WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

FILED
2025 APR 25 P 3: 12
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

House Bill 2773

BY DELEGATES ELLINGTON, WILLIS, DITTMAN, JENNINGS,
PRITT, HORNBY, TONEY, STATLER, CROUSE, T. CLARK,
AND MALLOW

[Passed April 10, 2025; in effect from passage]

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[Passed April 10, 2025; in effect from passage]

1 AN ACT to amend and react §18B-17-2 and §18B-17-3 of the Code of West Virginia, 1931, as
2 amended, all relating to authorizing legislative rules regarding higher education;
3 authorizing legislative rules for the Higher Education Policy Commission regarding
4 Accountability System and Underwood-Smith Teaching Scholars and Teacher Loan
5 Repayment Program; and authorizing legislative rules for the Community and Technical
6 College Education regarding Employing and Evaluating Presidents.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. LEGISLATIVE RULES.

§18B-17-2. Authorizing rules of Higher Education Policy Commission.

1 (a) The legislative rule filed in the State Register on October 15, 2004, relating to the
2 Higher Education Policy Commission (Underwood-Smith Teacher Scholarship Program rule), is
3 authorized.
4 (b) The legislative rule filed in the State Register on October 15, 2004, relating to the
5 Higher Education Policy Commission (West Virginia Engineering, Science, and Technology
6 Scholarship Program rule), is authorized.
7 (c) The legislative rule filed in the State Register on October 15, 2004, relating to the
8 Higher Education Policy Commission (Medical Education Fee and Medical Student Loan Program
9 rule), is authorized.
10 (d) The legislative rule filed in the State Register on October 27, 2005, relating to the
11 Higher Education Policy Commission (authorization of degree-granting institutions), is authorized.
12 (e) The legislative rule filed in the State Register on August 23, 2006, relating to the Higher
13 Education Policy Commission (West Virginia Higher Education Grant Program), is authorized.
14 (f) The legislative rule filed in the State Register on January 4, 2008, relating to the Higher
15 Education Policy Commission (Providing Real Opportunities for Maximizing In-state Student
16 Excellence - PROMISE), is authorized.

17 (g) The legislative rule filed in the State Register on August 25, 2008, relating to the Higher
18 Education Policy Commission (Research Trust Program), is authorized.
19 (h) The legislative rule filed in the State Register on January 8, 2009, relating to the Higher
20 Education Policy Commission (Guidelines for Governing Boards in Employing and Evaluating
21 Presidents), is authorized.
22 (i) The legislative rule filed in the State Register on September 10, 2008, relating to the
23 Higher Education Policy Commission (Medical Student Loan Program), is authorized, with the
24 following amendment:
25 On page two, subsection 5.1., following the words "financial aid office" by inserting a new
26 subdivision 5.1.3., to read as follows: "United States citizenship or legal immigrant status while
27 actively pursuing United States citizenship".
28 (j) The legislative rule filed in the State Register on December 1, 2008, relating to the
29 Higher Education Policy Commission (West Virginia Higher Education Grant Program), is
30 authorized.
31 (k) The legislative rule filed in the State Register on January 26, 2009, relating to the
32 Higher Education Policy Commission (Accountability System), is authorized.
33 (l) The legislative rule filed in the State Register on May 20, 2009, relating to the Higher
34 Education Policy Commission (Energy and Water Savings Revolving Loan Fund Program), is
35 authorized.
36 (m) The legislative rule filed in the State Register on January 27, 2010, relating to the
37 Higher Education Policy Commission (Providing Real Opportunities for Maximizing In-state
38 Student Excellence - PROMISE), is authorized.
39 (n) The legislative rule filed in the State Register on December 8, 2010, relating to the
40 Higher Education Policy Commission (authorization of degree-granting institutions), is authorized,
41 with the following amendment:

On page 28, subsection 9.1.b., following the words "Good cause shall consist of" by inserting the words "any one or more of the following".

(o) The legislative rule filed in the State Register on December 12, 2011, relating to the Higher Education Policy Commission (Tuition and Fee Policy), is authorized.

(p) The legislative rule filed in the State Register on August 10, 2012, relating to the Higher Education Policy Commission (authorization of degree-granting institutions), is authorized.

(q) The legislative rule filed in the State Register on August 10, 2012, relating to the Higher Education Policy Commission (annual reauthorization of degree-granting institutions), is authorized.

(r) The legislative rule filed in the State Register on March 20, 2013, relating to the Higher Education Policy Commission (Human Resources Administration), is authorized.

(s) The legislative rule filed in the State Register on January 24, 2014, relating to the Higher Education Policy Commission (Capital Project Management), is authorized.

(t) The legislative rule filed in the State Register on April 4, 2014, relating to the Higher Education Policy Commission (Underwood-Smith Teacher Scholarship Program), is authorized.

(u) The legislative rule filed in the State Register on August 4, 2014, relating to the Higher Education Policy Commission (Nursing Scholarship Program), is authorized.

(v) The legislative rule filed in the State Register on October 28, 2015, relating to the Higher Education Policy Commission (Underwood-Smith Teacher Scholarship Program), is authorized.

(w) The legislative rule filed in the State Register on October 28, 2015, relating to the Higher Education Policy Commission (Nursing Scholarship Program), is authorized.

(x) The legislative rule filed in the State Register on December 20, 2016, relating to the Higher Education Policy Commission (West Virginia Higher Education Grant Program), is authorized.

(y) The legislative rule filed in the State Register on December 20, 2016, relating to the Higher Education Policy Commission (Providing Real Opportunities for Maximizing In-state Student Excellence - PROMISE), is authorized.

(z) The legislative rule filed in the State Register on December 20, 2016, relating to the Higher Education Policy Commission (Research Trust Fund Program), is authorized.

(aa) The legislative rule filed in the State Register on December 20, 2016, relating to the Higher Education Policy Commission (annual reauthorization of degree-granting institutions), is authorized.

(bb) The legislative rule filed in the State Register on January 16, 2018, relating to the Higher Education Policy Commission (Tuition and Fee Policy), is authorized.

(cc) The legislative rule filed in the State Register on January 16, 2018, relating to the Higher Education Policy Commission (Human Resources Administration), is authorized.

(dd) The legislative rule filed in the State Register on January 22, 2018, relating to the Higher Education Policy Commission (Capital Project Management), is authorized, with the following amendments:

On page one, subsection 2.1., by striking out all of subdivision 2.1.d. and inserting in lieu thereof a new subdivision 2.1.d., to read as follows: "Efficient use of existing classroom and other space by institutions, while maintaining an appropriate deference to the value judgments of the institutional governing boards.";

On page seven, subsection 4.2., by striking out all of subdivision 4.2.d.5. and inserting in lieu thereof a new subdivision 4.2.d.5., to read as follows: "Funding will be prioritized for each institution in accordance with institutional plans confirmed by the Commission or approved by the Council.";

On page seven, subsection 4.2., by striking out all of subdivision 4.2.d.6. and inserting in lieu thereof a new subdivision 4.2.d.6., to read as follows: "Facility utilization rates will be an important factor in prioritizing capital projects across the systems.";

On page seven, subsection 4.2., by striking out all of subdivision 4.2.d.7. and inserting in lieu thereof a new subdivision 4.2.d.7., to read as follows: "Institutions with overall net asset values and capacity utilization rates that exceed or equal thresholds set annually by the Commission and Council are the presumptive priority for new facilities. If these projects do not replace an existing facility, they would be included in the Program Improvement category."; and

On pages 10-11, section 5, by striking out all of subdivision 5.6. and inserting in lieu thereof a new subdivision 5.6., to read as follows: "A governing board may not implement a campus development plan or plan update that has not been confirmed by the Commission or approved by the Council, as appropriate. The purchase of any property for the construction of a facility that is not included in the campus development plan creates an update to the campus development plan that must be confirmed by the Commission or approved by the Council, as appropriate, prior to its purchase. In the case of institutions governed by the Council, this provision applies equally to property acquired by any means, whether by purchase or otherwise.".

(ee) The legislative rule filed in the State Register on January 22, 2019, relating to the Higher Education Policy Commission (Acceptance of Advanced Placement Credit), is repealed.

(ff) The legislative rule filed in the State Register on January 22, 2019, relating to the Higher Education Policy Commission (Human Resources Administration), is repealed.

(gg) The legislative rule filed in the State Register on August 28, 2018, relating to the Higher Education Policy Commission (Guidelines for Governing Boards in Employing and Evaluating Presidents), is authorized.

(hh) The legislative rule filed in the State Register on August 7, 2018, relating to the Higher Education Policy Commission (Providing Real Opportunities for Maximizing In-state Student Excellence (PROMISE) Scholarship Program), is authorized, with the following amendments:

On page one, subsection 2.1., by striking out all of subdivision 2.1.a. and inserting in lieu thereof a new subdivision 2.1.a., to read as follows: "Must complete high school graduation requirements at a West Virginia public, private or home school unless he or she qualified as a

119 military dependent under Section 5 of this rule, or has commuted to an out-of-state school
120 pursuant to Section 6 of this rule; and";
121 On page one, subsection 2.1., by striking out all of subdivision 2.1.b. and inserting in lieu
122 thereof a new subdivision 2.1.b., to read as follows: "Must complete at least one half of the credits
123 required for high school graduation through attendance at a public, private or home school in this
124 state, unless he or she qualified as a military dependent under Section 5 of this rule, or has
125 commuted to an out-of-state school pursuant to Section 6 of this rule; and";
126 On page one, subdivision 2.1.c., by striking out the words "Section 5" and inserting in lieu
127 thereof the words "Section 4";
128 On page one, subsection 2.1., by striking out all of subdivision 2.1.d. and inserting in lieu
129 thereof a new subdivision 2.1.d., to read as follows: "Must have attained a cumulative grade point
130 average of at least 3.0 on a 4.0 scale, based on county board grading policies, in both core
131 courses and overall coursework required for graduation by the State Board of Education, while
132 enrolled in a public or private high school. If home-schooled pursuant to the exemption allowed
133 by W.Va. Code §18-8-1 as documented by the county school board system, the applicant must
134 have completed in both the 11th and 12th grades the required core and elective coursework
135 necessary to prepare students for success in postsecondary education at the associate and
136 baccalaureate levels by attaining a cumulative grade point average of at least 3.0 on a 4.0 grading
137 scale in both core courses and overall coursework as determined by the Commission; and";
138 On page one, subsection 2.1., subdivision 2.1.f., preceding the words "have resided in
139 West Virginia", by striking out the word "Must" and inserting in lieu thereof the words "The
140 applicant and his or her parent or legal guardian must" ;
141 On page one, subdivision 2.1.f., by striking out the words "Section 5" and inserting in lieu
142 thereof the words "Section 4";
143 On page one, subdivision 2.1.f., by striking out the words "Section 6" and inserting in lieu
144 thereof the words "Section 5";

On page two, subsection 2.4., by striking out the words "Section 10.7 or 10.8" and inserting in lieu thereof the words "Section 9.7 or 9.8";

On page two, subsection 2.5., by striking out the words "Section 8" and inserting in lieu thereof the words "Section 7";

On page two, subsection 2.5., by striking out the words "Section 10" and inserting in lieu thereof the words "Section 9";

On page two, by striking out all of section 3 and renumbering the remaining sections accordingly;

On page three, subsection 4.4., by striking out the words "Section 14" and inserting in lieu thereof the words "Section 13";

On page five-six, subsection 10.6., by striking out the words "Section 10.3" and inserting in lieu thereof the words "Section 9.3";

On page six, subsection 10.6., by striking out the words "Section 10.2" and inserting in lieu thereof the words "Section 9.2";

On page six, subsection 10.9.c., by striking out the words "Section 5" and inserting in lieu thereof the words "Section 4"; and

On page eight, subsection 15.1.b., by striking out the words "Section 11.1" and inserting in lieu thereof the words "Section 10.1".

(ii) The legislative rule filed in the State Register on September 30, 2019, relating to the Higher Education Policy Commission (Higher Education Accountability System) is authorized.

(jj) The legislative rule filed in the State Register on November 5, 2019, relating to the Higher Education Policy Commission (Underwood-Smith Teaching Scholars Program and Teacher Education Loan Repayment Program) is authorized.

(kk) The legislative rule filed in the State Register on October 4, 2019, relating to the Higher Education Policy Commission (Accountability System) is repealed.

170 (ll) The legislative rule filed in the State Register on July 29, 2020, relating to the Higher
171 Education Policy Commission (Mental Health Loan Repayment Program) is authorized, with the
172 following amendments:
173 On page one, subdivision 3.1.b., after the words "family therapist," by inserting the words
174 "psychiatric mental health nurse practitioner,";
175 On page two, subsection 6.1., by striking out the words "at least" and inserting in lieu
176 thereof the words "up to"; and
177 On page three, subsection 9.1., after the words "family therapists" by inserting the words
178 "psychiatric mental health nurse practitioners,".
179 (mm) The legislative rule filed in the State Register on March 11, 2021, relating to the
180 Higher Education Policy Commission (Administrative Exemption) is authorized.
181 (nn) The legislative rule filed in the State Register on May 5, 2021, relating to the Higher
182 Education Policy Commission (Research Trust Fund Program) is authorized.
183 (oo) The legislative rule filed in the State Register on May 5, 2021, relating to the Higher
184 Education Policy Commission (Annual Reauthorization of Degree-Granting Institutions) is
185 authorized.
186 (pp) The legislative rule filed in the State Register on July 29, 2022, relating to the Higher
187 Education Policy Commission (Performance-Based Funding Formula) is authorized.
188 (qq) The legislative rule filed in the State Register on June 14, 2022, relating to the Higher
189 Education Policy Commission (Capital Project Management) is authorized.
190 (rr) The legislative rule filed in the State Register on July 29, 2022, relating to the Higher
191 Education Policy Commission (Tuition and Fee Policy) is authorized.
192 (ss) The legislative rule filed in the State Register on June 14, 2022, relating to the Higher
193 Education Policy Commission (Higher Education Grant Program) is authorized.

(tt) The legislative rule filed in the State Register on July 29, 2022, relating to the Higher Education Policy Commission (Annual Reauthorization of Degree-Granting Institutions) is authorized.

(uu) The legislative rule filed in the State Register on June 14, 2022, relating to the Higher Education Policy Commission (Human Resources Administration) is authorized.

(vv) The legislative rule filed in the State Register on July 25, 2023, relating to the Higher Education Policy Commission (Guidelines for Employing and Evaluating Presidents) is authorized.

(ww) The legislative rule filed in the State Register on September 12, 2023, relating to the Higher Education Policy Commission (Higher Education Adult Part-Time Student (HEAPS) Grant Program).

(xx) The legislative rule filed in the State Register on July 26, 2023, relating to the Higher Education Policy Commission (West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program) is authorized.

(yy) The legislative rule filed in the State Register on July 28, 2023, relating to the Higher Education Policy Commission (Dual Enrollment Pilot Program) is authorized.

(zz) The legislative rule filed in the State Register on July 24, 2023, relating to the Higher Education Policy Commission (West Virginia Science, Technology, Engineering, and Math (STEM) Scholarship Program) is authorized.

(aaa) The legislative rule filed in the State Register on July 24, 2023, relating to the Higher Education Policy Commission (West Virginia Higher Education Grant Program) is authorized.

(bbb) The legislative rule filed in the State Register on July 24, 2023, relating to the Higher Education Policy Commission (Nursing Scholarship Program) is authorized.

(ccc) The legislative rule filed in the State Register on July 19, 2024, relating to the Higher Education Policy Com nission (Accountability System) is authorized.

219 (ddd) The legislative rule filed in the State Register on July 19, 2024, relating to the Higher
220 Education Policy Commission (Underwood-Smith Teaching Scholars and Teacher Education
221 Loan Repayment Program) is authorized.

§18B-17-3. Authorizing rules of the Council for Community and Technical College Education.

1 (a) The legislative rule filed in the State Register on September 29, 2004, relating to the
2 West Virginia Council for Community and Technical College Education (performance indicators),
3 is authorized.

4 (b) The legislative rule filed in the State Register on October 13, 2005, relating to the West
5 Virginia Council for Community and Technical College Education (authorization of degree-
6 granting institutions), is authorized.

7 (c) The legislative rule filed in the State Register on October 30, 2006, relating to the West
8 Virginia Council for Community and Technical College Education (Workforce Development
9 Initiative Program), is authorized.

10 (d) The legislative rule filed in the State Register on December 4, 2008, relating to the
11 West Virginia Council for Community and Technical College Education (Employing and
12 Evaluating Presidents), is authorized.

13 (e) The legislative rule filed in the State Register on December 23, 2008, relating to the
14 West Virginia Council for Community and Technical College Education (performance indicators),
15 is authorized.

16 (f) The legislative rule filed in the State Register on February 5, 2009, relating to the West
17 Virginia Council for Community and Technical College Education (finance), is authorized.

18 (g) The legislative rule filed in the State Register on February 5, 2009, relating to the West
19 Virginia Council for Community and Technical College Education (Accountability System), is
20 authorized.

(h) The legislative rule filed in the State Register on June 15, 2011, relating to the West Virginia Council for Community and Technical College Education (Workforce Development Initiative Program), is authorized.

(i) The legislative rule filed in the State Register on October 26, 2011, relating to the West Virginia Council for Community and Technical College Education (Tuition and Fees), is authorized.

(j) The legislative rule filed in the State Register on October 17, 2012, relating to the West Virginia Council for Community and Technical College Education (authorization of degree-granting institutions), is authorized.

(k) The legislative rule filed in the State Register on October 17, 2012, relating to the West Virginia Council for Community and Technical College Education (annual reauthorization of degree-granting institutions), is authorized.

(l) The legislative rule filed in the State Register on March 21, 2013, relating to the West Virginia Council for Community and Technical College Education (Human Resources Administration), is authorized.

(m) The legislative rule filed in the State Register on August 21, 2012, relating to the West Virginia Council for Community and Technical College Education (West Virginia EDGE Program), is authorized.

(n) The legislative rule filed in the State Register on January 28, 2014, relating to the West Virginia Council for Community and Technical College Education (Capital Project Management), is authorized.

(o) The legislative rule filed in the State Register on January 18, 2017, relating to the West Virginia Council for Community and Technical College Education (annual reauthorization of degree-granting institutions), is authorized.

(p) The legislative rule filed in the State Register on January 18, 2017, relating to the West Virginia Council for Community and Technical College Education (Business, Occupational, and Trade Schools), is authorized.

(q) The legislative rule filed in the State Register on January 26, 2018, relating to the West Virginia Council for Community and Technical College Education (Human Resources Administration), is authorized.

(r) The legislative rule filed in the State Register on January 26, 2018, relating to the West Virginia Council for Community and Technical College Education (Capital Project Management), is authorized, with the following amendments:

On page one, subsection 2.1., by striking out all of subdivision 2.1.d. and inserting in lieu thereof a new subdivision 2.1.d., to read as follows: "Efficient use of existing classroom and other space by institutions, while maintaining an appropriate deference to the value judgments of the institutional governing boards.";

On page seven, subsection 4.2., by striking out all of subdivision 4.2.d.5. and inserting in lieu thereof a new subdivision 4.2.d.5., to read as follows: "Funding will be prioritized for each institution in accordance with institutional plans confirmed by the Commission or approved by the Council.";

On page seven, subsection 4.2., by striking out all of subdivision 4.2.d.6. and inserting in lieu thereof a new subdivision 4.2.d.6., to read as follows: "Facility utilization rates will be an important factor in prioritizing capital projects across the systems.";

On page seven, subsection 4.2., by striking out all of subdivision 4.2.d.7. and inserting in lieu thereof a new subdivision 4.2.d.7., to read as follows: "Institutions with overall net asset values and capacity utilization rates that exceed or equal thresholds set annually by the Commission and Council are the presumptive priority for new facilities. If these projects do not replace an existing facility, they would be included in the Program Improvement category."; and

70 On pages 10-11, section 5, by striking out all of subdivision 5.6. and inserting in lieu thereof
71 a new subdivision 5.6., to read as follows: "A governing board may not implement a campus
72 development plan or plan update that has not been confirmed by the Commission or approved by
73 the Council, as appropriate. The purchase of any property for the construction of a facility that is
74 not included in the campus development plan creates an update to the campus development plan
75 that must be confirmed by the Commission or approved by the Council, as appropriate, prior to
76 its purchase. In the case of institutions governed by the Council, this provision applies equally to
77 property acquired by any means, whether by purchase or otherwise.".

78 (s) The legislative rule filed in the State Register on July 2, 2018, relating to the West
79 Virginia Council for Community and Technical College Education (Tuition and Fees), is
80 authorized.

81 (t) The legislative rule filed in the State Register on September 26, 2018, relating to the
82 West Virginia Council for Community and Technical College Education (Acceptance of Advanced
83 Placement Credit), is repealed.

84 (u) The legislative rule filed in the State Register on November 20, 2018, relating to the
85 West Virginia Council for Community and Technical College Education (initial authorization of
86 degree-granting institutions), is authorized.

87 (v) The legislative rule filed in the State Register on November 20, 2018, relating to the
88 West Virginia Council for Community and Technical College Education (Workforce Development:
89 Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response
90 Grants), is authorized.

91 (w) The legislative rule filed in the State Register on January 25, 2019, relating to the West
92 Virginia Council for Community and Technical College Education (Human Resources
93 Administration), is repealed.

(x) The legislative rule filed in the State Register on June 3, 2019, relating to the West Virginia Council for Community and Technical College Education (West Virginia Invests Grant Program) is authorized.

(y) The legislative rule filed in the State Register on April 27, 2021 (Business, Occupational, and Trade Schools) is authorized.

(z) The legislative rule filed in the State Register on April 27, 2021 (Annual Reauthorization of Degree-Granting Institutions) is authorized.

(aa) The legislative rule filed in the State Register on November 10, 2021 (West Virginia Invests Grant Program) is authorized.

(bb) The legislative rule filed in the State Register on July 22, 2022 (Performance-Based Funding Formula) is authorized.

(cc) The legislative rule filed in the State Register on June 13, 2022 (Capital Project Management) is authorized.

(dd) The legislative rule filed in the State Register on July 21, 2022 (Workforce Development Initiative Grant Programs) is authorized.

(ee) The legislative rule filed in the State Register on July 21, 2022 (Annual Reauthorization of Degree-Granting Institutions) is authorized, with the following amendment:

On page 13 by adding a new subsection designated 12.23 to read as follows: "Nothing in this rule in any way affects or limits the due process protections or other protections afforded to proprietary schools under either W. Va. Code § 18B-2B-9 or 135 C.S.R. 35, Business, Occupational, and Trade Schools.".

(ff) The legislative rule filed in the State Register on June 13, 2022 (Human Resources Administration) is authorized.

(gg) The legislative rule filed in the State Register on July 26, 2023, relating to the Council for Community and Technical College Education (Higher Education Accountability System) is authorized.

120 (hh) The legislative rule filed in the State Register on September 14, 2023, relating to the
121 Council for Community and Technical College Education (Dual Enrollment Pilot Program) is
122 authorized.

123 (ii) The legislative rule filed in the State Register on July 26, 2023, relating to the Council
124 for Community and Technical College Education (Initial Authorization of Degree-Granting
125 Institutions) is authorized.

126 (jj) The legislative rule filed in the State Register on July 26, 2023, relating to the Council
127 for Community and Technical College Education (Tuition and Fees) is authorized.

128 (kk) The legislative rule filed in the State Register on July 26, 2023, relating to the Council
129 for Community and Technical College Education (Accountability System) is repealed.

130 (ll) The legislative rule filed in the State Register on July 25, 2024, relating to the Council
131 for Community and Technical College Education (Employing and Evaluating Presidents) is
132 authorized.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

FILED
2025 APR 25 P 3: 12
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the House of Delegates.

In effect from passage.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is .....approved..... this the.....25th.....

Day of .....April....., 2025.

.....
Governor

PRESENTED TO THE GOVERNOR

APR 15 2025

Time 2:48 pm