

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **Senate Bill 10**

By Senators Phillips

[Introduced January 11, 2023; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §18B-1-3 and §18B-1-6 of the Code of West Virginia, 1931, as  
2 amended; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-2A-  
3 4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code by  
4 adding thereto a new section, designated §18B-4-5b, all relating to regulation or restriction  
5 of the carrying of a concealed pistol or revolver by a person who holds a current license to  
6 carry a concealed deadly weapon; authorizing regulation or restriction on the carrying of  
7 concealed pistols or revolvers in certain circumstances or areas of an institution of higher  
8 education; eliminating authority of the Higher Education Policy Commission, the Council  
9 for Community and Technical College Education, and the institutional boards of governors  
10 to restrict or regulate the carrying of concealed pistols or revolvers in certain  
11 circumstances or areas of an institution of higher education; and designating these  
12 amendments as the Campus Self Defense Act.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. GOVERNANCE.**

### **§18B-1-3. Transfer of powers, duties, property, obligations, etc.**

1 (a) All powers, duties and authorities transferred to the Board of Regents pursuant to  
2 former provisions of chapter 18 of this code and transferred to the Board of Trustees and Board of  
3 Directors which were created as the governing boards pursuant to the former provisions of this  
4 chapter and all powers, duties and authorities of the Board of Trustees and Board of Directors, to  
5 the extent they are in effect on June 17, 2000, are hereby transferred to the Interim Governing  
6 Board created in §18B-1C-1 *et seq.* of this code and shall be exercised and performed by the  
7 Interim Governing Board until July 1, 2001, as such powers, duties and authorities may apply to  
8 the institutions under its jurisdiction.

9 (b) Title to all property previously transferred to or vested in the Board of Trustees and the  
10 Board of Directors and property vested in either of the boards separately, formerly existing under

11 the provisions of this chapter, are hereby transferred to the Interim Governing Board created in  
12 §18B-1C- 1 *et seq.* of this code until July 1, 2001. Property transferred to or vested in the Board of  
13 Trustees and Board of Directors shall include:

14 (1) All property vested in the Board of Governors of West Virginia University and  
15 transferred to and vested in the West Virginia Board of Regents;

16 (2) All property acquired in the name of the state Board of Control or the West Virginia  
17 Board of Education and used by or for the state colleges and universities and transferred to and  
18 vested in the West Virginia Board of Regents;

19 (3) All property acquired in the name of the state Commission on Higher Education and  
20 transferred to and vested in the West Virginia Board of Regents; and

21 (4) All property acquired in the name of the Board of Regents and transferred to and vested  
22 in the respective Board of Trustees and Board of Directors.

23 (c) Each valid agreement and obligation previously transferred to or vested in the Board of  
24 Trustees and Board of Directors formerly existing under the provisions of this chapter is hereby  
25 transferred to the Interim Governing Board until July 1, 2001, as those agreements and obligations  
26 may apply to the institutions under its jurisdiction. Valid agreements and obligations transferred to  
27 the Board of Trustees and Board of Directors shall include:

28 (1) Each valid agreement and obligation of the board of Governors of West Virginia  
29 University transferred to and deemed the agreement and obligation of the West Virginia Board of  
30 Regents;

31 (2) Each valid agreement and obligation of the state Board of Education with respect to the  
32 state colleges and universities transferred to and deemed the agreement and obligation of the  
33 West Virginia Board of Regents;

34 (3) Each valid agreement and obligation of the state Commission on Higher Education  
35 transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;  
36 and

37 (4) Each valid agreement and obligation of the Board of Regents transferred to and  
38 deemed the agreement and obligation of the respective Board of Trustees and Board of Directors.

39 (d) All orders, resolutions and rules adopted or promulgated by the respective Board of  
40 Trustees and Board of Directors and in effect immediately prior to July 1, 2000, are hereby  
41 transferred to the Interim Governing Board until July 1, 2001, and shall continue in effect and ~~shall~~  
42 ~~be deemed~~ are the orders, resolutions and rules of the Interim Governing Board until rescinded,  
43 revised, altered or amended by the commission or the governing boards in the manner and to the  
44 extent authorized and permitted by law. ~~Such~~ The orders, resolutions and rules shall include:

45 (1) Those adopted or promulgated by the Board of Governors of West Virginia University  
46 and in effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or  
47 amended by the Board of Regents in the manner and to the extent authorized and permitted by  
48 law;

49 (2) Those respecting state colleges and universities adopted or promulgated by the West  
50 Virginia Board of Education and in effect immediately prior to July 1, 1969, unless and until  
51 rescinded, revised, altered or amended by the Board of Regents in the manner and to the extent  
52 authorized and permitted by law;

53 (3) Those adopted or promulgated by the state Commission on Higher Education and in  
54 effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or amended by  
55 the Board of Regents in the manner and to the extent authorized and permitted by law; and

56 (4) Those adopted or promulgated by the Board of Regents prior to July 1, 1989, unless  
57 and until rescinded, revised, altered or amended by the respective Board of Trustees or Board of  
58 Directors in the manner and to the extent authorized and permitted by law.

59 (e) Title to all real property transferred to or vested in the Interim Governing Board pursuant  
60 to this section of the code is hereby transferred to the commission effective July 1, 2001. The  
61 board of Governors for each institution may request that the commission transfer title to the board  
62 of Governors of any real property specifically identifiable with that institution or the commission

63 may initiate the transfer. Any such request must be made within two years of the effective date of  
64 this section and be accompanied by an adequate legal description of the property. In the case of  
65 real property that is specifically identifiable with Marshall University or West Virginia University, the  
66 commission shall transfer title to all real property, except real property that is used jointly by  
67 institutions or for statewide programs under the jurisdiction of the commission or the council, to the  
68 Board of Governors of Marshall University or West Virginia University, as appropriate, upon receipt  
69 of a request from the appropriate governing board accompanied by an adequate legal description  
70 of the property.

71         The title to any real property that is jointly utilized by institutions or for statewide programs  
72 under the jurisdiction of the commission or the council shall be retained by the commission.

73         (f) Ownership of or title to any other property, materials, equipment or supplies obtained or  
74 purchased by the Interim Governing Board or the previous governing boards on behalf of an  
75 institution is hereby transferred to the Board of Governors of that institution effective July 1, 2001.

76         (g) Each valid agreement and obligation previously transferred or vested in the Interim  
77 Governing Board and which was undertaken or agreed to on behalf of an institution or institutions  
78 is hereby transferred to the board of Governors of the institution or institutions for whose benefit  
79 the agreement was entered into or the obligation undertaken effective July 1, 2001.

80         (1) The obligations contained in revenue bonds issued by the previous governing boards  
81 under the provisions of §18B-10--8 and §18-12B-1 *et seq.* of this code are hereby transferred to  
82 the commission and each institution shall transfer to the commission those funds the commission  
83 determines are necessary to pay that institution's share of bonded indebtedness.

84         (2) The obligations contained in revenue bonds issued on behalf of a state institution of  
85 higher education pursuant to any other section of this code is hereby transferred to the Board of  
86 Governors of the institution on whose behalf the bonds were issued.

87         (h) All orders, resolutions, policies and rules:

88         (1) Adopted or promulgated by the respective Board of Trustees, Board of Directors or

89 Interim Governing Board and in effect immediately prior to July 1, 2001, are hereby transferred to  
90 the commission effective July 1, 2001, and continue in effect until rescinded, revised, altered,  
91 amended or transferred to the governing boards by the commission as provided in this section and  
92 in §18B-1-6 of this code.

93 (2) Adopted or promulgated by the commission relating solely to community and technical  
94 colleges or community and technical college education, or rules which the council finds necessary  
95 for the exercise of its lawful powers and duties pursuant to the provisions of this chapter, may be  
96 adopted by the council and continue in effect until rescinded, revised, altered, amended or  
97 transferred to the governing boards under the jurisdiction of the council pursuant to §18B-1-6 of  
98 this code. Nothing in this section requires the initial rules of the commission that are adopted by  
99 the council to be promulgated again under the procedure set forth in §29A-3A-1 *et seq.* of this  
100 code unless ~~such~~ the rules are rescinded, revised, altered or amended.

101 (3) Adopted or promulgated by the commission relating to multiple types of public  
102 institutions of higher education or community and technical college education as well as  
103 baccalaureate and post-baccalaureate education are transferred to the council in part as follows:

104 (A) That portion of the rule relating solely to community and technical colleges or  
105 community and technical college education is transferred to the council and continues in effect  
106 until rescinded, revised, altered, amended or transferred to the governing boards by the council as  
107 provided in this section and in §18B-1-6 of this code;

108 (B) That portion of the rule relating to institutions or education other than community and  
109 technical colleges is retained by the commission and continues in effect until rescinded, revised,  
110 altered, amended or transferred to the governing boards by the commission as provided in this  
111 section and in §18B-1-6 of this code.

112 (i) The commission may, in its sole discretion, transfer any rule, other than a legislative  
113 rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may  
114 rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the

115 commission pursuant to §18B-1-6 of this code.

116           The council may, in its sole discretion, transfer any rule, other than a legislative rule, to the  
117 jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind,  
118 revise, alter or amend any rule so transferred pursuant to rules adopted by the council pursuant to  
119 §18B-1-6 of this code.

120           (j) As to any title, agreement, obligation, order, resolution, rule or any other matter about  
121 which there is some uncertainty, misunderstanding or question, the matter shall be summarized in  
122 writing and sent to the commission which shall ~~make a determination regarding~~ determine such  
123 matter within 30 days of receipt thereof.

124           (k) Rules or provisions of law which refer to other provisions of law which were repealed,  
125 rendered inoperative or superseded by the provisions of this section shall remain in full force and  
126 effect to such extent as may still be applicable to higher education and may be so interpreted.  
127 Such references include, but are not limited to, references to sections and prior enactments of  
128 §18-26-1 *et seq.* of this code and code provisions relating to retirement, health insurance,  
129 grievance procedures, purchasing, student loans and savings plans. Any determination which  
130 needs to be made regarding applicability of any provision of law shall first be made by the  
131 commission.

132           (l) On or after July 1, 2023, nothing in this section provides the authority to restrict or  
133 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid  
134 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this  
135 code.

#### **§18B-1-6. Rulemaking.**

1           (a) The commission ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal  
2 rules, in accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This  
3 grant of rule-making authority does not limit, overrule, restrict, supplant or supersede the rule-  
4 making authority provided to the exempted schools.

5 (b) The council ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal rules in  
6 accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This grant of  
7 rule-making power extends only to those areas over which the council has been granted specific  
8 authority and jurisdiction by law.

9 (c) As it relates to the authority granted to governing boards of state institutions of higher  
10 education to promulgate, adopt, amend or repeal any rule under this code:

11 (1) "Rule" means any regulation, guideline, directive, standard, statement of policy or  
12 interpretation of general application which has institution-wide effect or which affects the rights,  
13 privileges or interests of employees, students or citizens. Any regulation, guideline, directive,  
14 standard, statement of policy or interpretation of general application that meets this definition is a  
15 rule for the purposes of this section.

16 (2) Regulations, guidelines or policies established for individual units, divisions,  
17 departments or schools of the institution, which deal solely with the internal management or  
18 responsibilities of a single unit, division, department or school or with academic curricular policies  
19 that do not constitute a mission change for the institution, are excluded from this subsection,  
20 except for the requirements relating to posting.

21 (3) The commission shall promulgate a rule to guide the development of rules made by the  
22 governing boards, including a process for comment by the commission as appropriate, except the  
23 exempted schools, who shall each promulgate their own such rules. The council shall promulgate  
24 a rule to guide the development and approval of rules made by the governing boards. The  
25 commission and council shall provide technical assistance in rulemaking as requested. The rules  
26 promulgated by the exempted schools, the commission and council shall include, but are not  
27 limited to, the following provisions which shall be included in the rule on rules adopted by each  
28 governing board of a state institution of higher education:

29 (A) A procedure to ensure that public notice is given and that the right of interested parties  
30 to have a fair and adequate opportunity to respond is protected, including providing for a thirty-day



31 public comment period prior to final adoption of a rule;

32 (B) Designation of a single location where all proposed and approved rules, guidelines and  
33 other policy statements are posted and can be accessed by the public;

34 (C) A procedure to maximize Internet access to all proposed and approved rules,  
35 guidelines and other policy statements to the extent technically and financially feasible; and

36 (D) Except for the exempted schools, a procedure for the governing board to follow in  
37 submitting its rules for review and comment by the commission and approval by the council, as  
38 appropriate:

39 (i) The governing boards shall submit rules for review and comment to the commission.

40 (ii) The commission shall return to the governing board its comments and suggestions  
41 within 15 business days of receiving the rule.

42 (iii) If a governing board receives comments or suggestions on a rule from the commission,  
43 it shall record these as part of the minute record. The rule is not effective and may not be  
44 implemented until the governing board holds a meeting and places on the meeting agenda the  
45 comments it has received from the commission.

46 (d) Nothing in this section requires that any rule reclassified or transferred by the  
47 commission or the council under this section be promulgated again under the procedures set out  
48 in §29A-3A-1 *et seq.* of this code unless the rule is amended or modified.

49 (e) The commission and council each shall file with the Legislative Oversight Commission  
50 on Education Accountability any rule it proposes to promulgate, adopt, amend or repeal under the  
51 authority of this article.

52 (f) The governing boards shall promulgate and adopt any rule which they are required to  
53 adopt by this chapter or chapter 18C of this code no later than July 1, 2011, unless a later date is  
54 specified. On and after this date:

55 (1) Any rule of a governing board which meets the definition set out in subsection (c) of this  
56 section and which has not been promulgated and adopted by formal vote of the appropriate

57 governing board is void and may not be enforced;

58 (2) Any authority granted by this code which inherently requires the governing board to  
59 promulgate and adopt a rule is void until the governing board complies with this section.

60 (g) Within 15 business days of the adoption of a rule, including repeal or amendment of an  
61 existing rule, and before the change is implemented, a governing board shall furnish a copy of  
62 each rule which it has adopted to the commission or the council, respectively, for review.

63 (h) Annually, by October 1, each governing board shall file with the commission or the  
64 council, as appropriate, a list of all rules that were in effect for that institution on July 1 of that year,  
65 including the most recent date on which each rule was considered and adopted, amended or  
66 repealed by the governing board. For all rules adopted, amended or repealed after the effective  
67 date of this section, the list shall include a statement by the chair of the governing board certifying  
68 that the governing board has complied with this section when each listed rule was promulgated  
69 and adopted.

70 (i) Any rule of the commission or council in effect at the time of the re-enactment of this  
71 section or approved by the Legislature during its 2017 Regular Session shall remain in effect and  
72 applicable to an institution of higher education under the jurisdiction of the commission or council  
73 until ~~such time as~~ an institution exercises its authority to adopt a rule pursuant to this chapter.

74 (j) On or after July 1, 2023, no rule adopted pursuant to the provisions of this section may  
75 restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current  
76 and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-  
77 5b of this code.

**ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.**

**§18B-1B-4. Powers and duties of Higher Education Policy Commission.**

1 (a) The primary responsibility of the commission is to provide shared services in a cost-  
2 effective manner upon request to the state colleges and universities, the West Virginia Council for  
3 Community and Technical College Education, and the community and technical colleges;

4 undertake certain statewide and regional initiatives as specifically designated in this chapter,  
5 including those related to the administration of grants and scholarships and including those in  
6 conjunction with the council; to review, confirm, or approve certain actions undertaken by  
7 governing boards, as delineated in this chapter; and assist in the development of policy that will  
8 achieve the goals, objectives and priorities found in §18B-1-1a and §18B-1D-1 of this code. The  
9 commission shall exercise its authority and carry out its responsibilities in a manner that is  
10 consistent and not in conflict with the powers and duties assigned by law to the West Virginia  
11 Council for Community and Technical College Education and the powers and duties assigned to  
12 the governing boards. To that end, the commission has the following powers and duties relating to  
13 the governing boards under its jurisdiction:

14 (1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this  
15 code to address major challenges facing the state, including, but not limited to, the goals,  
16 objectives, and priorities established in this chapter

17 (2) In conjunction with the council, propose emergency and legislative rules in accordance  
18 with §29A-3A-1 and §18B-1-6 of this code to establish a performance-based funding formula  
19 model the commission and council shall use, beginning in the fiscal year 2024 budget cycle, in  
20 developing their annual budget requests to ensure the fair and equitable distribution and use of  
21 public funds among the state's institutions of higher education, including the statutorily and  
22 administratively exempted schools. This funding formula model shall advance the goals of the  
23 state's post-secondary education system by emphasizing outcomes focused on student success  
24 and institutional mission achievement. The formula shall include a range of variables that shall be  
25 weighted in a manner that corresponds to each institution's mission and provides incentives for  
26 productivity improvements consistent with the goal of strengthening the state's economy and  
27 workforce by developing the most competitive and capable graduates in the nation. The rule shall,  
28 at a minimum:

29 (A) Establish a set of objective performance metrics that reflect and support the state's

30 higher education goals and priorities and the methodology by which those metrics shall be used in  
31 the allocation of state funds;

32 (B) Ensure that a portion of each institution's base appropriation is allocated based on  
33 outcomes achieved over a defined period of time;

34 (C) Incentivize post-secondary program offerings that align with the state's higher  
35 education and workforce development priorities; and

36 (D) Establish safeguards to ensure stability of the funding formula model including, but not  
37 limited to, providing for periodic reviews of and revision to the performance metrics and funding  
38 methodology in addition to accounting for inflation;

39 (3) In collaboration with the council and the governing boards:

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

47 (B) Assisting governing boards in carrying out their duty effectively to govern the individual  
48 institutions of higher education;

49 (4) Serve as a point of contact to state policymakers:

50 (A) The Governor for the public policy agenda; and

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

53 (5) Upon request, provide shared services to a state institution of higher education;

54 (6) Administer scholarship and grant programs as provided for in this code;

55 (7) Establish and implement the benchmarks and performance indicators for state colleges

56 and universities necessary to measure institutional progress in achieving state policy priorities and  
57 institutional missions pursuant to §18B-1D-7 of this code;

58 (8) Establish a formal process for recommending capital investment needs and for  
59 determining priorities for state colleges and universities for these investments for consideration by  
60 the Governor and the Legislature as part of the appropriation request process pursuant to §18B-  
61 19-1 *et seq.* of this code;

62 (9) Except the statutorily and administratively exempted schools, develop standards and  
63 evaluate governing board requests for capital project financing in accordance with §18B-19-1 *et*  
64 *seq.* of this code;

65 (10) Except the statutorily and administratively exempted schools, ensure that governing  
66 boards manage capital projects and facilities needs effectively, including review and approval of  
67 capital projects, in accordance with §18B-19-1 *et seq.* of this code;

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

74 (12) Employ a chancellor, and any interim chancellor employed shall meet all criteria  
75 required of the chancellor, pursuant to §18B-1B-5 of this code;

76 (13) Employ other staff as necessary and appropriate to carry out the duties and  
77 responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this  
78 code;

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

81 (15) Approve the total compensation package from all sources for presidents of institutions

82 under its jurisdiction, except the statutorily exempted schools, as proposed by the governing  
83 boards. The governing boards, except the governing boards of the statutorily exempted schools,  
84 must obtain approval from the commission of the total compensation package both when  
85 institutional presidents are employed initially and afterward when any change is made in the  
86 amount of the total compensation package: *Provided*, That the commission shall receive notice,  
87 but need not approve or confirm, an increase in the compensation of an institutional president that  
88 is exactly in the ratio of compensation increases allocated to all institutional employees and  
89 approved by the governing board to expressly include the president;

90 (16) Assist and facilitate the work of the institutions to implement the policy of the state to  
91 assure that parents and students have sufficient information at the earliest possible age on which  
92 to base academic decisions about what is required for students to be successful in college, other  
93 post-secondary education and careers related, as far as possible, to results from current  
94 assessment tools in use in West Virginia;

95 (17) Approve and implement a uniform standard jointly with the council to determine which  
96 students shall be placed in remedial or developmental courses. The standard shall be aligned with  
97 college admission tests and assessment tools used in West Virginia and shall be applied uniformly  
98 by the governing boards. The chancellors shall develop a clear, concise explanation of the  
99 standard which they shall communicate to the State Board of Education and the state  
100 superintendent of schools;

101 (18) Jointly with the council and in conjunction with the West Virginia Network, support  
102 systemwide technology needs through leveraged consortium purchasing, software, database and  
103 networking support, and other services including, but not limited to, the following:

104 (A) Expanding distance learning and technology networks to enhance teaching and  
105 learning, and promoting access to quality educational offerings with minimum duplication of effort;  
106 and

107 (B) Increasing the delivery of instruction to nontraditional students, providing services to

108 business and industry, and increasing the management capabilities of the higher education  
109 system.

110 (C) Notwithstanding any other provision of law or this code to the contrary, the council,  
111 commission, and governing boards are not subject to the jurisdiction of the Chief Technology  
112 Officer for any purpose;

113 (19) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to  
114 ensure that, within sound academic policy, a student may transfer and apply toward the  
115 requirements of any post-secondary credential the maximum number of credits earned at any  
116 regionally accredited in-state or out-of-state institution of higher education in a manner that  
117 minimizes the need to repeat courses or incur additional costs. This requirement applies to  
118 transfer processes for all levels of post-secondary programs delivered at community and technical  
119 colleges, baccalaureate-degree-granting institutions, and graduate-degree-granting institutions;

120 (20) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to  
121 develop a program through which a student who has gained knowledge and skills through  
122 employment, participation in education, and training at vocational schools or other education  
123 institutions, or Internet-based education programs, may demonstrate by competency-based  
124 assessment that he or she has the necessary knowledge and skills to be granted academic credit  
125 or advanced placement standing toward the requirements of an associate's degree or a bachelor's  
126 degree at a state institution of higher education;

127 (21) Seek out and attend regional, national, and international meetings and forums on  
128 education and workforce development-related topics as, in the commission's discretion, are  
129 critical for the performance of their duties as members, for the purpose of keeping abreast of  
130 education trends and policies to aid it in developing the policies for this state to meet the  
131 established education goals, objectives, and priorities pursuant to §18B-1-1a and §18B-1D-1 *et*  
132 *seq.* of this code;

133 (22) Promulgate and implement a rule for governing boards and institutions to follow when

134 considering capital projects pursuant to §18B-19-1 *et seq.* of this code, which rule shall provide for  
135 appropriate deference to the value judgments of governing boards and may not apply to the  
136 statutorily or administratively exempted schools;

137 (23) Submit to the appropriate agencies of the executive and legislative branches of state  
138 government an appropriation request that reflects recommended appropriations for the  
139 commission and the governing boards under its jurisdiction including the statutorily and  
140 administratively exempted schools. The commission shall submit as part of its appropriation  
141 request the separate recommended appropriation request it received from the council, both for the  
142 council and for the governing boards under the council's jurisdiction. The commission annually  
143 shall submit the proposed allocations based on the funding formula model required by subdivision  
144 (a)(2) of this section;

145 (24) Promulgate rules allocating reimbursement of appropriations, if made available by the  
146 Legislature, to governing boards for qualifying noncapital expenditures incurred in providing  
147 services to students with physical, learning, or severe sensory disabilities;

148 (25) Pursuant to §29A-3A-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary  
149 or expedient to fulfill the purposes of this chapter and Chapter 18C of this code;

150 (26) Determine when a joint rule among the governing boards under its jurisdiction is  
151 necessary or required by law and, in those instances, in consultation with the governing boards  
152 under its jurisdiction, promulgate the joint rule;

153 (27) Promulgate and implement a rule jointly with the council whereby course credit earned  
154 at a community and technical college transfers for program credit at any other state institution of  
155 higher education and is not limited to fulfilling a general education requirement;

156 (28) Promulgate a rule pursuant to §18B-10-1 of this code establishing tuition and fee  
157 policy for all governing boards under the jurisdiction of the commission, except the statutorily and  
158 administratively exempted schools. The rule shall include, but is not limited to, the following:

159 (A) Differences among institutional missions;



160 (B) Strategies for promoting student access;

161 (C) Consideration of charges to out-of-state students; and

162 (D) Such other policies as the commission and council consider appropriate;

163 (29) Notwithstanding any other provision of this code to the contrary sell, lease, convey, or  
164 otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-1 *et*  
165 *seq.* of this code;

166 (30) Policy analysis and research focused on issues affecting institutions of higher  
167 education generally or a geographical region thereof;

168 (31) Development and approval of institutional mission definitions except the statutorily  
169 and administratively exempted schools: *Provided*, That the commission may use funds  
170 appropriated by the Legislature for incentive funds to influence institutional behavior in ways that  
171 are consistent with public priorities, including the statutorily and administratively exempted  
172 schools;

173 (32) Academic program review and approval for governing boards under its jurisdiction,  
174 except the statutorily and administratively exempted schools. The review and approval includes  
175 use of institutional missions as a template to judge the appropriateness of both new and existing  
176 programs and the authority to implement needed changes.

177 (A) The commission's authority to review and approve academic programs for the  
178 statutorily and administratively exempted schools is limited to programs that are proposed to be  
179 offered at a new location not presently served by that institution: *Provided*, That West Virginia  
180 University and the West Virginia University Institute of Technology are subject to the commission's  
181 authority as provided in §18B-1C-2 of this code.

182 (B) In reviewing and approving academic programs, the commission shall focus on the  
183 following policy concerns:

184 (i) New programs may not be implemented which change the institutional mission, unless  
185 the institution also receives approval for expanding the institutional mission;

186 (ii) New programs which require significant additional expense investments for  
187 implementation may not be implemented unless the institution demonstrates that:

188 (I) The expenses shall be addressed by effective reallocations of existing institutional  
189 resources; or

190 (II) The expenses can be legitimately spread out over future years and shall be covered by  
191 reasonably anticipated additional net revenues from new enrollments;

192 (iii) A new undergraduate program which is significantly similar to an existing program  
193 already in the geographic service area may not be implemented unless the institution requesting  
194 the new program demonstrates a compelling need in the service area that is not being met by the  
195 existing program: *Provided*, That the academic programs of the statutorily and administratively  
196 exempted schools are not to be taken into consideration except as it relates to academic programs  
197 offered at West Virginia University in Beckley and West Virginia University Institute of Technology  
198 in Beckley.

199 (C) The commission shall approve or disapprove proposed academic degree programs in  
200 those instances where approval is required as soon as practicable. The commission shall maintain  
201 by rule a format model by which a new program approval shall be requested by an institution.  
202 When a request for approval of a new program is submitted to the commission, the chancellor  
203 shall provide notice within two weeks as to whether the submission meets the required format, and  
204 if it does not the chancellor shall identify each specific deficiency and return the request to the  
205 institution. The institution may refile the request for approval with the commission to address any  
206 identified deficiencies. Within 30 days after the chancellor's confirmation that the request meets  
207 the required format, the commission shall either approve or disapprove the request for the new  
208 program. The commission may not withhold approval unreasonably.

209 (33) Distribution of funds appropriated to the commission, including incentive and  
210 performance-based funds;

211 (34) Administration of state and federal student aid programs under the supervision of the

212 vice chancellor for administration, including promulgation of rules necessary to administer those  
213 programs;

214 (35) Serving as the agent to receive and disburse public funds when a governmental entity  
215 requires designation of a statewide higher education agency for this purpose;

216 (36) Developing and distributing information, assessment, accountability and personnel  
217 systems for state colleges and universities, including maintaining statewide data systems that  
218 facilitate long-term planning and accurate measurement of strategic outcomes and performance  
219 indicators;

220 (37) Jointly with the council, promulgating and implementing rules for licensing and  
221 oversight for both public and private degree-granting and nondegree-granting institutions that  
222 provide post-secondary education courses or programs in the state. The council has authority and  
223 responsibility for approval of all post-secondary courses or programs providing community and  
224 technical college education as defined in §18B-1-2 of this code;

225 (38) Developing, facilitating, and overseeing statewide and regional projects and initiatives  
226 related to providing post-secondary education at the baccalaureate level and above such as those  
227 using funds from federal categorical programs or those using incentive and performance-based  
228 funds from any source;

229 (39) (A) For all governing boards under its jurisdiction, except for the statutorily exempted  
230 schools, the commission shall review institutional operating budgets, review, and approve capital  
231 budgets, and distribute incentive and performance-based funds.

232 (B) For the governing boards of the statutorily exempted schools, the commission shall  
233 distribute incentive and performance-based funds and may review and comment upon the  
234 institutional operating budgets and capital budgets. The commission's comments, if any, shall be  
235 made part of the governing board's minute record and shall be filed with the Legislative Oversight  
236 Commission on Education Accountability;

237 (40) May provide information, research, and recommendations to state colleges and

238 universities relating to programs and vocations with employment rates greater than 90 percent  
 239 within six months post-graduation; and

240 (41) May provide information, research, and recommendations to state colleges and  
 241 universities on coordinating with the West Virginia State Board of Education about complimentary  
 242 programs.

243 (b) In addition to the powers and duties provided in this ~~section~~ this subsection and  
 244 subsection (a) and any other powers and duties assigned to it by law, the commission has other  
 245 powers and duties necessary or expedient to accomplish the purposes of this chapter and Chapter  
 246 18C of this code: *Provided*, That the provisions of this subsection may do ~~not be construed to shift~~  
 247 management authority from the governing boards to the commission.

248 (c) The commission may withdraw specific powers of a governing board under its  
 249 jurisdiction for a period not to exceed two years, if the commission determines that either of the  
 250 following conditions exist:

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

254 (2) Other circumstances which, in the view of the commission, severely limit the capacity of  
 255 the governing board to exercise its powers or carry out its duties and responsibilities.

256 The commission may not withdraw specific powers for a period exceeding two years.  
 257 During the withdrawal period, the commission shall take all steps necessary to reestablish sound,  
 258 stable and responsible institutional governance.

259 (d) On or after July 1, 2023, nothing in this section authorizes the commission to restrict or  
 260 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid  
 261 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this  
 262 code.

**ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.**

**§18B-2A-4. Powers and duties of governing boards generally.**

1 Each governing board separately has the following powers and duties:

2 (a) Determine, control, supervise and manage the financial, business and education  
3 policies and affairs of the state institution of higher education under its jurisdiction;

4 (b) Develop a master plan for the institution under its jurisdiction.

5 (1) The ultimate responsibility for developing and updating each master plan at the  
6 institution resides with the governing board, but the ultimate responsibility for approving the final  
7 version of each master plan, including periodic updates, resides with the commission or council,  
8 as appropriate: *Provided*, That commission approval is not required for master plans of exempted  
9 schools.

10 (2) Each master plan shall include, but is not limited to, the following:

11 (A) A detailed demonstration of how the master plan will be used to meet the goals,  
12 objectives and priorities of the compact;

13 (B) A well-developed set of goals, objectives and priorities outlining missions, degree  
14 offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and  
15 other planning determinates and projections necessary in a plan to assure that the needs of the  
16 institution's area of responsibility for a quality system of higher education are addressed;

17 (C) Documentation showing how the governing board involved the commission or council,  
18 as appropriate, constituency groups, clientele of the institution and the general public in the  
19 development of all segments of the master plan.

20 (3) The plan shall be established for periods of not fewer than three nor more than five  
21 years and shall be revised periodically as necessary, including adding or deleting programs. The  
22 commission may review and comment upon the master plan of an exempted school. The  
23 commission may review, but may not approve or disapprove, additions or deletions of degree  
24 programs, except as expressly provided for in §18B-1B-4(a)(39) of this code.

25 (4) For the exempted schools, the master plan shall be updated at least bi-annually and

26 include the steps taken to meet the legislatively established policies contained in §18B-1D-1 *et*  
27 *seq.* of this code and reports on each of the data elements identified in §18B-1D-1 *et seq.* of this  
28 code, including progress that the exempted schools are making relating to retention and  
29 graduation rates for resident students by organization and each college within the organization.  
30 The exempted schools shall provide copies of their respective master plan to the Legislative  
31 Oversight Commission on Education Accountability and the commission.

32 (c) Develop a 10-year campus development plan in accordance with §18B-19-1 *et seq.* of  
33 this code;

34 (d) Prescribe for the institution, under its jurisdiction, in accordance with its master plan and  
35 compact, specific functions and responsibilities to achieve the goals, objectives and priorities  
36 established in §18B-1-1 *et seq.* and §18B-1D-1 *et seq.* of this code to meet the higher education  
37 needs of its area of responsibility and to avoid unnecessary duplication;

38 (e) Direct the preparation of an appropriation request for the institution under its  
39 jurisdiction, which relates directly to missions, goals and projections found in the master plan and  
40 the compact;

41 (f) Consider, revise and submit for review and approval to the commission or council, as  
42 appropriate, an appropriation request on behalf of the institution under its jurisdiction, including the  
43 exempted schools;

44 (g) Review, at least every five years, all academic programs offered at the institution under  
45 its jurisdiction. The review shall address the viability, adequacy and necessity of the programs in  
46 relation to established state goals, objectives and priorities, the master plan, the compact and the  
47 education and workforce needs of its responsibility district. As a part of the review, each governing  
48 board shall require the institution under its jurisdiction to conduct periodic studies of its graduates  
49 and their employers to determine placement patterns and the effectiveness of the education  
50 experience. Where appropriate, these studies should coincide with the studies required of many  
51 academic disciplines by their accrediting bodies;

52 (h) Ensure that the sequence and availability of academic programs and courses offered  
53 by the institution under its jurisdiction is such that students have the maximum opportunity to  
54 complete programs in the time frame normally associated with program completion. Each  
55 governing board is responsible to see that the needs of nontraditional college-age students are  
56 appropriately addressed and, to the extent it is possible for the individual governing board to  
57 control, to assure core course work completed at the institution is transferable to any other state  
58 institution of higher education for credit with the grade earned;

59 (i) Subject to §18B-1B-1 *et seq.* of this code, approve the teacher education programs  
60 offered in the institution under its control. In order to permit graduates of teacher education  
61 programs to receive a degree from a nationally accredited program and in order to prevent  
62 expensive duplication of program accreditation, the commission may select and use one  
63 nationally recognized teacher education program accreditation standard as the appropriate  
64 standard for program evaluation;

65 (j) Involve faculty, students and classified employees in institution-level planning and  
66 decision making when those groups are affected;

67 (k) Subject to federal law and pursuant to §18B-7-1 *et seq.*, §18B-8-1 *et seq.*, §18B-9-1 *et*  
68 *seq.*, and §18B-9A1 *et seq.* of this code and to rules adopted by the commission and the council,  
69 administer a system for the management of personnel matters, including, but not limited to,  
70 discipline for employees at the institution under its jurisdiction: *Provided*, That any rules adopted  
71 by the commission and the council do not apply to exempted schools;

72 (l) Administer a system for hearing employee grievances and appeals. Notwithstanding  
73 any other provision of this code to the contrary, the procedure established in §6C-2-1 *et seq.* of this  
74 code is the exclusive mechanism for hearing prospective employee grievances and appeals;

75 (m) Solicit and use or expend voluntary support, including financial contributions and  
76 support services, for the institution under its jurisdiction;

77 (n) Appoint a president for the institution under its jurisdiction, subject to §18B-1B-6 of this

78 code;

79 (o) Conduct written performance evaluations of the president, pursuant to §18B-1B-6 of  
80 this code;

81 (p) Employ all faculty and staff at the institution under its jurisdiction. The employees  
82 operate under the supervision of the president, but are employees of the governing board;

83 (q) Submit to the commission or council, as appropriate, any data or reports requested by  
84 the commission or council within the time frame set by the commission or council;

85 (r) Enter into contracts or consortium agreements with the public schools, private schools  
86 or private industry to provide technical, vocational, college preparatory, remedial and customized  
87 training courses at locations either on campuses of the state institutions of higher education or at  
88 off-campus locations in the institution's responsibility district. To accomplish this goal, the boards  
89 may share resources among the various groups in the community;

90 (s) Provide and transfer funds and property to certain corporations pursuant to §18B-12-10  
91 of this code;

92 (t) Delegate, with prescribed standards and limitations, the part of its power and control  
93 over the business affairs of the institution to the president in any case where it considers the  
94 delegation necessary and prudent in order to enable the institution to function in a proper and  
95 expeditious manner and to meet the requirements of its master plan and compact. If a governing  
96 board elects to delegate any of its power and control under this subsection, it shall enter the  
97 delegation in the minutes of the meeting when the decision was made and shall notify the  
98 commission or council, as appropriate. Any delegation of power and control may be rescinded by  
99 the appropriate governing board, the commission or council, as appropriate, at any time, in whole  
100 or in part, except that the commission may not revoke delegations of authority made by the  
101 governing board of the exempted schools.

102 (u) Unless changed by the commission or the council, as appropriate, continue to abide by  
103 existing rules setting forth standards for accepting advanced placement credit for the institution



104 under its jurisdiction. Individual departments at a state institution of higher education, with  
105 approval of the faculty senate, may require higher scores on the advanced placement test than  
106 scores designated by the governing board when the credit is to be used toward meeting a  
107 requirement of the core curriculum for a major in that department;

108 (v) Consult, cooperate and coordinate with the State Treasurer and the State Auditor to  
109 update as necessary and maintain an efficient and cost-effective system for the financial  
110 management and expenditure of appropriated and nonappropriated revenue at the institution  
111 under its jurisdiction. The system shall ensure that properly submitted requests for payment are  
112 paid on or before the due date but, in any event, within 15 days of receipt in the State Auditor's  
113 Office;

114 (w) In consultation with the appropriate chancellor and the Secretary of the Department of  
115 Administration, develop, update as necessary and maintain a plan to administer a consistent  
116 method of conducting personnel transactions, including, but not limited to, hiring, dismissal,  
117 promotions, changes in salary or compensation and transfers at the institution under its  
118 jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized  
119 system or forms, as appropriate, which shall be submitted to the respective governing board and  
120 the Department of Administration:

121 (1) Not later than July 1, 2012, the Department of Administration shall make available to  
122 each governing board the option of using a standardized electronic system for these personnel  
123 transactions.

124 (2) The Secretary of the Department of Administration may suspend a governing board's  
125 participation in the standardized electronic system if he or she certifies to the Governor that the  
126 governing board has failed repeatedly and substantially to comply with the department's policies  
127 for administering the electronic system;

128 (x) Notwithstanding any other provision of this code to the contrary, transfer funds from any  
129 account specifically appropriated for its use to any corresponding line item in a general revenue

130 account at any agency or institution under its jurisdiction as long as the transferred funds are used  
131 for the purposes appropriated;

132 (y) Transfer funds from appropriated special revenue accounts for capital improvements  
133 under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction as  
134 long as the transferred funds are used for the purposes appropriated in accordance with §18B-19-  
135 1 *et seq.* of this code;

136 (z) Notwithstanding any other provision of this code to the contrary, acquire legal services  
137 that are necessary, including representation of the governing board, its institution, employees and  
138 officers before any court or administrative body. The counsel may be employed either on a salaried  
139 basis or on a reasonable fee basis. In addition, the governing board may, but is not required to, call  
140 upon the Attorney General for legal assistance and representation as provided by law; and

141 (aa) Contract and pay for disability insurance for a class or classes of employees at a state  
142 institution of higher education under its jurisdiction.

143 (bb) A governing board under the jurisdiction of the commission may contract and pay for  
144 any supplemental employee benefit, at the governing board’s discretion: *Provided*, That if such  
145 supplemental benefit program incurs institutional expense, then the board may not delegate the  
146 approval of such supplemental employee benefit program.

147 (cc) On or after July 1, 2023, nothing in this section authorizes a governing board to restrict  
148 or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid  
149 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this  
150 code.

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

**§18B-2B-6. Powers and duties of the council.**

1 (a) The council is the sole agency responsible for administration of vocational-technical-

2 occupational education and community and technical college education in the state. The council  
3 has jurisdiction and authority over the community and technical colleges and the statewide  
4 network of independently accredited community and technical colleges as a whole, including  
5 community and technical college education programs as defined in §18B-1-2 of this code.

6 (b) The council shall propose rules pursuant to §18B-1-6 of this code and §29A-3A-1 *et*  
7 *seq.* of this code to implement the provisions of this section and applicable provisions of §18B-1D-  
8 1 *et seq.* of this code;

9 (1) To implement the provisions of §18B-1D-1 *et seq.* of this code relevant to community  
10 and technical colleges, the council may propose rules jointly with the commission, or separately,  
11 and may choose to address all components of the accountability system in a single rule or may  
12 propose additional rules to cover specific components;

13 (2) The rules pertaining to financing policy and benchmarks and indicators required by this  
14 section shall be filed with the Legislative Oversight Commission on Education Accountability by  
15 October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated  
16 again under the procedure set forth in §29A-3A-1 *et seq.* of this code unless such rules are  
17 rescinded, revised, altered or amended; and

18 (3) The Legislature finds that an emergency exists and, therefore, the council shall propose  
19 an emergency rule or rules to implement the provisions of this section relating to the financing  
20 policy and benchmarks and indicators in accordance with §18B-1-6 and §29A-3A-1 *et seq.* of this  
21 code by October 1, 2008. The emergency rule or rules may not be implemented without prior  
22 approval of the Legislative Oversight Commission on Education Accountability.

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

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

28 (A) Achieving the goals and objectives established in §18B-1-1 *et seq.* and §18B-1D-1 *et*  
29 *seq.* of this code;

30 (B) Addressing the goals and objectives contained in the institutional compacts created  
31 pursuant to §18B-1D-7 of this code; and

32 (C) Developing and implementing the master plan described in §18B-1D-5 of this code;

33 (2) Propose a legislative rule pursuant to subsection (b) of this section and §29A-3A-1 *et*  
34 *seq.* of this code to develop and implement a financing policy for community and technical college  
35 education in West Virginia. The rule shall meet the following criteria:

36 (A) Provide an adequate level of education and general funding for institutions pursuant to  
37 §18B-1A-5 of this code;

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

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

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

44 (i) Achieving the objectives and priorities established in §18B-1D-1 *et seq.* of this code;

45 (ii) Serving targeted populations, especially working age adults 25 years of age and over;

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

48 (iv) Increasing the percentage of functionally literate adults in every region of the state; and

49 (v) Providing high-quality community and technical college education services to residents  
50 of every region of the state.

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

53 (A) Developing, building public consensus around and sustaining attention to a long-range

54 public policy agenda. In developing the agenda, the council shall seek input from the Legislature  
55 and the Governor and specifically from the State Board of Education and local school districts in  
56 order to create the necessary linkages to assure smooth, effective and seamless movement of  
57 students through the public education and post-secondary education systems and to ensure that  
58 the needs of public school courses and programs can be fulfilled by the graduates produced and  
59 the programs offered;

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

62 (C) Holding each community and technical college and the statewide network of  
63 independently accredited community and technical colleges as a whole accountable for  
64 accomplishing their missions and achieving the goals and objectives established in §18B-1-1 *et*  
65 *seq.*, §18B-1D-1 *et seq.*, and §18B-3C-1 *et seq.* of this code;

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

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

72 (6) Review and adopt annually all institutional compacts for the community and technical  
73 colleges pursuant to the provisions of §18B-1D-7 of this code;

74 (7) Fulfill the mandates of the accountability system established in §18B-1D-1 *et seq.* of  
75 this code and report on progress in meeting established goals, objectives, and priorities to the  
76 elected leadership of the state;

77 (8) Propose a legislative rule pursuant to subsection (b) of this section and §29A-3A-1 *et*  
78 *seq.* of this code to establish benchmarks and indicators in accordance with the provisions of this  
79 subsection;

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

82 (A) In meeting state goals, objectives, and priorities established in §18B-1-1 *et seq.* and  
83 §18B-1D-1 *et seq.* of this code;

84 (B) In carrying out institutional missions; and

85 (C) In meeting the essential conditions established in §18B-3C-1 *et seq.* of this code;

86 (10) Establish a formal process for identifying needs for capital investments and for  
87 determining priorities for these investments for consideration by the Governor and the Legislature  
88 as part of the appropriation request process. Notwithstanding the language in §18B-1B-4(a)(11) of  
89 this code, the commission is not a part of the process for identifying needs for capital investments  
90 for the statewide network of independently accredited community and technical colleges;

91 (11) Draw upon the expertise available within the Governor's Workforce Investment Office  
92 and the West Virginia Development Office as a resource in the area of workforce development and  
93 training;

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

100 (13) Employ a chancellor for community and technical college education pursuant to §18B-  
101 2B-3 of this code;

102 (14) Employ other staff as necessary and appropriate to carry out the duties and  
103 responsibilities of the council consistent with the provisions of §18B-4-2 of this code;

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

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

110 (17) Approve the total compensation package from all sources for presidents of community  
111 and technical colleges, as proposed by the governing boards. The governing boards must obtain  
112 approval from the council of the total compensation package both when presidents are employed  
113 initially and subsequently when any change is made in the amount of the total compensation  
114 package;

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

119 (19) Establish and implement policies and programs, jointly with the community and  
120 technical colleges, through which students who have gained knowledge and skills through  
121 employment, participation in education and training at vocational schools or other education  
122 institutions, or Internet-based education programs, may demonstrate by competency-based  
123 assessment that they have the necessary knowledge and skills to be granted academic credit or  
124 advanced placement standing toward the requirements of an associate degree or a bachelor's  
125 degree at a state institution of higher education;

126 (20) Seek out and attend regional and national meetings and forums on education and  
127 workforce development-related topics, as council members consider critical for the performance of  
128 their duties. The council shall keep abreast of national and regional community and technical  
129 college education trends and policies to aid members in developing the policies for this state that  
130 meet the education goals and objectives established in §18B-1-1 *et seq.* and §18B-1D-1 *et seq.* of  
131 this code;

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

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

138 (23) Assume the prior authority of the commission in examining and approving tuition and  
139 fee increase proposals submitted by community and technical college governing boards as  
140 provided in §18B-10-1 of this code;

141 (24) Develop and submit to the commission, a single budget for community and technical  
142 college education that reflects recommended appropriations for community and technical colleges  
143 and that meets the following conditions:

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

147 (B) Considers the progress of each institution toward meeting the essential conditions set  
148 forth in §18B-3C-3 of this code, including independent accreditation; and

149 (C) Considers the progress of each institution toward meeting the goals, objectives, and  
150 priorities established in §18B-1D-1 *et seq.* of this code and its approved institutional compact.

151 (25) Administer and distribute the independently accredited community and technical  
152 college development account;

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

155 (27) Foster coordination among all state-level, regional and local entities providing post-  
156 secondary vocational education or workforce development and coordinate all public institutions  
157 and entities that have a community and technical college mission;



158 (28) Assume the principal responsibility for oversight of those community and technical  
159 colleges seeking independent accreditation and for holding governing boards accountable for  
160 meeting the essential conditions pursuant to §18B-3C-1 *et seq.* of this code;

161 (29) Advise and consent in the appointment of the presidents of the community and  
162 technical colleges pursuant to §18B-1B-6 of this code. The role of the council in approving a  
163 president is to assure through personal interview that the person selected understands and is  
164 committed to achieving the goals and objectives established in the institutional compact and in  
165 §18B-1-1 *et seq.* §18B-1D-1 *et seq.* and §18B-3C-1 *et seq.* of this code;

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

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

170 (A) Defining faculty roles and personnel policies;

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

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

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

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

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

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

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

184 (36) Cooperate with all providers of education services in the state to remove barriers  
185 relating to a seamless system of public and higher education and to transfer and articulate  
186 between and among community and technical colleges, state colleges and universities and public  
187 education, preschool through grade 12;

188 (37) Encourage the most efficient use of available resources;

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

193 (39) Jointly with the commission, approve and implement a uniform standard, as  
194 developed by the chancellors, to determine which students shall be placed in remedial or  
195 developmental courses. The standard shall be aligned with college admission tests and  
196 assessment tools used in West Virginia and shall be applied uniformly by the governing boards  
197 throughout the public higher education system. The chancellors shall develop a clear, concise  
198 explanation of the standard which the governing boards shall communicate to the State Board of  
199 Education and the State Superintendent of Schools;

200 (40) Develop and implement strategies and curriculum for providing developmental  
201 education which shall be applied by any state institution of higher education providing  
202 developmental education;

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

206 (42) Review and approve all institutional master plans for the community and technical  
207 colleges pursuant to §18B-2A-4 of this code;

208 (43) Propose rules for promulgation pursuant to subsection (b) of this section and §29A-  
209 3A-1 *et seq.* of this code that are necessary or expedient for the effective and efficient performance

210 of community and technical colleges in the state;

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

215 (45) Develop for inclusion in the higher education report card, as defined in §18B-1D-8 of  
216 this code, a separate section on community and technical colleges. This section shall include, but  
217 is not limited to, evaluation of the institutions based upon the benchmarks and indicators  
218 developed in subdivision (9) of this subsection;

219 (46) Facilitate continuation of the Advantage Valley Community College Network under the  
220 leadership and direction of Marshall Community and Technical College;

221 (47) Initiate and facilitate creation of other regional networks of affiliated community and  
222 technical colleges that the council finds to be appropriate and in the best interests of the citizens to  
223 be served;

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

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

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

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

235 In distributing funds the council shall use the following guidelines:

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

238 (B) The percentage split between the State Board of Education and the council shall be  
239 determined by rule promulgated by the council under the provisions of §29A-3A-1 *et seq.* of this  
240 code. The council shall first obtain the approval of the State Board of Education before proposing a  
241 rule;

242 (50) Collaborate, cooperate and interact with all secondary and post-secondary  
243 vocational-technical-occupational and adult basic education programs in the state, including the  
244 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of  
245 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of  
246 seamless curriculum and the elimination of duplicative programs;

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

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

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

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

260 (55) Promote equal access to quality vocational-technical-occupational education, adult  
261 basic education and community and technical college education programs to handicapped and

262 disadvantaged individuals, adults in need of training and retraining, single parents, homemakers,  
263 participants in programs designed to eliminate sexual bias and stereotyping and criminal offenders  
264 serving in correctional institutions;

265 (56) Meet annually between the months of October and December with the Advisory  
266 Committee of Community and Technical College Presidents created pursuant to §18B-2B-8 of this  
267 code to discuss those matters relating to community and technical college education in which  
268 advisory committee members or the council may have an interest;

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

271 (58) Assume the powers set out in §18B-2B-9 of this code. The rules previously  
272 promulgated by the State College System Board of Directors pursuant to that section and  
273 transferred to the commission are hereby transferred to the council and shall continue in effect  
274 until rescinded, revised, altered or amended by the council;

275 (59) Pursuant to the provisions of subsection (b) of this section and §29A-3A-1 *et seq.* of  
276 this code, promulgate a uniform joint legislative rule with the commission for the purpose of  
277 standardizing, as much as possible, the administration of personnel matters among the institutions  
278 of higher education;

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

282 (61) Promulgate a joint rule with the commission establishing tuition and fee policy for all  
283 institutions of higher education. The rule shall include, but is not limited to, the following:

284 (A) Comparisons with peer institutions;

285 (B) Differences among institutional missions;

286 (C) Strategies for promoting student access;

287 (D) Consideration of charges to out-of-state students; and

288 (E) Any other policies the commission and council consider appropriate;

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

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

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

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

303 (2) Policy analysis and research focused on issues affecting the community and technical  
304 college network as a whole or a geographical region thereof;

305 (3) Development and implementation of each community and technical college mission  
306 definition including use of incentive and performance funds to influence institutional behavior in  
307 ways that are consistent with achieving established state goals, objectives, and priorities;

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

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

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

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

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

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

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

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

334 (1) The governing board has failed for two consecutive years to develop an institutional  
335 compact as required in §18B-1D-7 of this code;

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

339 (3) Other circumstances which, in the view of the council, severely limit the capacity of the

340 Board of Governors to carry out its duties and responsibilities.

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

344 (f) In addition to the powers and duties provided for in subsections (a), (b), (c) and (d) of this  
345 section and any others assigned to it by law, the council has those powers and duties necessary or  
346 expedient to accomplish the purposes of this article; and

347 (g) When the council and commission, each, is required to consent, cooperate, collaborate  
348 or provide input into the actions of the other the following conditions apply:

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

351 (2) The commission or the council, as the receiving body, shall place the proposal on its  
352 agenda and shall take final action within 60 days of the date when the request for concurrence is  
353 received; and

354 (3) If the receiving body fails to take final action within 60 days, the original proposal stands  
355 and is binding on both the commission and the council.

356 (h) On or after July 1, 2023, nothing in this section provides the authority to restrict or  
357 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid  
358 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this  
359 code.

**ARTICLE 4. GENERAL ADMINISTRATION.**

**§18B-4-5b. Concealed carry on higher education campuses; exceptions.**

1 (a) A person who holds a current and valid license to carry a concealed deadly weapon is  
2 permitted to carry a concealed pistol or revolver on the campus and in the buildings of a state  
3 institution of higher education. This subsection only applies to areas of the campus and buildings  
4 of a state institution of higher education under the custodial possession of the state institution of



5 higher education and does not include areas rented, leased, or under an exclusive agreement for  
6 the full-time occupancy and use of a private entity.

7 (b) The provisions of subsection (a) of this section does not limit the authority of a state  
8 institution of higher education to regulate possession of concealed pistols or revolvers by a person  
9 who holds a current and valid license to carry a concealed deadly weapon in the following  
10 locations consistent with §61-7-14 of this code:

11 (1) At an organized event taking place at a stadium or arena with a capacity of more than  
12 1,000 spectators;

13 (2) At a daycare facility located on the property of the state institution of higher education;

14 (3) In the secure area of any building used by a law-enforcement agency on the property of  
15 the state institution for higher education;

16 (4) In an area of the property of the state institution of higher education that has adequate  
17 security measures in place to ensure that pistols or revolvers are not carried by the public into the  
18 area. "Adequate security measures" means the use of electronic equipment and armed personnel  
19 at public entrances to detect and restrict the carrying of any pistols or revolvers into the area,  
20 including, but not limited to, metal detectors, metal detector wands or any other equipment used  
21 for similar purposes to ensure that pistols or revolvers are not carried in those areas by members  
22 of the public;

23 (5) At the specific location of a formal disciplinary or grievance hearing for a student or an  
24 employee of a state institution of higher education taking place on the campus and in the buildings  
25 of the state institution of higher education;

26 (6) In sole occupancy offices on the campus and in the buildings of the state institution of  
27 higher education. "Sole occupancy office" means a room with at least one door and walls that  
28 extend to the ceiling that is assigned to a single person as his or her workspace. This subdivision  
29 does not provide authority to a state institution of higher education to prohibit, regulate, or restrict  
30 faculty or staff who holds a current and valid license to carry a concealed deadly weapon from

31 carrying a concealed pistol or revolver in their assigned office;

32 (7) At a primary or secondary education school-sponsored function that is taking place in a  
33 specific area on the property of the state institution of higher education that is rented, leased, or  
34 under the exclusive use of the West Virginia Department of Education, the West Virginia  
35 Secondary Schools Activities Commission, a county school board, or local public school for the  
36 actual period of time the function is occurring;

37 (8) At a private function that is taking place in a specific area on the property of the state  
38 institution of higher education that is rented, leased, or under the exclusive use of an entity that is  
39 not affiliated with the state institution of higher education for the actual period of time the function is  
40 occurring;

41 (9) In an area on the property of the state institution of higher education where possession  
42 of a firearm is prohibited by state or federal law;

43 (10) In specifically designated areas in which patient-care or mental health counseling is  
44 being provided;

45 (11) In high hazardous and animal laboratories, defined as laboratories with:

46 (A) Greater than 55 gallons of Class I flammable liquids and/or significant quantities of  
47 acids, bases, organics, pyrophorics, peroxides, bio-hazardous materials, extremely toxic  
48 materials or pyrophoric or toxic gases classified NFPA 704 Category 3 or higher;

49 (B) Hazardous gases with K-size or larger cylinders containing corrosive, reactive,  
50 flammable, toxic, and/or oxidizer gases classified NFPA 704 Category 2 or higher;

51 (C) MRI and/or NMR equipment capable of generating significant magnetic fields with field  
52 strength of at least 5 gauss is measured outside the equipment or 5 gauss line typically at least 3  
53 feet and as much as 20 feet from equipment;

54 (D) Large cylinders of acetylene; or,

55 (E) Animal research laboratory spaces in locations not accessible to the public or generally  
56 accessible to students and staff, or

57 (12) In on-campus residence halls, except common areas such as lounges, dining areas,  
58 and study areas.

59 (c) Employees whose employment responsibilities require them to be in an on-campus  
60 residence hall and hold a current and valid license to carry a concealed deadly weapon are  
61 permitted to carry a concealed revolver or pistol on or about their person while present in on-  
62 campus residence halls for business purposes.

63 (d) Institutions of higher education shall provide either: (1) a secure location for the storage  
64 of a pistol or revolver in at least one of the institution's on-campus residence halls; or (2) make  
65 available an appropriate safe that may be installed in a resident's room in any of the institution's  
66 on-campus residence halls. If an institution chooses to make a storage room available to on-  
67 campus residents at an on-campus residence hall, the institution shall develop a policy that  
68 reserves an appropriate amount of rooms in the on-campus residence hall where the storage room  
69 is located for on-campus residents with a current and valid license to carry a concealed deadly  
70 weapon and who intend to use such storage. The institution shall make the storage room available  
71 during all times during which the on-campus residence hall is open and fully operational for use by  
72 its residents. If West Virginia University chooses to provide secure locations instead of making  
73 safes available to students, it shall provide a secure location in at least two on-campus residence  
74 halls at its Morgantown campus and one at each of its Beckley and Keyser campuses.

75 (e) An institution of higher education may charge a reasonable fee for the use of secure  
76 storage or a safe.

77 (f) The provisions of subsection (a) of this section do not limit the authority of a state  
78 institution of higher education from taking disciplinary action against a student or employee with a  
79 valid license to carry a concealed deadly weapon who is convicted of a violation of §61-7-14 of this  
80 code related to carrying a firearm in a location listed in subsection (b) of this section.

81 (g) Notwithstanding any provision of subsection (a) of this section to the contrary, while on  
82 the campus or in the buildings of a state institution of higher education, a holder of a license to

83 carry a concealed deadly weapon may not carry a pistol or revolver which is partially or wholly  
84 visible and intentionally or knowingly display the firearm in plain view of another person in a way or  
85 manner to cause, or threaten, a breach of the peace regardless of whether the firearm is holstered  
86 or on or about the license holder's person. A holder of a license to carry a concealed deadly  
87 weapon who violates this subsection may be, in addition to any applicable criminal charges,  
88 subject to administrative punishment which the state institution of higher education considers  
89 appropriate.

90 (h) It is the intent of the Legislature to establish, by this Act, conditions under which  
91 persons with a current and valid license to carry a concealed deadly weapon may carry a  
92 concealed pistol or revolver at a state institution of higher education at the discretion of the person  
93 who holds a current and valid license to carry a concealed deadly weapon. When a person  
94 exercises the rights granted by this section, neither the carrying of a concealed pistol or revolver  
95 nor any other conduct of such person involving a concealed pistol or revolver shall be construed to  
96 be an act of the state institution of higher education nor of the state, and no liability for any such  
97 actions of such person shall be imputed to the institution of higher education, unless the state  
98 institution of higher education has expressly requested or directed such person to carry a  
99 concealed pistol or revolver.

100 (i) For the purposes of this section, a "license to carry a concealed deadly weapon" refers  
101 to a current and valid license, lawfully issued by the State of West Virginia pursuant to §61-7-4 or  
102 §61-7-4a of this code or a current and valid license or permit recognized under §61-7-6a of this  
103 code.

104 (j) This act may be cited as "The Campus Self Defense Act".

105 (k) The provisions of this section apply on or after July 1, 2023.