WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
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ENROLLED

Senate Bill No. 611
(By Senators Helmick, McCabe, Bowman, Edgell, Facemire, Fanning, Green, Prezioso, Unger, Wells, Boley, Facemyer, Guills and Sypolt)

[Passed March 12, 2010; in effect from passage.]
ENROLLED

Senate Bill No. 611

(BY SENATORS HELMICK, MCCABE, BOWMAN, EDGELL,
FACEMIRE, FANNING, GREEN, PREZIOSO, UNGER,
WELLS, BOLEY, FACEMYER, GUILLS AND SYPolT)

[Passed March 12, 2010; in effect from passage.]

AN ACT to amend and reenact §18B-1B-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-2B-6 of said code; and to amend and reenact §18B-4-1 of said code, all relating to the location of the offices of the Higher Education Policy Commission, the Vice Chancellor for Administration, the West Virginia Council for Community and Technical College Education, and WVNET.

Be it enacted by the Legislature of West Virginia:

That §18B-1B-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18B-2B-6 of said code be amended and reenacted; and that §18B-4-1 of said code be amended and reenacted, all to read as follows:

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

(a) The primary responsibility of the commission is to develop, establish and implement policy that will achieve the goals and objectives found in section one-a, article one of this chapter. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards of Marshall University and West Virginia University, respectively. To that end, the commission has the following powers and duties relating to the institutions under its jurisdiction:

(1) Develop, oversee and advance the public policy agenda pursuant to section one, article one-a of this chapter to address major challenges facing the state, including, but not limited to, the goals and objectives found in section one-a, article one of this chapter and including specifically those goals and objectives pertaining to the compacts created pursuant to section two, article one-a of this chapter and to develop and implement the master plan described in section nine of this article for the purpose of accomplishing the mandates of this section;

(2) Develop, oversee and advance the implementation jointly with the council of a financing policy for higher education in West Virginia. The policy shall meet the following criteria:

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance;

(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but
not limited to, those found in section one-a, article one of this chapter; and

(D) Incorporate the plan for strategic funding to strengthen capacity for support of community and technical college education established by the West Virginia Council for Community and Technical College Education pursuant to the provisions of section six, article two-b of this chapter;

(3) In collaboration with the council, create a policy leadership structure capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature and the Governor and specifically from the State Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding the higher education institutions and the higher education systems as a whole accountable for accomplishing their missions and implementing the provisions of the compacts;

(4) Develop and adopt each institutional compact;

(5) Review and adopt the annual updates of the institutional compacts;

(6) Serve as the accountability point to:
(A) The Governor for implementation of the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(7) Jointly with the council, promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;

(8) Establish and implement a peer group for each institution as described in section three, article one-a of this chapter;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional achievement towards state policy priorities and institutional missions pursuant to section two, article one-a of this chapter;

(10) Annually report to the Legislature and to the Legislative Oversight Commission on Education Accountability during the January interim meetings on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates. The report shall address at least the following:

(A) The performance of its system of higher education during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the higher education system as a whole in meeting the goals and objectives set forth in section one-a, article one of this chapter;

(B) An analysis of enrollment data collected pursuant to section one, article ten of this chapter and recommendations for any changes necessary to assure access to high-
quality, high-demand education programs for West Virginia residents;

(C) The priorities established for capital investment needs pursuant to subdivision (11) of this subsection and the justification for such priority;

(D) Recommendations of the commission for statutory changes needed to further the goals and objectives set forth in section one-a, article one of this chapter;

(11) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. It is the responsibility of the commission to assure a fair distribution of funds for capital projects between the commission and the council. To that end the commission shall take the following steps:

(A) Receive the list of priorities developed by the council for capital investment for the institutions under the council’s jurisdiction pursuant to subsection (b), section six, article two-b of this chapter;

(B) Place the ranked list of projects on the agenda for action within sixty days of the date on which the list was received;

(C) Select a minimum of three projects from the list submitted by the council to be included on the ranked list established by the commission. At least one of the three projects selected must come from the top two priorities established by the council;

(12) Maintain guidelines for institutions to follow concerning extensive capital project management except the governing boards of Marshall University and West Virginia University are not subject to the provisions of this subdivision as it relates to the state institutions of higher
education known as Marshall University and West Virginia University. The guidelines shall provide a process for developing capital projects, including, but not limited to, the notification by an institution to the commission of any proposed capital project which has the potential to exceed $1 million in cost. Such a project may not be pursued by an institution without the approval of the commission. An institution may not participate directly or indirectly with any public or private entity in any capital project which has the potential to exceed $1 million in cost;

(13) Acquire legal services as are considered necessary, including representation of the commission, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

(14) Employ a Chancellor for Higher Education pursuant to section five of this article;

(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with the provisions of article four of this chapter;

(16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors and other staff;

(17) Advise and consent in the appointment of the presidents of the institutions of higher education under its jurisdiction pursuant to section six of this article. The role of the commission in approving an institutional president is to assure through personal interview that the person selected understands and is committed to achieving the
goals and objectives as set forth in the institutional
compact and in section one-a, article one of this chapter;

(18) Approve the total compensation package from all
sources for presidents of institutions under its jurisdiction,
as proposed by the governing boards. The governing
boards must obtain approval from the commission of the
total compensation package both when institutional
presidents are employed initially and afterward when any
change is made in the amount of the total compensation
package;

(19) Establish and implement the policy of the state to
assure that parents and students have sufficient informa-
tion at the earliest possible age on which to base academic
decisions about what is required for students to be suc-
cessful in college, other post-secondary education and
careers related, as far as possible, to results from current
assessment tools in use in West Virginia;

(20) Approve and implement a uniform standard jointly
with the council to determine which students shall be
placed in remedial or developmental courses. The stan-
dard shall be aligned with college admission tests and
assessment tools used in West Virginia and shall be
applied uniformly by the governing boards throughout the
public higher education system. The chancellors shall
develop a clear, concise explanation of the standard which
they shall communicate to the State Board of Education
and the State Superintendent of Schools;

(21) Review and approve or disapprove capital projects
as described in subdivision (11) of this subsection;

(22) Jointly with the council, develop and implement an
oversight plan to manage systemwide technology such as
the following:

(A) Expanding distance learning and technology net-
works to enhance teaching and learning, promote access to
quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission and state institutions of higher education are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

(23) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a bachelor's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(24) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(25) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;
(26) Establish and implement policies and programs, in cooperation with the council and the institutions of higher education, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet-based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

(27) Seek out and attend regional, national and international meetings and forums on education and workforce development-related topics, as in the commission's discretion is critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals and objectives pursuant to section one-a, article one of this chapter;

(28) Develop, establish and implement a rule for higher education governing boards and institutions to follow when considering capital projects. The guidelines shall assure that the governing boards and institutions do not approve or promote capital projects involving private sector businesses which would have the effect of reducing property taxes on existing properties or avoiding, in whole or in part, the full amount of taxes which would be due on newly developed or future properties;

(29) Consider and submit to the appropriate agencies of the executive and legislative branches of state government a budget that reflects recommended appropriations from the commission and the institutions under its jurisdiction. The commission shall submit as part of its budget proposal
the separate recommended appropriations it received from
the council, both for the council and the institutions under
the council's jurisdiction. The commission annually shall
submit the proposed institutional allocations based on
each institution's progress toward meeting the goals of its
institutional compact;

(30) The commission has the authority to assess institu-
tions under its jurisdiction, including the state institutions
of higher education known as Marshall University and
West Virginia University, for the payment of expenses of
the commission or for the funding of statewide higher
education services, obligations or initiatives related to the
goals set forth for the provision of public higher education
in the state;

(31) Promulgate rules allocating reimbursement of
appropriations, if made available by the Legislature, to
institutions of higher education for qualifying noncapital
expenditures incurred in the provision of services to
students with physical, learning or severe sensory disabili-
ties;

(32) Make appointments to boards and commissions
where this code requires appointments from the State
College System Board of Directors or the University of
West Virginia System Board of Trustees which were
abolished effective June 30, 2000, except in those cases
where the required appointment has a specific and direct
connection to the provision of community and technical
college education, the appointment shall be made by the
council. Notwithstanding any provisions of this code to the
contrary, the commission or the council may appoint one
of its own members or any other citizen of the state as its
designee. The commission and council shall appoint the
total number of persons in the aggregate required to be
appointed by these previous governing boards;
(33) Pursuant to the provisions of article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules as necessary or expedient to fulfill the purposes of this chapter. The commission and the council shall promulgate a uniform joint legislative rule for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

(34) Determine when a joint rule among the governing boards of the institutions under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards of all the institutions under its jurisdiction, promulgate the joint rule;

(35) In consultation with the governing boards of Marshall University and West Virginia University, implement a policy jointly with the council whereby course transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(36) Promulgate a joint rule with the council establishing tuition and fee policy for all institutions of higher education, other than state institutions of higher education known as Marshall University and West Virginia University which are subject to the provisions of section one, article ten of this chapter. The rule shall include, but is not limited to, the following:

(A) Comparisons with peer institutions;

(B) Differences among institutional missions;

(C) Strategies for promoting student access;

(D) Consideration of charges to out-of-state students; and
(E) Such other policies as the commission and council consider appropriate;

(37) Implement general disease awareness initiatives to educate parents and students, particularly dormitory residents, about meningococcal meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and activities that can increase risks; measures that can be taken to prevent contact or infection; and potential benefits of vaccination. The commission shall encourage institutions that provide medical care to students to provide access to the vaccine for those who wish to receive it; and

(38) Notwithstanding any other provision of this code to the contrary, sell, lease, convey or otherwise dispose of all or part of any real property which it may own, either by contract or at public auction, and to retain the proceeds of any such sale or lease: Provided, That:

(A) The commission may not sell, lease, convey or otherwise dispose of any real property without first:

(i) Providing notice to the public in the county in which the real property is located by a Class II legal advertisement pursuant to section two, article three, chapter fifty-nine of this code;

(ii) Holding a public hearing on the issue in the county in which the real property is located; and

(iii) Providing notice to the Joint Committee on Government and Finance; and

(B) Any proceeds from the sale, lease, conveyance or other disposal of real property that is used jointly by institutions or for statewide programs under the jurisdiction of the commission or the council shall be transferred to the General Revenue Fund of the state.
(b) In addition to the powers and duties listed in subsection (a) of this section, the commission has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda:

1. Planning and policy leadership, including a distinct and visible role in setting the state's policy agenda and in serving as an agent of change;

2. Policy analysis and research focused on issues affecting the system as a whole or a geographical region thereof;

3. Development and implementation of institutional mission definitions, including use of incentive funds to influence institutional behavior in ways that are consistent with public priorities;

4. Academic program review and approval for institutions under its jurisdiction, including the use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes. The commission's authority to review and approve academic programs for either the state institution of higher education known as Marshall University or West Virginia University is limited to programs that are proposed to be offered at a new location not presently served by that institution;

5. Distribution of funds appropriated to the commission, including incentive and performance-based funding;

6. Administration of state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of any rules necessary to administer those programs;
397 (7) Serving as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

398 (8) Development, establishment and implementation of information, assessment and accountability systems, including maintenance of statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

399 (9) Jointly with the council, developing, establishing and implementing policies for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state pursuant to the findings and policy recommendations required by section eleven of this article;

400 (10) Development, implementation and oversight of statewide and regionwide projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funding from any source; and

401 (11) Quality assurance that intersects with all other duties of the commission particularly in the areas of research, data collection and analysis, planning, policy analysis, program review and approval, budgeting and information and accountability systems.

402 (c) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties as may be assigned to it by law, the commission has such other powers and duties as may be necessary or expedient to accomplish the purposes of this article.

403 (d) The commission is authorized to withdraw specific powers of any governing board of an institution under its
jurisdiction for a period not to exceed two years, if the commission makes a determination that:

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in article one of this chapter;

(2) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the board of governors according to state law; or

(3) Other circumstances which, in the view of the commission, severely limit the capacity of the board of governors to carry out its duties and responsibilities.

The period of withdrawal of specific powers may not exceed two years during which time the commission is authorized to take steps necessary to reestablish the conditions for restoration of sound, stable and responsible institutional governance.

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


(a) The council is the sole agency responsible for administration of vocational-technical-occupational education and community and technical college education in the state. The council has jurisdiction and authority over the community and technical colleges and the statewide network of independently accredited community and technical colleges as a whole, including community and technical college education programs as defined in section two, article one of this chapter.

(b) The council shall propose rules pursuant to section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code to implement the provisions of
this section and applicable provisions of article one-d of this chapter:

(1) To implement the provisions of article one-d of this chapter relevant to community and technical colleges, the council may propose rules jointly with the commission or separately and may choose to address all components of the accountability system in a single rule or may propose additional rules to cover specific components;

(2) The rules pertaining to financing policy and benchmarks and indicators required by this section shall be filed with the Legislative Oversight Commission on Education Accountability by October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless such rules are rescinded, revised, altered or amended; and

(3) The Legislature finds that an emergency exists and, therefore, the council shall propose an emergency rule or rules to implement the provisions of this section relating to the financing policy and benchmarks and indicators in accordance with section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code by October 1, 2008. The emergency rule or rules may not be implemented without prior approval of the Legislative Oversight Commission on Education Accountability.

(c) The council has the following powers and duties relating to the authority established in subsection (a) of this section:

(1) Develop, oversee and advance the public policy agenda for community and technical college education for the purpose of accomplishing the mandates of this section, including, but not limited to, the following:

(A) Achieving the goals and objectives established in articles one and one-d of this chapter;
(B) Addressing the goals and objectives contained in the institutional compacts created pursuant to section seven, article one-d of this chapter; and

(C) Developing and implementing the master plan described in section five, article one-d of this chapter;

(2) Propose a legislative rule pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code to develop and implement a financing policy for community and technical college education in West Virginia. The rule shall meet the following criteria:

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance;

(C) Establish a plan for strategic funding to strengthen capacity for support of community and technical college education; and

(D) Establish a plan that measures progress and provides performance-based funding to institutions which make significant progress in the following specific areas:

(i) Achieving the objectives and priorities established in article one-d of this chapter;

(ii) Serving targeted populations, especially working age adults twenty-five years of age and over;

(iii) Providing access to high cost, high demand technical programs in every region of the state;

(iv) Increasing the percentage of functionally literate adults in every region of the state; and
(v) Providing high quality community and technical college education services to residents of every region of the state.

(3) Create a policy leadership structure relating to community and technical college education capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the council shall seek input from the Legislature and the Governor and specifically from the State Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards of the institutions under the council’s jurisdiction carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding each community and technical college and the statewide network of independently accredited community and technical colleges as a whole accountable for accomplishing their missions and achieving the goals and objectives established in articles one, one-d, and three-c of this chapter;

(4) Develop for inclusion in the statewide public agenda, a plan for raising education attainment, increasing adult literacy, promoting workforce and economic development and ensuring access to advanced education for the citizens of West Virginia;

(5) Provide statewide leadership, coordination, support, and technical assistance to the community and technical
colleges and to provide a focal point for visible and
effective advocacy for their work and for the public policy
agendas approved by the commission and council;

(6) Review and adopt annually all institutional compacts
for the community and technical colleges pursuant to the
provisions of section seven, article one-d of this chapter;

(7) Fulfill the mandates of the accountability system
established in article one-d of this chapter and report on
progress in meeting established goals, objectives, and
priorities to the elected leadership of the state;

(8) Propose a legislative rule pursuant to subsection (b)
of this section and article three-a, chapter twenty-nine-a
of this code to establish benchmarks and indicators in
accordance with the provisions of this subsection;

(9) Establish and implement the benchmarks and
performance indicators necessary to measure institutional
progress:

(A) In meeting state goals, objectives, and priorities
established in articles one and one-d of this chapter;

(B) In carrying out institutional missions; and

(C) In meeting the essential conditions established in
article three-c of this chapter;

(10) Collect and analyze data relating to the performance
of community and technical colleges in every region of
West Virginia and report periodically or as directed to the
Legislative Oversight Commission on Education Account-
ability on the progress in meeting the goals and objectives
established in articles one and one-d of this chapter.

Additionally, the council shall report annually during
the January interim meetings on a date and at a time and
location to be determined by the President of the Senate
and the Speaker of the House of Delegates.
The annual report shall address at least the following:

(A) The performance of the community and technical college network during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the network as a whole in meeting the goals and objectives established in articles one and one-d of this chapter;

(B) The priorities established for capital investment needs pursuant to subdivision (11) of this subsection and the justification for such priority; and

(C) Recommendations of the council for statutory changes necessary or expedient to achieve established state goals and objectives.

(11) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. Notwithstanding the language in subdivision eleven, subsection a, section four, article one-b of this chapter, the commission is not a part of the process for identifying needs for capital investments for the statewide network of independently accredited community and technical colleges;

(12) Draw upon the expertise available within the Governor’s Workforce Investment Office and the West Virginia Development Office as a resource in the area of workforce development and training;

(13) Acquire legal services that are considered necessary, including representation of the council, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the
council may, but is not required to, call upon the Attorney
General for legal assistance and representation as pro-
vided by law;

(14) Employ a chancellor for community and technical
college education pursuant to section three of this article;

(15) Employ other staff as necessary and appropriate to
carry out the duties and responsibilities of the council
consistent with the provisions of section two, article four
of this chapter;

(16) Employ other staff as necessary and appropriate to
carry out the duties and responsibilities of the council who
are employed solely by the council;

(17) Provide suitable offices in Charleston for the
chancellor and other staff: Provided, That the offices may
be located outside of Charleston at a technology and
research center: Provided, however, That the current
employees of WVNET shall not be moved from
Monongalia County without legislative approval;

(18) Approve the total compensation package from all
sources for presidents of community and technical col-
elges, as proposed by the governing boards. The governing
boards must obtain approval from the council of the total
compensation package both when presidents are employed
initially and subsequently when any change is made in the
amount of the total compensation package;

(19) Establish and implement policies and procedures to
ensure that students may transfer and apply toward the
requirements for a degree the maximum number of credits
earned at any regionally accredited in-state or out-of-state
higher education institution with as few requirements to
repeat courses or to incur additional costs as is consistent
with sound academic policy;
208 (20) Establish and implement policies and programs, jointly with the community and technical colleges, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet-based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

219 (21) Seek out and attend regional and national meetings and forums on education and workforce development-related topics, as council members consider critical for the performance of their duties. The council shall keep abreast of national and regional community and technical college education trends and policies to aid members in developing the policies for this state that meet the education goals and objectives established in articles one and one-d of this chapter;

228 (22) Assess community and technical colleges for the payment of expenses of the council or for the funding of statewide services, obligations or initiatives related specifically to the provision of community and technical college education;

233 (23) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to community and technical colleges for qualifying noncapital expenditures incurred in the provision of services to students with physical, learning or severe sensory disabilities;

239 (24) Assume the prior authority of the commission in examining and approving tuition and fee increase proposals submitted by community and technical college govern-
(25) Develop and submit to the commission, a single budget for community and technical college education that reflects recommended appropriations for community and technical colleges and that meets the following conditions:

(A) Incorporates the provisions of the financing rule mandated by this section to measure and provide performance funding to institutions which achieve or make significant progress toward achieving established state objectives and priorities;

(B) Considers the progress of each institution toward meeting the essential conditions set forth in section three, article three-c of this chapter, including independent accreditation; and

(C) Considers the progress of each institution toward meeting the goals, objectives, and priorities established in article one-d of this chapter and its approved institutional compact.

(26) Administer and distribute the independently accredited community and technical college development account;

(27) Establish a plan of strategic funding to strengthen capacity for support and assure delivery of high quality community and technical college education in all regions of the state;

(28) Foster coordination among all state-level, regional and local entities providing post-secondary vocational education or workforce development and coordinate all public institutions and entities that have a community and technical college mission;
(29) Assume the principal responsibility for oversight of those community and technical colleges seeking independent accreditation and for holding governing boards accountable for meeting the essential conditions pursuant to article three-c of this chapter;

(30) Advise and consent in the appointment of the presidents of the community and technical colleges pursuant to section six, article one-b of this chapter. The role of the council in approving a president is to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives established in the institutional compact and in articles one, one-d, and three-c of this chapter;

(31) Provide a single, statewide link for current and prospective employers whose needs extend beyond one locality;

(32) Provide a mechanism capable of serving two or more institutions to facilitate joint problem-solving in areas including, but not limited to the following:

(A) Defining faculty roles and personnel policies;

(B) Delivering high-cost technical education programs across the state;

(C) Providing one-stop service for workforce training to be delivered by multiple institutions; and

(D) Providing opportunities for resource-sharing and collaborative ventures;

(33) Provide support and technical assistance to develop, coordinate, and deliver effective and efficient community and technical college education programs and services in all regions of the state;

(34) Assist the community and technical colleges in establishing and promoting links with business, industry
and labor in the geographic areas for which each community and technical college is responsible;

(35) Develop alliances among the community and technical colleges for resource sharing, joint development of courses and courseware, and sharing of expertise and staff development;

(36) Serve aggressively as an advocate for development of a seamless curriculum;

(37) Cooperate with all providers of education services in the state to remove barriers relating to a seamless system of public and higher education and to transfer and articulation between and among community and technical colleges, state colleges and universities and public education, preschool through grade twelve;

(38) Encourage the most efficient use of available resources;

(39) Coordinate with the commission in informing public school students, their parents and teachers of the academic preparation that students need in order to be prepared adequately to succeed in their selected fields of study and career plans, including presentation of academic career fairs;

(40) Jointly with the commission, approve and implement a uniform standard, as developed by the chancellors, to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which the governing boards shall communicate to the State Board of Education and the State Superintendent of Schools;
(41) Develop and implement strategies and curriculum for providing developmental education which shall be applied by any state institution of higher education providing developmental education;

(42) Develop a statewide system of community and technical college programs and services in every region of West Virginia for competency-based certification of knowledge and skills, including a statewide competency-based associate degree program;

(43) Review and approve all institutional master plans for the community and technical colleges pursuant to section four, article two-a of this chapter;

(44) Propose rules for promulgation pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code that are necessary or expedient for the effective and efficient performance of community and technical colleges in the state;

(45) In its sole discretion, transfer any rule under its jurisdiction, other than a legislative rule, to the jurisdiction of the governing boards who may rescind, revise, alter or amend any rule transferred pursuant to rules adopted by the council and provide technical assistance to the institutions under its jurisdiction to aid them in promulgating rules;

(46) Develop for inclusion in the higher education report card, as defined in section eight, article one-d of this chapter, a separate section on community and technical colleges. This section shall include, but is not limited to, evaluation of the institutions based upon the benchmarks and indicators developed in subdivision (9) of this subdivision;

(47) Facilitate continuation of the Advantage Valley Community College Network under the leadership and direction of Marshall Community and Technical College;
(48) Initiate and facilitate creation of other regional networks of affiliated community and technical colleges that the council finds to be appropriate and in the best interests of the citizens to be served;

(49) Develop with the State Board of Education plans for secondary and post-secondary vocational-technical-occupational and adult basic education, including, but not limited to the following:

(A) Policies to strengthen vocational-technical-occupational and adult basic education; and

(B) Programs and methods to assist in the improvement, modernization and expanded delivery of vocational-technical-occupational and adult basic education programs;

(50) Distribute federal vocational education funding provided under the Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing financial assistance among secondary and post-secondary vocational-technical-occupational and adult basic education programs to help meet the public policy agenda.

In distributing funds the council shall use the following guidelines:

(A) The State Board of Education shall continue to be the fiscal agent for federal vocational education funding;

(B) The percentage split between the State Board of Education and the council shall be determined by rule promulgated by the council under the provisions of article three-a, chapter twenty-nine-a of this code. The council shall first obtain the approval of the State Board of Education before proposing a rule;
(51) Collaborate, cooperate and interact with all secondary and post-secondary vocational-technical-occupational and adult basic education programs in the state, including the programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of seamless curriculum and the elimination of duplicative programs;

(52) Coordinate the delivery of vocational-technical-occupational and adult basic education in a manner designed to make the most effective use of available public funds to increase accessibility for students;

(53) Analyze and report to the State Board of Education on the distribution of spending for vocational-technical-occupational and adult basic education in the state and on the availability of vocational-technical-occupational and adult basic education activities and services within the state;

(54) Promote the delivery of vocational-technical-occupational education, adult basic education and community and technical college education programs in the state which emphasize the involvement of business, industry and labor organizations;

(55) Promote public participation in the provision of vocational-technical-occupational education, adult basic education and community and technical education at the local level, emphasizing programs which involve the participation of local employers and labor organizations;

(56) Promote equal access to quality vocational-technical-occupational education, adult basic education and community and technical college education programs to handicapped and disadvantaged individuals, adults in need of training and retraining, single parents, homemakers, participants in programs designed to eliminate sexual
bias and stereotyping and criminal offenders serving in correctional institutions;

(57) Meet annually between the months of October and December with the Advisory Committee of Community and Technical College Presidents created pursuant to section eight of this article to discuss those matters relating to community and technical college education in which advisory committee members or the council may have an interest;

(58) Accept and expend any gift, grant, contribution, bequest, endowment or other money for the purposes of this article;

(59) Assume the powers set out in section nine of this article. The rules previously promulgated by the State College System Board of Directors pursuant to that section and transferred to the commission are hereby transferred to the council and shall continue in effect until rescinded, revised, altered or amended by the council;

(60) Pursuant to the provisions of subsection (b) of this section and article three-a, chapter twenty-nine-a of this code, promulgate a uniform joint legislative rule with the commission for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

(61) Determine when a joint rule among the governing boards of the community and technical colleges is necessary or required by law and, in those instances and in consultation with the governing boards, promulgate the joint rule;

(62) Promulgate a joint rule with the commission establishing tuition and fee policy for all institutions of higher education. The rule shall include, but is not limited to, the following:
(A) Comparisons with peer institutions;
(B) Differences among institutional missions;
(C) Strategies for promoting student access;
(D) Consideration of charges to out-of-state students; and
(E) Any other policies the commission and council consider appropriate;

(63) In cooperation with the West Virginia Division of Highways, study a method for increasing the signage signifying community and technical college locations along the state interstate highways, and report to the Legislative Oversight Commission on Education Accountability regarding any recommendations and required costs; and

(64) Implement a policy jointly with the commission whereby any course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement.

(d) In addition to the powers and duties listed in subsections (a), (b) and (c) of this section, the council has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda for community and technical colleges:

(1) Planning and policy leadership including a distinct and visible role in setting the state's policy agenda for the delivery of community and technical college education and in serving as an agent of change;

(2) Policy analysis and research focused on issues affecting the community and technical college network as a whole or a geographical region thereof;
(3) Development and implementation of each community and technical college mission definition including use of incentive and performance funds to influence institutional behavior in ways that are consistent with achieving established state goals, objectives, and priorities;

(4) Academic program review and approval for the institutions under its jurisdiction, including the use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes;

(5) Development of budget and allocation of resources for institutions delivering community and technical college education, including reviewing and approving institutional operating and capital budgets and distributing incentive and performance-based funding;

(6) Acting as the agent to receive and disburse public funds related to community and technical college education when a governmental entity requires designation of a statewide higher education agency for this purpose;

(7) Development, establishment and implementation of information, assessment and internal accountability systems, including maintenance of statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators for community and technical colleges;

(8) Jointly with the commission, development, establishment and implementation of policies for licensing and oversight of both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs;

(9) Development, implementation and oversight of statewide and regionwide projects and initiatives related specifically to providing community and technical college
education such as those using funds from federal categorical programs or those using incentive and performance-based funding from any source; and

(10) Quality assurance that intersects with all other duties of the council particularly in the areas of planning, policy analysis, program review and approval, budgeting and information and accountability systems.

(e) The council may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years if the council makes a determination that any of the following conditions exist:

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in section seven, article one-d of this chapter;

(2) The council has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the board of governors according to state law; or

(3) Other circumstances which, in the view of the council, severely limit the capacity of the board of governors to carry out its duties and responsibilities.

The period of withdrawal of specific powers may not exceed two years during which time the council is authorized to take steps necessary to reestablish the conditions for restoration of sound, stable and responsible institutional governance.

(f) In addition to the powers and duties provided for in subsections (a), (b), (c) and (d) of this section and any others assigned to it by law, the council has those powers and duties necessary or expedient to accomplish the purposes of this article; and
(g) When the council and commission, each, is required to consent, cooperate, collaborate or provide input into the actions of the other the following conditions apply:

(1) The body acting first shall convey its decision in the matter to the other body with a request for concurrence in the action;

(2) The commission or the council, as the receiving body, shall place the proposal on its agenda and shall take final action within sixty days of the date when the request for concurrence is received; and

(3) If the receiving body fails to take final action within sixty days, the original proposal stands and is binding on both the commission and the council.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-1. Employment of chancellors; designation of staff; offices.

(a) The council and commission each shall employ a chancellor to assist in the performance of their respective duties and responsibilities subject to the following conditions:

(1) Each chancellor serves at the will and pleasure of the hiring body.

(2) Neither chancellor may hold or retain any other administrative position within the system of higher education while employed as chancellor.

(3) Each chancellor is responsible for carrying out the directives of the body by whom employed and shall work with that body in developing policy options.

(4) The commission is responsible to the council and the Chancellor for Community and Technical College Education for providing services in areas essential to exercising
the powers and duties assigned to the council by law. The commission may not charge the council any fee for the provision of these essential services. The service areas include, but are not limited to, legal services, research, technology, computing, finance and facilities, academic affairs, telecommunications, human resources, student services and any other general areas the council considers to be essential to the exercise of its legal authority. The services are provided under the general supervision of the Vice Chancellor for Administration.

(5) For the purpose of developing or evaluating policy options, the chancellors may request the assistance of the presidents and staff of the institutions under their respective jurisdictions.

(b) In addition to the staff positions designated in subdivision (4), subsection (a) of this section, the Vice Chancellor for Administration, employed pursuant to section two of this article, serves the offices of the chancellors to discharge jointly the duties and responsibilities of the council and commission.

(c) The Vice Chancellor for Health Sciences shall coordinate the West Virginia University School of Medicine, the Marshall University School of Medicine and the West Virginia School of Osteopathic Medicine.

(d) Suitable offices for the vice chancellor of administration and other staff shall be provided in Kanawha County.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within.............. approved................ this the........ Day of ....................... 2010.

Governor