

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 522**

4 (By Senators Kessler (Mr. President), Unger, Beach, Jenkins,
5 Yost, Klempa, Browning, D. Facemire, Plymale and Williams)

6 _____
7 [Originating in the Committee on Education;
8 reported February 22, 2012.]
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10
11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new article, designated §18B-11C-1, §18B-11C-
13 2 and §18B-11C-3; and to amend said code by adding thereto a
14 new article, designated §18B-11D-1, §18B-11D-2, §18B-11D-3,
15 §18B-11D-4, §18B-11D-5 and §18B-11D-6, all relating to higher
16 education centers and institutes generally; setting forth
17 legislative findings and intent; providing definitions;
18 establishing criteria for center creation and approval;
19 requiring certain rules; creating the Shale Research,
20 Education, Policy and Economic Development Center at West
21 Virginia University; setting forth legislative findings and
22 purposes; and providing certain powers and duties of West
23 Virginia University Board of Governors, the center and the
24 center director.

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

26 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §18B-11C-1, §18B-11C-2
2 and §18B-11C-3; and that said code be amended by adding thereto a
3 new article, designated §18B-11D-1, §18B-11D-2, §18B-11D-3,
4 §18B-11D-4, §18B-11D-5 and §18B-11D-6, all to read as follows:

5 **ARTICLE 11C. COLLEGE AND UNIVERSITY CENTERS AND INSTITUTES.**

6 **§18B-11C-1. Findings and purposes; legislative intent.**

7 (a) The Legislature finds that it is in the best interests of
8 the citizens of West Virginia for state institutions of higher
9 education to function within the bounds of the state-established
10 accountability system pursuant to article one-d of this chapter and
11 to focus their research efforts diligently on achieving the goals
12 and objectives set forth therein and in their institutional
13 compacts developed pursuant to section seven, article one-d of this
14 chapter.

15 (b) The intent of the Legislature in enacting this article is
16 to ensure that state institutions of higher education work toward
17 furthering the goals of accountability, effectiveness and
18 efficiency articulated in the public policy agenda and state
19 accountability system; to avoid unnecessary duplication of program
20 development and delivery; to ensure that programs and services are
21 closely aligned with the mission and approved compact of the
22 institution; and to address the public policy agenda established
23 pursuant to section one of this article.

24 **§18B-11C-2. Definition; creation of centers; commission approval**
25 **required; criteria.**

1 (a) For the purposes of this article and article eleven-d of
2 this chapter, "center" means an entity, created by a state
3 institution of higher education with a distinct mission in a
4 specific area of research and includes "research centers",
5 "research institutes" and "centers of excellence". A center
6 consists of an academic team whose stated purposes are to promote
7 collaboration and best practices in the targeted research area, to
8 further new developments and innovative ways of working and to
9 achieve high quality research results.

10 (b) Beginning with the effective date of this article, the
11 governing board of a state institution of higher education under
12 the jurisdiction of the commission may not create a college or
13 university center as defined in subsection (a) of this section,
14 regardless of the title by which the center is designated, until it
15 first has met the criteria set forth in this section and submitted
16 a proposal to the commission to create the center. The governing
17 board may not establish or implement a new center until its
18 proposal has been approved by the commission.

19 A proposal to create a new center shall include the following
20 information, with documentation as necessary, to show how the
21 center will meet these requirements:

22 (1) *Center name and governance structure --*

23 (A) The name of the proposed center and an outline showing how
24 the center will be governed and operate;

25 (B) The name of the director or names of co-directors and the
26 process by which these individuals will be appointed; and

1 (C) Designation of the entity responsibility for developing
2 rules and policies.

3 (2) *Center mission and goals* --

4 (A) The mission of the center showing how it differs in focus
5 and scope from all other centers established at the institution;

6 (B) The need for the new center with supporting documentation
7 drawn from the institutional compact, mission statement, and public
8 policy agenda;

9 (C) Demonstration of how the center will contribute in unique
10 ways to expanding knowledge, generating new discoveries, and
11 providing positive societal impacts; and

12 (D) An explanation of why a new center is required to complete
13 the planned research activities, including a description of
14 strengths that establishing a center may bring to the institution
15 and the state of West Virginia.

16 (3) *Staff and resources* --

17 (A) The faculty, resources, facilities, and peripherals that
18 constitute the center and the resources that will be dedicated to
19 support of the center and its mission;

20 (B) Existence of a critical mass in the specific or
21 interdisciplinary area of research, including interdisciplinary
22 research activities that provide evidence of the potential for
23 collaboration of researchers within the center;

24 (C) The researchers, academic rank, department and expected
25 contribution to the center to be made by each member, including
26 strengths that the researchers bring to the center and a brief

1 academic biography of each researcher;

2 (D) A record of past funding and the potential for attracting
3 external funding, including sources of potential funding to further
4 the goals of the center and make it self-supporting;

5 (E) Resources that have been secured from external sources and
6 a rationale for resources requested from the state; and

7 (F) Documentation showing how the center's distinct mission
8 and organization eliminate unnecessary competition for resources,
9 students and faculty within the state; drive economic development;
10 generate talent; and create an energized, entrepreneurial
11 environment that retains top quality graduates.

12 **§18B-11C-3. Process for commission approval; rules required.**

13 (a) The commission shall promulgate a rule pursuant to article
14 three-a, chapter twenty-nine-a of this code setting forth the
15 approval process for proposed centers at state institutions of
16 higher education. The rule shall incorporate and apply the
17 criteria established by this article.

18 (b) The commission shall review each proposal received from a
19 governing board and shall notify the governing board in writing of
20 its decision within sixty days of the date the commission received
21 the proposal. If the proposal is rejected, the commission shall
22 include particulars of the deficiencies found in the proposal and
23 shall outline steps the governing board may take to correct the
24 deficiencies before resubmitting the proposal.

25 **ARTICLE 11D. SHALE RESEARCH, EDUCATION, POLICY AND ECONOMIC**
26 **DEVELOPMENT CENTER AT WEST VIRGINIA UNIVERSITY.**

1 **§18B-11D-1. Legislative findings.**

2 (a) The Legislature finds that advancements in technology have
3 made possible the efficient development of abundant natural gas and
4 oil resources contained in underground shales and other geologic
5 formations in the State of West Virginia. These resources have the
6 potential to generate jobs, stimulate economic activity, ensure
7 energy security, reduce carbon and other emissions and provide
8 significant revenues to the state.

9 (b) The Legislature further finds that creation of a research,
10 education, policy and economic development entity at West Virginia
11 University for the purpose of pursuing independent, objective,
12 research-driven analysis that can improve the effective and
13 efficient development of shale resources is in furtherance of the
14 university's land grant status. Creation of this entity will allow
15 West Virginia to focus on the prudent development and regulation of
16 natural gas and liquid hydrocarbon from the shale resources in the
17 state and throughout the world.

18 **§18B-11D-2. Creation of the Shale Research, Education, Policy and**
19 **Economic Development Center at West Virginia University;**
20 **purposes.**

21 (a) In view of the findings set forth in section one of this
22 article, there is hereby created a research, education, policy and
23 economic development entity known as the Shale Research, Education,
24 Policy and Economic Development Center at West Virginia University.
25 This center meets the criteria for creation of new centers in

1 section two, article eleven-c of this chapter and, therefore, is
2 not subject to the approval process established by article eleven-c
3 of this chapter.

4 (b) The purposes for which the center are established include,
5 but are not limited to, the following:

6 (1) Providing an opportunity for West Virginia University to
7 partner with industry and government bodies in the state, the
8 nation and around the world to explore opportunities and engage in
9 scientific research and development of shale resources;

10 (2) Promoting cooperative and collaborative partnerships
11 between research universities in the state in order to facilitate
12 knowledge sharing that will benefit all areas of West Virginia;

13 (3) Generating and documenting best practices in the areas of
14 environment, safety, business and health;

15 (3) Advancing environmental performance by garnering industry
16 and regulatory commitment;

17 (4) Improving data and process transparency and developing
18 effective outreach and engagement of affected communities;

19 (5) Protecting the environment of West Virginia and
20 surrounding states by minimizing methane, carbon dioxide and any
21 other potential emissions;

22 (6) Structuring legal frameworks and promulgating rules to
23 promote prudent development of and access to the state's resources.

24 (7) Developing and maintaining a flexible structure to
25 accommodate the needs of the state and of West Virginia University
26 together with its partners in education, government and industry.

1 This flexible structure can be achieved by encouraging the
2 following actions:

3 (A) Investment by state and federal sources in strategic
4 research;

5 (B) Initiation of research and development programs that are
6 focused and co-funded by West Virginia University and its
7 government and industry partners;

8 (C) Development of applied research that is industry-funded;
9 and

10 (D) Provision of specialized services for government and
11 industry partners.

12 (c) West Virginia University shall use its research
13 capabilities in support of the center, including, but not limited
14 to, the following:

15 (1) Technologies for efficient resource assessment and
16 efficient extraction. These include various improvements to
17 extraction technologies, earth imaging and other technologies to
18 map, evaluate and assess resources and to understand geoprocesses;

19 (2) Models to predict and manipulate multiphase fluid flow
20 including gas, liquid hydrocarbons and hydraulic fracture fluids;
21 and water life cycle analysis from source through staging, use,
22 wastewater recycling and treatment.

23 (3) Environmental and economic impacts, such as fuel cycle
24 analysis and construction of state-wide baselines for water and air
25 quality, control of emissions and fuel waste in all cycles of
26 energy production and delivery;

1 (4) Policy analysis to facilitate cost effective permitting,
2 industry management, regulation and acceptance; and improved
3 gathering, storage, analysis, transparency and access of energy
4 data to serve government, industry, and the public.

5 (5) Human dimensions, such as workforce development, in
6 cooperation with public education and state institutions of higher
7 education in programs specializing in energy and environment
8 fields; analysis of public health risks and promotion of best
9 practices to protect public health and work place health and
10 safety;

11 (6) Effective communication strategies to establish shared
12 understandings of expectations and awareness of issues and facts
13 and to assist state agencies in developing a transparent, efficient
14 and effective environment to manage the oil and natural gas
15 resources for the benefit of all the state's citizens. These
16 agencies include the West Virginia Department of Environmental
17 Protection, West Virginia State Tax Division, and the West Virginia
18 Geologic and Economic Survey. The purposes of the communication
19 strategies are to ensure that development of these resources is
20 tracked accurately, that appropriate revenue streams are captured
21 by the state and that royalties to mineral lessors are protected
22 appropriately;

23 (7) Development of best business practices to assist in
24 creating and maintaining a robust and prudently positioned industry
25 in the state; and

26 (8) Tracking and analyzing the economic impact and effect of

1 the industry upon the state.

2 **§18B-11D-3. Funding.**

3 (a) Funding for the center is provided by legislative
4 appropriation and through support received from private industry,
5 federal and international sources.

6 (b) Nothing in this article requires an appropriation, nor any
7 specific level of appropriation, by the Legislature.

8 **§18B-11D-4. Powers and duties of the board of governors and the**
9 **Shale Research, Education, Policy and Economic**
10 **Development Center at West Virginia University.**

11 (a) *West Virginia University Board of Governors* -- The board
12 is authorized to operate the center to further the purposes set
13 forth in this article. Powers and duties include, but are not
14 limited to, the following:

15 (1) Acquisition by purchase, lease, gift or otherwise, of
16 necessary lands, and the construction of necessary buildings and
17 appropriate industrial operations equipment;

18 (2) Expansion, remodeling, altering or equipping necessary
19 buildings;

20 (3) Making contracts with any state, county or municipal
21 agency or private entity necessary and incidental to the
22 performance of its powers and duties under this article;

23 (4) Providing for equipment, expenses, compensation of
24 personnel, operation and maintenance of any facility of an agency
25 or institution used for the purposes of this article; and

1 (5) Cooperating with other state research universities,
2 agencies of the state, county and federal governments.

3 (b) *The Shale Research, Education, Policy and Economic*
4 *Development Center at West Virginia University* -- Under the
5 supervision of the Director, appointed pursuant to section five of
6 this article, and within the scope of the authority granted by this
7 article and by rules duly promulgated by the board of governors
8 pursuant to section six, article one of this chapter, the center
9 may take all actions necessary to fulfill the established purposes
10 including providing the research capabilities set forth in section
11 two of this article.

12 **§18B-11D-5. Powers and duties of the center director.**

13 (a) Subject to rules promulgated by the board of governors
14 pursuant to section six of this article, the President of West
15 Virginia University shall appoint a director of the center who will
16 serve at the will and pleasure of the President.

17 (b) The director has the following responsibilities:

18 (1) Manage the day-to-day operations of the center;

19 (2) Coordinate the partnerships and act as the liaison between
20 education, industry and government bodies and other entities as
21 appropriate to address the findings set forth in section one of
22 this article;

23 (3) Develop and advocate for an annual budget for the center;

24 (4) Report to the board of governors annually or as requested
25 and provide an analysis of the center's activities together with
26 any recommendations for improvement; and

1 (5) Employ adequate professional, technical, and other staff
2 necessary to fulfill the purposes of this article.

3 **§18B-11D-6. Rules.**

4 (a) The board of governors shall promulgate and adopt rules
5 pursuant to section six, article one of this chapter, for the
6 establishment, operation, cost reimbursement, fees for services,
7 maintenance and government control of the center established by
8 this article.

9 (b) The board may promulgate rules necessary for cooperation
10 under and compliance with any existing or future federal statutes
11 pertaining to grants-in-aid and any other rules necessary to
12 effectuate the purposes of this article.