commission or council, as
282 appropriate, to the joint committee on government and finance
283 for prior review. Any such lease shall contain, in substance, all
284 the following provisions:

285 (A) That the commission, council or governing board, as
286 lessee, has the right to cancel the lease without further obliga-
287 tion on the part of the lessee upon giving thirty days' written
288 notice to the lessor at least thirty days prior to the last day of the
289 succeeding month;

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

295 (C) That the lease is considered renewed for each ensuing
296 fiscal year during the term of the lease unless it is canceled by
297 the commission, council or governing board before the end of
298 the then-current fiscal year.

299 (3) The commission, council or institution which is granted
300 any grounds, buildings, office space or other space leased in
301 accordance with this section may not order or make permanent
302 changes of any type thereto, unless the commission, council or
303 governing board, as appropriate, has first determined that the
304 change is necessary for the proper, efficient and economically
305 sound operation of the institution. For purposes of this section,
306 a “permanent change” means any addition, alteration, improve-
307 ment, remodeling, repair or other change involving the expendi-
308 ture of state funds for the installation of any tangible thing
309 which cannot be economically removed from the grounds,
310 buildings, office space or other space when vacated by the
311 institution.

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

321 (5) The commission and council jointly may promulgate
322 rules they consider necessary to carry out the provisions of this
323 section.

324 (s) Purchasing card use may be expanded by the council,
325 commission and state institutions of higher education pursuant
326 to the provisions of this subsection.

327 (1) The council and commission jointly shall establish
328 procedures to be implemented by the council, commission and
329 any institution under their respective jurisdictions using

330 purchasing cards. The procedures shall ensure that each maintains:

331 (A) Appropriate use of the purchasing card system;

332 (B) Full compliance with the provisions of article three,
333 chapter twelve of this code relating to the purchasing card
334 program; and

335 (C) Sufficient accounting and auditing procedures for all
336 purchasing card transactions.

337 (2) By the first day of November, two thousand four, the
338 council and commission jointly shall present the procedures to
339 the legislative oversight commission on education accountabil-
340 ity for its adoption.

341 (3) Notwithstanding any other provision of this code to the
342 contrary, if the legislative oversight commission on education
343 accountability adopts the procedures, the council, commission,
344 and any institution authorized pursuant to subdivision (4) of this
345 subsection, may use purchasing cards for:

346 (A) Travel expenses directly related to the job duties of the
347 traveling employee, including fuel and food; and

348 (B) Any routine, regularly-scheduled payment, including,
349 but not limited to, utility payments and real property rental fees.
350 The council, commission and each institution annually by the
351 thirtieth day of June, shall provide to the state purchasing
352 division a list of all goods or services for which payment was
353 made pursuant to this provision during that fiscal year.

354 (4) The commission and council each shall evaluate the
355 capacity of each institution under its jurisdiction for complying
356 with the procedures established pursuant to subdivision (3) of
357 this subsection. The commission and council each shall
358 authorize expanded use of purchasing cards pursuant to said

359 subdivision (3) for any such institution it determines has the
360 capacity to comply.

ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND CLASSIFICATION SYSTEM.

§18B-9-2a. Nonclassified employee limitation exemption.

1 The Legislature finds that the doctoral institutions, as
2 defined in section one, article eight of this chapter, have unique
3 staffing demands for their extensive research and doctoral
4 programs, and therefore require additional nonclassified staff.
5 Each doctoral institution may exceed the percentage of
6 nonclassified employees authorized in section two, article nine
7 of this chapter by an additional five percent.

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.

1 (a) Each governing board shall fix tuition and other fees for
2 each school term for the different classes or categories of
3 students enrolling at each state institution of higher education
4 under its jurisdiction and may include among the tuition and
5 fees any one or more of the following as defined in section
6 one-b of this article:

7 (1) Tuition and required educational and general fees;

8 (2) Auxiliary and auxiliary capital fees; and

9 (3) Required educational and general capital fees.

10 (b) An institution may establish a single special revenue
11 account for each of the following classifications of fees:

12 (1) All tuition and required educational and general fees
13 collected;

14 (2) All auxiliary and auxiliary capital fees collected; and

15 (3) All required educational and general capital fees
16 collected to support existing system-wide and institutional debt
17 service and future systemwide and institutional debt service,
18 capital projects and campus renewal for educational and general
19 facilities.

20 (4) Subject to any covenants or restrictions imposed with
21 respect to revenue bonds payable from such accounts, an
22 institution may expend funds from each such special revenue
23 account for any purpose for which funds were collected within
24 that account regardless of the original purpose for which the
25 funds were collected.

26 (c) The purposes for which tuition and fees may be ex-
27 pended include, but are not limited to, health services, student
28 activities, recreational, athletic and extracurricular activities.
29 Additionally, tuition and fees may be used to finance a stu-
30 dent's attorney to perform legal services for students in civil
31 matters at the institutions: *Provided*, That the legal services are
32 limited only to those types of cases, programs or services
33 approved by the administrative head of the institution where the
34 legal services are to be performed.

35 (d) The commission and council jointly shall propose a rule
36 for legislative approval in accordance with the provisions of
37 article three-a, chapter twenty-nine-a of this code to govern the
38 fixing, collection and expenditure of tuition and other fees.

39 (e) The Legislature finds that an emergency exists and,
40 therefore, the commission and council jointly shall file the rule
41 required by subsection (d) of this section as an emergency rule
42 pursuant to the provisions of article three-a, chapter

43 twenty-nine-a of this code, subject to the prior approval of the
44 legislative oversight commission on education accountability.

45 (f) The schedule of all tuition and fees, and any changes
46 therein, shall be entered in the minutes of the meeting of the
47 appropriate governing board and the board shall file with the
48 commission or council, or both, as appropriate, and the legisla-
49 tive auditor a certified copy of such schedule and changes.

50 (g) The boards shall establish the rates to be charged
51 full-time students, as defined in section one-b of this article,
52 who are enrolled during a regular academic term.

53 (1) Undergraduate students taking fewer than twelve credit
54 hours in a regular term shall have their fees reduced pro rata
55 based upon one twelfth of the full-time rate per credit hour and
56 graduate students taking fewer than nine credit hours in a
57 regular term shall have their fees reduced pro rata based upon
58 one ninth of the full-time rate per credit hour.

59 (2) Fees for students enrolled in summer terms or other
60 nontraditional time periods shall be prorated based upon the
61 number of credit hours for which the student enrolls in accor-
62 dance with the above provisions.

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

66 (1) The governing boards shall permit fee payments to be
67 made in installments over the course of the academic term. All
68 fees shall be paid prior to the awarding of course credit at the
69 end of the academic term.

70 (2) The governing boards also shall authorize the accep-
71 tance of credit cards or other payment methods which may be
72 generally available to students for the payment of fees. The

73 governing boards may charge the students for the reasonable
74 and customary charges incurred in accepting credit cards and
75 other methods of payment.

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

82 (4) The commission and council jointly shall propose a rule
83 in accordance with the provisions of article three-a, chapter
84 twenty-nine-a of this code, defining conditions under which an
85 institution may offer tuition and fee deferred payment plans
86 through the institution or through third parties.

87 (5) An institution may charge interest or fees for any
88 deferred or installment payment plans.

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

97 (j) Institutions shall retain tuition and fee revenues not
98 pledged for bonded indebtedness or other purposes in accor-
99 dance with the tuition rule proposed by the commission and
100 council jointly pursuant to this section. The tuition rule shall:

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

103 (2) Allow institutions to charge different tuition and fees
104 for different programs;

105 (3) Provide that a board of governors may propose to the
106 commission, council or both, as appropriate, a mandatory
107 auxiliary fee under the following conditions:

108 (A) The fee shall be approved by the commission, council
109 or both, as appropriate, and either the students below the senior
110 level at the institution or the Legislature before becoming
111 effective;

112 (B) Increases may not exceed previous state subsidies by
113 more than ten percent;

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

116 (D) If the fee is approved, the amount of the state subsidy
117 shall be reduced annually by the amount of money generated
118 for the institution by the fees. All state subsidies for the
119 auxiliary services shall cease five years from the date the
120 mandatory auxiliary fee is implemented;

121 (E) The commission, council or both, as appropriate, shall
122 certify to the Legislature by the first day of October in the fiscal
123 year following implementation of the fee, and annually thereaf-
124 ter, the amount of fees collected for each of the five years;

125 (4) Establish methodology, where applicable, to ensure that,
126 within the appropriate time period under the compact, commu-
127 nity and technical college tuition rates for community and
128 technical college students in all independently accredited
129 community and technical colleges will be commensurate with
130 the tuition and fees charged by their peer institutions.

131 (k) A penalty may not be imposed by the commission or
132 council upon any institution based upon the number of nonresi-
133 dents who attend the institution unless the commission or
134 council determines that admission of nonresidents to any
135 institution or program of study within the institution is imped-
136 ing unreasonably the ability of resident students to attend the
137 institution or participate in the programs of the institution. The
138 institutions shall report annually to the commission or council
139 on the numbers of nonresidents and such other enrollment
140 information as the commission or council may request.

141 (l) Tuition and fee increases of the governing boards are
142 subject to rules adopted by the commission and council jointly
143 pursuant to this section and in accordance with the provisions
144 of article three-a, chapter twenty-nine-a of this code.

145 (1) A governing board of an institution under the jurisdic-
146 tion of the commission may propose tuition and fee increases
147 of up to nine and one-half percent for undergraduate resident
148 students for any fiscal year. The nine and one-half percent total
149 includes the amount of increase over existing tuition and fees,
150 combined with the amount of any newly established, special-
151 ized fee which may be proposed by a governing board. A
152 governing board of an institution under the jurisdiction of the
153 council may propose tuition and fee increases of up to four and
154 three quarters percent. The four and three-quarters percent total
155 includes the amount of increase over existing tuition and fees,
156 combined with the amount of any newly established, special-
157 ized fee which may be proposed by a governing board. The
158 commission or council, as appropriate, shall examine individu-
159 ally each request from a governing board for an increase. Any
160 proposed increase requires the approval of the commission or
161 council, as appropriate.

162 In determining whether to approve or disapprove the
163 governing board's request, the commission or council shall

164 determine the progress the institution has made toward meeting
165 the conditions outlined in this subdivision and shall make this
166 determination the predominate factor in its decision. The
167 commission or council shall consider the degree to which each
168 institution has met the following conditions:

169 (A) Has maximized resources available through nonresident
170 tuition and fee charges to the satisfaction of the commission or
171 council;

172 (B) Is consistently achieving the benchmarks established in
173 the compact of the institution pursuant to the provisions of
174 article one-a of this chapter;

175 (C) Is continuously pursuing the statewide goals for
176 post-secondary education and the statewide compact established
177 in articles one and one-a of this chapter;

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

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

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

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

190 (2) This section does not require equal increases among
191 institutions or require any level of increase at an institution.

192 (3) The commission and council shall report to the legisla-
193 tive oversight commission on education accountability regard-
194 ing the basis for each approval or denial as determined using
195 the criteria established in subdivision (1) of this subsection.

196 (4) For fiscal year two thousand five only, a governing
197 board of any institution under the jurisdiction of the commis-
198 sion may increase tuition and fees for undergraduate resident
199 students by one and one-half percent greater than the amount
200 authorized by the commission pursuant to the provisions of this
201 section.

202 (m) The amount of fees assessed immediately prior to the
203 effective date of this act under the provisions of this article
204 relating to a higher education resource fee, a faculty improve-
205 ment fee, a medical education fee, a health professions fee and
206 a student activities fee are included in the appropriate tuition or
207 fees classifications established under subsection (a) of this
208 section.

§18B-10-1b. Definitions.

1 For the purposes of this article, the following words have
2 the meanings specified unless the context clearly indicates a
3 different meaning:

4 (a) “Auxiliary capital fees” means charges levied on
5 students to support debt service, capital projects and campus
6 maintenance and renewal for the auxiliary facilities of the
7 institutions;

8 (b) “Auxiliary fees” means charges levied on all students to
9 support auxiliary enterprises or optional charges levied only on
10 students using the auxiliary service. Auxiliary fees include sales
11 and service revenue from entities that exist predominately to
12 furnish goods or services to students, faculty or staff such as
13 residence halls, faculty and staff housing, food services,

14 intercollegiate athletics, student unions, bookstores, parking and
15 other service centers;

16 (c) “Full-time graduate student” means a graduate student
17 who is enrolled for nine or more credit hours in a regular term;

18 (d) “Full-time undergraduate student” means an undergrad-
19 uate student who is enrolled for twelve or more credit hours in
20 a regular term;

21 (e) “Required educational and general capital fees” means:

22 (1) Charges levied on all students to support debt service of
23 systemwide bond issues; and

24 (2) Charges levied on all students to support debt service,
25 capital projects and campus maintenance and renewal for an
26 institution’s educational and general educational facilities; and

27 (f) “Tuition and required educational and general fees”
28 means:

29 (1) Charges levied on all students of that class or category
30 to support educational and general program services; and

31 (2) Optional charges levied for education and general
32 services collected only from students using the service or from
33 students for whom the services are made available. Educational
34 and general expenditures are categorized as instruction,
35 research, academic support, student services, institutional
36 support, operation and maintenance of plant and scholarships
37 and fellowships. Education and general expenditures do not
38 include expenditures for auxiliary enterprises, hospitals or
39 independent operations.

§18B-10-2. Higher education resource assessment.

1 (a) Pursuant to the authority granted by section four, article
2 one-b of this chapter, and section six, article two-b of this
3 chapter, the commission and council jointly shall establish a
4 higher education resource assessment per student for each state
5 institution of higher education under their respective jurisdic-
6 tions. Community and technical colleges shall transfer all funds
7 collected pursuant to this section to the council. All other
8 institutions shall transfer all funds collected pursuant to this
9 section to the commission. Any reference in this code to higher
10 education resource fee means this higher education resource
11 assessment.

12 (b) The commission and council jointly shall fix the
13 assessment for the various institutions and classes of students
14 and may periodically change these assessments. The amount of
15 the assessment for each institution shall be prorated for
16 part-time students.

17 (c) Each institution shall maintain a level of support for
18 libraries and library supplies, including books, periodicals,
19 subscriptions and audiovisual materials, instructional equip-
20 ment and materials; and for the improvement in quality and
21 scope of student services comparable to that level supported by
22 the higher education resource fee previously authorized by this
23 section.

24 (d) The assessment shall be expended or allocated by the
25 commission or council to meet its general operating expenses
26 or to fund statewide programs. To the maximum extent
27 practicable, the commission and council shall offset the impact,
28 if any, on financially needy students of any potential assessment
29 increase under this section by allocating an appropriate amount
30 of the revenue to the state scholarship program to be expended
31 in accordance with the provisions of article five, chapter
32 eighteen-c of this code.

§18B-10-4. Medical education.

1 The commission shall determine an appropriate portion of
2 all tuition and fees paid by medical students enrolled for credit
3 at the West Virginia university school of medicine, Marshall
4 university school of medicine and the West Virginia school of
5 osteopathic medicine to be used to support the health education
6 student loan fund. The portion determined by the commission
7 for this purpose shall be deposited into the health education
8 student loan fund account in accordance with the provisions of
9 article three, chapter eighteen-c of this code.

§18B-10-4b. Additional fee waivers for health sciences and technology academy programs.

1 (a) In addition to the number of fee waivers permitted in
2 sections five and six of this article for undergraduate, graduate
3 and professional schools, each state institution of higher
4 education may waive all fees or any part thereof for students
5 who are residents of West Virginia and who successfully
6 complete the health sciences and technology academy affiliated
7 programs.

8 (b) For purposes of this section, “Health Sciences and
9 Technology Academy Programs” means those programs in the
10 health sciences designed to assist junior high and high school
11 students in conjunction with their parents and teachers, to
12 enhance their knowledge and abilities in subject matters which
13 will further a career in the field of health sciences.

§18B-10-5. Fee waivers — Undergraduate schools.

1 Each governing board periodically may establish fee
2 waivers for students in undergraduate studies at institutions
3 under its jurisdiction entitling recipients to waiver of tuition,
4 capital and other fees subject to the following conditions and
5 limitations:

6 (a) A state institution of higher education may not have in
7 effect at any time a number of undergraduate fee waivers which
8 exceeds five percent of the number of full-time equivalent
9 undergraduate students registered during the fall semester of the
10 immediately preceding academic year.

11 (b) Each undergraduate fee waiver entitles the recipient
12 thereof to attend a designated state institution of higher educa-
13 tion without payment of the tuition, capital and other fees as
14 may be prescribed by the governing board and is for a period of
15 time not to exceed eight semesters of undergraduate study.

16 (c) The governing board shall make rules governing the
17 award of undergraduate fee waivers; the issuance and cancella-
18 tion of certificates entitling the recipients to the benefits
19 thereof; the use of the fee waivers by the recipients; and the
20 rights and duties of the recipients with respect to the fee
21 waivers. These rules may not be inconsistent with the provi-
22 sions of this section.

23 (d) The awarding of undergraduate fee waivers shall be
24 entered in the minutes of the meetings of the governing board.

25 (e) Students enrolled in an administratively-linked commu-
26 nity and technical college shall be awarded a proportionate
27 share of the total number of undergraduate fee waivers awarded
28 by a governing board. The number to be awarded to students of
29 the community and technical college is based upon the full-time
30 equivalent enrollment of that institution.

§18B-10-6. Fee waivers – Professional and graduate schools.

1 In addition to the fee waivers authorized for undergraduate
2 study by the provisions of section five of this article, each
3 governing board periodically may establish fee waivers for
4 study in graduate and professional schools under its jurisdic-
5 tion, including medicine and dentistry, entitling the recipients

6 to waiver of tuition, capital, and other fees, subject to the
7 following conditions and limitations:

8 (a) West Virginia university may not have in effect at any
9 time graduate and professional school fee waivers in a number
10 which exceeds ten percent of the number of full-time equivalent
11 graduate and professional students registered during the
12 corresponding fall semester, spring semester and summer term
13 of the immediately preceding academic year. In addition to the
14 above ten percent, all graduate assistants employed by West
15 Virginia university shall be granted a fee waiver.

16 (b) Institutions of higher education other than West
17 Virginia university may not have in effect at any time a number
18 of graduate and professional school fee waivers which exceeds
19 five percent of the number of full-time equivalent graduate and
20 professional students registered during the corresponding fall
21 semester, spring semester and summer term of the immediately
22 preceding academic year. In addition to the above five percent,
23 all graduate assistants employed by these institutions shall be
24 granted a fee waiver.

25 (c) Each graduate or professional school fee waiver entitles
26 the recipient to waiver of the tuition, capital, and other fees as
27 may be prescribed by the governing boards and is for a period
28 of time not to exceed the number of semesters normally
29 required in the recipient's academic discipline.

30 (d) The governing boards shall make rules governing the
31 award of graduate and professional school fee waivers; the
32 issuance and cancellation of certificates entitling the recipients
33 to the benefits thereof; the use of the fee waivers by the
34 recipients; and the rights and duties of the recipients with
35 respect to the fee waivers. These rules may not be inconsistent
36 with the provisions of this section.

37 (e) The awarding of graduate and professional school fee
38 waivers shall be entered in the minutes of the meeting of each
39 governing board.

**§18B-10-7a. Tuition and fee waivers or adjustments for residents
at least sixty-five years old.**

1 (a) Each governing board shall promulgate a rule establish-
2 ing a reduced tuition and fee program for senior citizens. The
3 rule shall include at least the following:

4 (1) One option for individuals who attend undergraduate
5 and graduate courses without receiving credit and one option
6 for those who attend undergraduate and graduate courses for
7 credit;

8 (2) A requirement that the following conditions be met
9 under either option of the program:

10 (A) The participant is a resident of West Virginia;

11 (B) The participant is sixty-five years of age or older; and

12 (C) Classroom space is available;

13 (3) A method of establishing priority for allowing a
14 participant to attend a class or course;

15 (4) A determination of whether to require participants to
16 pay special fees, including laboratory fees, if the fees are
17 required of all other students;

18 (5) A determination of whether to require participants to
19 pay for parking;

20 (6) Requirements for participants in the program under the
21 no credit option:

22 (A) A grade or credit may not be given; and

23 (B) The total tuition and fees charged for each course or
24 class, excluding laboratory and parking fees, may not exceed
25 fifty dollars. After the first day of July, two thousand four, the
26 governing boards may change the maximum fee; and

27 (7) A requirement for participants in the program under the
28 for credit option that tuition and fee rates may not exceed fifty
29 percent of the normal rates charged to state residents by the
30 institution.

31 (b) The provisions of this section apply to both classroom-
32 based courses, electronic and internet-based courses, and all
33 other distance education delivery.

**§18B-10-8. Collection; disposition and use of capital and auxiliary
capital fees; creation of special capital and auxil-
iary capital improvements funds; revenue bonds.**

1 (a) Effective the first day of July, two thousand four, this
2 section, and any rules adopted by the commission, council, or
3 both, in accordance with this section and article three-a, chapter
4 twenty-nine-a of this code, govern the collection, disposition
5 and use of the capital and auxiliary capital fees authorized by
6 section one of this article. Prior to the first day of July, two
7 thousand four, the statutory provisions governing collection and
8 disposition of capital funds in place prior to the enactment of
9 this section remain in effect.

10 (b) *Fees for full-time students.* — The governing boards
11 shall fix capital and auxiliary capital fees for full-time students
12 at each state institution of higher education per semester. For
13 institutions under its jurisdiction, a governing board may fix
14 such fees at higher rates for students who are not residents of
15 this state.

16 (c) *Fees for part-time students.* – For all part-time students
17 and for all summer school students, the governing boards shall
18 impose and collect such fees in proportion to, but not exceed-
19 ing, the fees paid by full-time students. Refunds of such fees
20 may be made in the same manner as any other fee collected at
21 state institutions of higher education.

22 (d) There is created in the state treasury a special capital
23 improvements fund and special auxiliary capital improvements
24 fund for each state institution of higher education and the
25 commission into which shall be paid all proceeds, respectively,
26 of:

27 (1) The capital and auxiliary capital fees collected from
28 students at all state institutions of higher education pursuant to
29 this section; and

30 (2) The fees collected from such students pursuant to
31 section one of this article.

32 The fees shall be expended by the commission and govern-
33 ing boards for the payment of the principal of or interest on any
34 revenue bonds issued by the board of regents or the succeeding
35 governing boards for which such fees were pledged prior to the
36 enactment of this section.

37 (e) The governing boards may make expenditures from any
38 of the special capital improvements funds or special auxiliary
39 capital improvement funds established in this section to finance,
40 in whole or in part, together with any federal, state or other
41 grants or contributions, for any one or more of the following
42 projects:

43 (1) The acquisition of land or any rights or interest therein;

44 (2) The construction or acquisition of new buildings;

45 (3) The renovation or construction of additions to existing
46 buildings;

47 (4) The acquisition of furnishings and equipment for any
48 such buildings; and

49 (5) The construction or acquisition of any other capital
50 improvements or capital education facilities at such state
51 institutions of higher education, including any roads, utilities or
52 other properties, real or personal, or for other purposes neces-
53 sary, appurtenant or incidental to the construction, acquisition,
54 financing and placing in operation of such buildings, capital
55 improvements or capital education facilities, including student
56 unions, dormitories, housing facilities, food service facilities,
57 motor vehicle parking facilities and athletic facilities.

58 (f) The governing boards, in their discretion, may use the
59 moneys in such special capital improvements funds and special
60 auxiliary improvement funds to finance the costs of the above
61 purposes on a cash basis. The commission, when singly or
62 jointly requested by the governing boards, periodically may
63 issue revenue bonds of the state as provided in this section to
64 finance all or part of such purposes and pledge all or any part of
65 the moneys in such special funds for the payment of the
66 principal of and interest on such revenue bonds, and for
67 reserves therefor. Any pledge of such special funds for such
68 revenue bonds shall be a prior and superior charge on such
69 special funds over the use of any of the moneys in such funds
70 to pay for the cost of any of such purposes on a cash basis. Any
71 expenditures from such special funds, other than for the
72 retirement of revenue bonds, may be made by the commission
73 or governing boards only to meet the cost of a predetermined
74 capital improvements program for one or more of the state
75 institutions of higher education, in such order of priority as was
76 agreed upon by the governing board or boards and the commis-
77 sion and for which the aggregate revenue collections projected

78 are presented to the governor for inclusion in the annual budget
79 bill, and are approved by the Legislature for expenditure.

80 (g) Such revenue bonds periodically may be authorized and
81 issued by the commission or governing boards to finance, in
82 whole or in part, the purposes provided in this section in an
83 aggregate principal amount not exceeding the amount which the
84 commission determines can be paid as to both principal and
85 interest and reasonable margins for a reserve therefor from the
86 moneys in such special funds.

87 (h) The issuance of such revenue bonds shall be authorized
88 by a resolution adopted by the governing board receiving the
89 proceeds and the commission and such revenue bonds shall bear
90 such date or dates; mature at such time or times not exceeding
91 forty years from their respective dates; be in such form either
92 coupon or registered, with such exchangeability and
93 interchangeability privileges; be payable in such medium of
94 payment and at such place or places, within or without the state;
95 be subject to such terms of prior redemption at such prices not
96 exceeding one hundred five per centum of the principal amount
97 thereof; and shall have such other terms and provisions as
98 determined by the governing board receiving the proceeds and
99 the commission. Such revenue bonds shall be signed by the
100 governor and by the chancellor of the commission or the chair
101 of the governing boards authorizing the issuance thereof, under
102 the great seal of the state, attested by the secretary of state, and
103 the coupons attached thereto shall bear the facsimile signature
104 of the chancellor of the commission or the chair of the appropri-
105 ate governing boards. Such revenue bonds shall be sold in such
106 manner as the commission or governing board determines is for
107 the best interests of the state.

108 (i) The commission or governing boards may enter into
109 trust agreements with banks or trust companies, within or
110 without the state, and in such trust agreements or the resolutions

111 authorizing the issuance of such bonds may enter into valid and
112 legally binding covenants with the holders of such revenue
113 bonds as to the custody, safeguarding and disposition of the
114 proceeds of such revenue bonds, the moneys in such special
115 funds, sinking funds, reserve funds or any other moneys or
116 funds; as to the rank and priority, if any, of different issues of
117 revenue bonds by the commission or governing boards under
118 the provisions of this section; as to the maintenance or revision
119 of the amounts of such fees; as to the extent to which swap
120 agreements, as defined in section two-h, article two-g, chapter
121 thirteen of this code shall be used in connection with such
122 revenue bonds, including such provisions as payment, term,
123 security, default and remedy provisions as the commission shall
124 consider necessary or desirable, if any, under which such fees
125 may be reduced; and as to any other matters or provisions
126 which are considered necessary and advisable by the commis-
127 sion or governing boards in the best interests of the state and to
128 enhance the marketability of such revenue bonds.

129 (j) After the issuance of any of such revenue bonds, the fees
130 at the state institutions of higher education pledged to the
131 payment thereof may not be reduced as long as any of such
132 revenue bonds are outstanding and unpaid except under such
133 terms, provisions and conditions as shall be contained in the
134 resolution, trust agreement or other proceedings under which
135 such revenue bonds were issued. Such revenue bonds shall be
136 and constitute negotiable instruments under the uniform
137 commercial code of this state; shall, together with the interest
138 thereon, be exempt from all taxation by the state of West
139 Virginia, or by any county, school district, municipality or
140 political subdivision thereof; and such revenue bonds may not
141 be considered to be obligations or debts of the state and the
142 credit or taxing power of the state may not be pledged therefor,
143 but such revenue bonds shall be payable only from the revenue
144 pledged therefor as provided in this section.

145 (k) Additional revenue bonds may be issued by the com-
146 mission or governing boards pursuant to this section and
147 financed by additional revenues or funds dedicated from other
148 sources. It is the intent of the Legislature to authorize over a
149 five-year period beginning on the first day of July, two thou-
150 sand four, additional sources of revenue and funds to effect
151 such funding for capital improvement.

152 (l) Funding of systemwide and campus-specific revenue
153 bonds under any other section of this code is hereby continued
154 and authorized pursuant to the terms of this section. Revenues
155 of any state institution of higher education pledged to the
156 repayment of any revenue bonds issued pursuant to this code
157 shall remain pledged.

158 (m) Any revenue bonds for state institutions of higher
159 education proposed to be issued under this section or other
160 sections of this code first must be approved by the commission.

161 (n) Revenue bonds issued pursuant to this code may be
162 issued by the commission or governing boards, either singly or
163 jointly.

164 (o) Fees pledged for repayment of revenue bonds issued
165 under this section or article twelve-b, chapter eighteen prior to
166 the effective date of this section shall be transferred to the
167 commission in a manner prescribed by the commission. The
168 commission shall have the authority to transfer funds from the
169 accounts of institutions pledged for the repayment of revenue
170 bonds issued prior to the effective date of this section or issued
171 subsequently by the commission upon the request of institu-
172 tions, if an institution fails to transfer the pledged revenues to
173 the commission in a timely manner.

174 (p) Effective the first day of July, two thousand four, the
175 capital and auxiliary capital fees authorized by this section and
176 section one of this article are in lieu of any other fees set out in

177 this code for capital and auxiliary capital projects to benefit
178 public higher education institutions. Notwithstanding any other
179 provisions of this code to the contrary, in the event any capital,
180 tuition, registration or auxiliary fees are pledged to the payment
181 of any revenue bonds issued pursuant to any general bond
182 resolutions of the commission, any of its predecessors or any
183 institution, adopted prior to the effective date of this section,
184 such fees shall remain in effect in amounts not less than the
185 amounts in effect as of that date, until such time as the revenue
186 bonds payable from any of such fees have been paid or the
187 pledge of such fees is otherwise legally discharged.

§18B-10-9. Authority to excuse students in certain educational programs from payment of enrollment fees.

1 Whenever the cost of any institute, workshop, special
2 course, or other educational program is wholly financed by a
3 grant from any federal, state or local agency or from any
4 foundation, corporation or other association or person, except
5 for indirect costs of administration and other overhead ex-
6 penses, such as the cost of providing classrooms and other
7 facilities, the governing board of the state institution of higher
8 education administering the program has the authority to excuse
9 all students enrolled in such program from the payment of
10 tuition and other fees.

§18B-10-11. Fees and money derived from athletic contests.

1 The governing board of a state institution of higher educa-
2 tion may fix and charge admission fees to athletic contests at
3 institutions under its jurisdiction. The governing board may
4 enter into contracts and spend and receive money under such
5 contracts for the student athletic teams of the institutions to
6 contest with other athletic teams inside or outside the state. All
7 money received from such fees and contracts shall be deposited
8 in the auxiliary operating account of the institution and ex-

9 pended for any purpose considered necessary and proper by the
10 governing board.

§18B-10-12. Student activities.

1 (a) The governing board of a state institution of higher
2 education may make funds available from tuition and fees to
3 support extracurricular activities of the students as considered
4 necessary.

5 (b) Each institution shall maintain a level of support for
6 extracurricular activities of the students comparable to that
7 level supported by student activities fees previously authorized
8 by this section.

**§18B-10-13. Fees from operation of dormitories, faculty homes,
dining halls and cafeterias.**

1 The appropriate governing board of each state institution of
2 higher education shall fix the fees to be charged students and
3 faculty members for rooms, board and meals at the dormitories,
4 faculty homes, dining halls and cafeterias operated by such
5 board at the institution. Such fees shall be commensurate with
6 the complete cost of such services.

7 All fees collected for such services shall be used first to
8 meet interest, principal and sinking fund requirements due on
9 any outstanding revenue bonds for which the receipts may have
10 been pledged as security and to pay the operating and mainte-
11 nance costs of the dormitories, faculty homes, dining halls and
12 cafeterias. Any such receipts not needed for these purposes may
13 be expended by the appropriate governing board for any other
14 auxiliary enterprise or educational and general instructional
15 costs.

§18B-10-14. Bookstores.

1 (a) Each governing board may establish and operate a
2 bookstore at the institutions under its jurisdiction to sell books,

3 stationery and other school and office supplies generally carried
4 in college bookstores.

5 (b) The prices to be charged may not be less than the prices
6 fixed by any fair trade agreements and shall, in all cases,
7 include in addition to the purchase price paid by the bookstore
8 a sufficient handling charge to cover all expenses incurred for
9 personal and other services, supplies and equipment, storage
10 and other operating expenses.

11 (c) Each governing board also shall ensure that bookstores
12 operated at institutions under its jurisdiction meet the additional
13 objective of minimizing the costs to students of purchasing
14 textbooks by adopting policies which may require the repur-
15 chase and resale of textbooks on an institutional or a statewide
16 basis and provide for the use of certain basic textbooks for a
17 reasonable number of years.

18 (d) All moneys derived from the operation of the bookstore
19 shall be paid into a special revenue fund as provided in section
20 two, article two, chapter twelve of this code. Subject to the
21 approval of the governor, each governing board periodically
22 shall change the amount of the revolving fund necessary for the
23 proper and efficient operation of each bookstore.

24 (e) Moneys derived from the operation of the bookstore
25 shall be used first to replenish the stock of goods and to pay the
26 costs of operating and maintaining the bookstore. Notwith-
27 standing any other provision of this section, any institution that
28 has contracted with a private entity for bookstore operation
29 shall deposit into an appropriate account all revenue generated
30 by the operation and enuring to the benefit of the institution.
31 The institution shall use the funds for nonathletic scholarships.

**§18B-10-15. Authority of educational institutions to provide
special services and programs; collection and
disposition of fees therefor.**

1 (a) The governing board of each state institution of higher
2 education may provide special services and special programs at
3 such institutions and may fix and collect special fees or charges
4 therefor. Such special services and special programs include,
5 but are not limited to, any of the following:

6 (1) The conduct of music camps and band, orchestra or
7 voice clinics for secondary school students or other youth
8 groups; summer tutoring programs for primary and secondary
9 school students; speech therapy clinics and services; educa-
10 tional and psychological testing programs; student guidance
11 programs; and statistical studies and calculations by an elec-
12 tronic computer service.

13 (2) Rental of lockers or other storage facilities and the
14 maintenance and operation of parking facilities for use by
15 students, faculty, staff and visitors.

16 (3) Rental of musical recordings, educational films, slides
17 and other audiovisual aids.

18 (4) Microfilming or other mechanical reproduction of
19 records and noncopyrighted library reference materials.

20 (5) Institutes, conferences, workshops, postgraduate and
21 refresher noncredit courses and any other special program or
22 special service customarily provided by institutions of higher
23 education.

24 (6) Motor pools consisting of motor vehicles for the use of
25 their employees when carrying on the business and affairs of
26 the institutions.

27 (b) All fees or charges collected for any such special
28 services or programs shall cover the total cost of the service or
29 program.

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

ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN PROGRAMS.

§18C-3-1. Health education loan program; establishment; administration; eligibility and loan cancellation; required report.

1 (a) For the purposes of this section, vice chancellor of
2 administration means the person employed pursuant to section
3 two, article four, chapter eighteen-b of this code.

4 (b) There is continued a special revolving fund account
5 under the commission in the state treasury to be known as the
6 health education student loan fund which shall be used to carry
7 out the purposes of this section. The fund consists of:

8 (1) All funds on deposit in the medical student loan fund in
9 the state treasury or which are due or become due for deposit in
10 the fund as obligations made under the previous enactment of
11 this section;

12 (2) Those funds provided pursuant to the provisions of
13 section four, article ten, chapter eighteen-b of this code;

14 (3) Appropriations provided by the Legislature;

15 (4) Repayment of any loans made under this section;

16 (5) Amounts provided by medical associations, hospitals,
17 or other medical provider organizations in this state, or by
18 political subdivisions of the state, under an agreement which
19 requires the recipient to practice his or her health profession in
20 this state or in the political subdivision providing the funds for
21 a predetermined period of time and in such capacity as set forth
22 in the agreement; and

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

25 Balances remaining in the fund at the end of the fiscal year
26 do not expire or revert. All costs associated with administering
27 this section shall be paid from the health education student loan
28 fund.

29 (c) The vice chancellor for administration may utilize any
30 funds in the health education student loan fund for the purposes
31 of the medical student loan program. The commission shall give
32 priority for the loans to residents of this state, as defined by the
33 commission. An individual is eligible for loan consideration if
34 the individual:

35 (1) Demonstrates financial need;

36 (2) Meets established academic standards;

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

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

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

43 (d) At the end of each fiscal year, any individual who has
44 received a medical student loan and who has rendered services
45 as a medical doctor or a doctor of osteopathy in this state in a
46 medically underserved area or in a medical specialty in which
47 there is a shortage of physicians, as determined by the division
48 of health at the time the loan was granted, may submit to the
49 commission a notarized, sworn statement of service on a form
50 provided for that purpose. Upon receipt of the statement the
51 commission shall cancel five thousand dollars of the outstand-

52 ing loan or loans for every full twelve consecutive calendar
53 months of such service.

54 (e) No later than thirty days following the end of each fiscal
55 year, the vice chancellor for administration shall prepare and
56 submit a report to the commission for inclusion in the statewide
57 report card required under section eight, article one-b, chapter
58 eighteen-b of this code to be submitted to the legislative
59 oversight commission on education accountability established
60 under section eleven, article three-a, chapter twenty-nine-a of
61 this code. At a minimum, the report shall include the following
62 information:

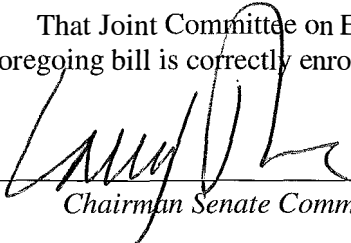
63 (1) The number of loans awarded;

64 (2) The total amount of the loans awarded;

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

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

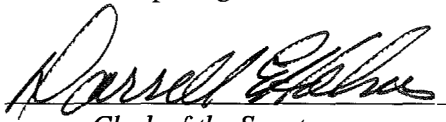
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


 Chairman Senate Committee

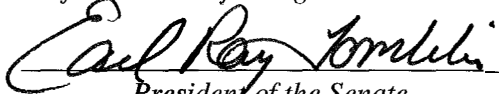

 Chairman House Committee

Originating in the House.

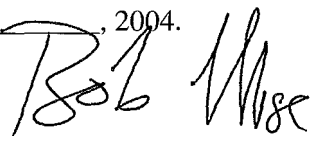
In effect from passage.


 Clerk of the Senate


 Clerk of the House of Delegates


 President of the Senate


 Speaker of the House of Delegates

The within is approved this the 4th
 day of April, 2004.

 Governor

PRESENTED TO THE
GOVERNOR

Date 4/2/04

Time 2:15 pm