

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 98**

4 (By Senators Cann, Stollings, McCabe, Williams and Green)

5 _____
6 [Originating in the Committee on Education;

7 reported March 27, 2013]
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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 and §18B-
13 11C-2; and to amend said code by adding thereto a new article,
14 designated §18B-11D-1, §18B-11D-2, §18B-11D-3, §18B-11D-4,
15 §18B-11D-5 and §18B-11D-6, all relating to higher education
16 centers and institutes generally; setting forth legislative
17 findings and intent; providing definitions; requiring certain
18 reports; creating the Shale Research, Education, Policy and
19 Economic Development Center at West Virginia University;
20 setting forth legislative findings and purposes; requiring
21 certain rules; and providing certain powers and duties of West
22 Virginia University Board of Governors, the center and the
23 center director.

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

25 That the Code of West Virginia, 1931, as amended, be amended
26 by adding thereto a new article, designated §18B-11C-1 and §18B-

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

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

5 **§18B-11C-1. Findings and purposes; legislative intent.**

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

14 (b) The intent of the Legislature in enacting this article is
15 to ensure that state institutions of higher education work toward
16 furthering the goals of accountability, effectiveness and
17 efficiency articulated in the public policy agenda and state
18 accountability system, established pursuant to article one-d of
19 this chapter; 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.

23 **§18B-11C-2. Definition; creation of centers; criteria; proposal**
24 **required.**

25 (a) For the purposes of this article and article eleven-d of

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

9 (b) Beginning with the effective date of this article, the
10 governing board of a state institution of higher education may not
11 create a college or university center as defined in subsection (a)
12 of this section, regardless of the title by which the center is
13 designated, until it first has submitted to the commission or
14 council, as appropriate, a proposal to create the center. The
15 proposal shall be submitted at least sixty days prior to the
16 official creation of the center and shall contain the following
17 information:

18 (1) *Center name and governance structure.* -

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

21 (B) The name of the director or names of codirectors or, if a
22 director has not been selected, the process by which this
23 individual will be appointed; and

24 (C) Designation of the entity responsibility for developing
25 rules and policies for the center.

26 (2) *Center mission and goals.* -

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

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

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

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

13 (3) *Staff and resources.* -

14 (A) The faculty, resources, facilities and peripherals that
15 constitute the center and the resources that will be dedicated to
16 support of the center and its mission;

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

21 (C) The researchers, academic rank, department and expected
22 contribution to the center to be made by each member, including
23 strengths that the researchers bring to the center and a brief
24 academic biography of each researcher;

25 (D) A record of available funding and the potential for
26 attracting external funding to further the goals of the center and

1 make it self supporting;

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

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

9 (c) The center director shall provide a report to the
10 commission or council, as appropriate, annually on the anniversary
11 date of the center's creation giving details of the center's
12 activities for the past year, including funding specifics.

13 (d) The commission or council, as appropriate, shall analyze
14 each proposal received and present a summary to the Legislative
15 Oversight Commission on Education Accountability within sixty days
16 after receiving the institution's proposal. The commission or
17 council also shall summarize the center's annual report and present
18 to the Legislative Oversight Commission on Education Accountability
19 and the Joint Committee on Government and Finance within thirty
20 days of receiving the report.

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

23 **§18B-11D-1. Legislative findings.**

24 (a) The Legislature finds that advancements in technology have
25 made possible the efficient development of abundant natural gas and

1 oil resources contained in underground shales and other geologic
2 formations in the State of West Virginia. These resources have the
3 potential to generate jobs, stimulate economic activity, ensure
4 energy security, reduce carbon and other emissions and provide
5 significant revenues to the state.

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

15 **§18B-11D-2. Creation of the Shale Research, Education, Policy and**
16 **Economic Development Center at West Virginia University;**
17 **purposes.**

18 (a) In view of the findings set forth in section one of this
19 article, there is created a research, education, policy and
20 economic development entity known as the Shale Research, Education,
21 Policy and Economic Development Center at West Virginia University.
22 This center is not required to file a precreation proposal with the
23 commission pursuant to section two, article eleven-c of this
24 chapter.

25 (b) The purposes for which the center are established include,

1 but are not limited to, the following:

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

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

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

11 (3) Advancing environmental performance by garnering industry
12 and regulatory commitment;

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

15 (5) Protecting the environment of West Virginia and
16 surrounding states by minimizing methane, carbon dioxide and any
17 other potential emissions;

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

20 (7) Developing and maintaining a flexible structure to
21 accommodate the needs of the state and of West Virginia University
22 together with its partners in education, government and industry.
23 This flexible structure can be achieved by encouraging the
24 following actions:

25 (A) Investment by state and federal sources in strategic
26 research;

1 (B) Initiation of research and development programs that are
2 focused and cofunded by West Virginia University and its government
3 and industry partners;

4 (C) Development of applied research that is industry-funded;
5 and

6 (D) Provision of specialized services for government and
7 industry partners.

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

11 (1) Technologies for efficient resource assessment and
12 efficient extraction. These include various improvements to
13 extraction technologies, earth imaging and other technologies to
14 map, evaluate and assess resources and to understand geoprocesses;

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

19 (3) Environmental and economic impacts, such as fuel cycle
20 analysis and construction of statewide baselines for water and air
21 quality, control of emissions and fuel waste in all cycles of
22 energy production and delivery;

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

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

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

19 (7) Development of best business practices to assist in
20 creating and maintaining a robust and prudently positioned industry
21 in the state; and

22 (8) Tracking and analyzing the economic impact and effect of
23 the industry upon the state.

24 **§18B-11D-3. Funding.**

25 (a) Funding for the center is provided by legislative
26 appropriation and through support received from private industry,

1 federal and international sources.

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

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

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

11 (1) Acquisition by purchase, lease, gift or otherwise, of
12 necessary lands, and the construction of necessary buildings and
13 appropriate industrial operations equipment;

14 (2) Expansion, remodeling, altering or equipping necessary
15 buildings;

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

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

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

24 (b) *The Shale Research, Education, Policy and Economic*
25 *Development Center at West Virginia University.* - Under the

1 supervision of the director, appointed pursuant to section five of
2 this article, and within the scope of the authority granted by this
3 article and by rules duly proposed and adopted by the board of
4 governors pursuant to section six, article one of this chapter, the
5 center may take all actions necessary to fulfill the established
6 purposes including providing the research capabilities set forth in
7 section two of this article.

8 **§18B-11D-5. Powers and duties of the center director.**

9 (a) Subject to rules promulgated by the board of governors
10 pursuant to section six of this article, the President of West
11 Virginia University shall appoint a director of the center who will
12 serve at the will and pleasure of the president.

13 (b) The director has the following responsibilities:

14 (1) Within thirty days of appointment, provide to the
15 commission a proposal for operation of the center containing
16 information as set forth in section two, article eleven-c of this
17 chapter;

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

19 (3) 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 (4) Develop and advocate for an annual budget for the center;

24 (5) 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;

1 (6) Provide to the commission a report annually on the
2 anniversary date of the center's creation giving details of the
3 center's activities for the past year, including funding specifics;
4 and

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

7 **§18B-11D-6. Rules.**

8 (a) The board of governors shall propose and adopt rules
9 pursuant to section six, article one of this chapter, for the
10 establishment, operation, cost reimbursement, fees for services,
11 maintenance and government control of the center established by
12 this article.

13 (b) The board may propose and adopt rules necessary for
14 cooperation under and compliance with any existing or future
15 federal statutes pertaining to grants-in-aid and any other rules
16 necessary to effectuate the purposes of this article.