

**H. B. 2566**

(By Delegates M. Poling, Stowers, Paxton,  
L. Phillips, Reynolds, Skaff, Anderson  
and Sumner)

[Introduced February 20, 2013; referred to the  
Committee on Education then Finance.]

A BILL to amend and reenact §18B-1A-5 of the Code of West Virginia,  
1931, as amended; and to amend and reenact §18B-2A-3 of said  
code, all relating to institutional operating budgets; the  
West Virginia Network of Educational Telecomputing; requiring  
the Higher Education Policy Commission and Council for  
Community and Technical College Education to propose  
procedural rules by certain date; specifying prior approval by  
Legislative Oversight Commission on Education Accountability;  
setting forth goals and objectives for state institutions of  
higher education and specifying procedures for measuring  
attainment; designating a pilot year and requiring certain  
reports; specifying percentages of operating budgets to be  
applied to outcomes-based funding annually and designating  
total percentages; requiring establishment of legislative  
committee to advise in developing procedural rules;  
collecting, synthesizing and disseminating data from state  
institutions of higher education; directing institutional

1 boards of governors to cooperate in certain data-related  
2 operations; and providing certain privacy protections.

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

4 That §18B-1A-5 of the Code of West Virginia, 1931, as amended,  
5 be amended and reenacted; and that §18B-2A-3 of said code be  
6 amended and reenacted, all to read as follows:

7 **ARTICLE 1A. COMPACT WITH HIGHER EDUCATION FOR THE FUTURE OF WEST**  
8 **VIRGINIA.**

9 **§18B-1A-5. Financing; institutional operating budgets, additional**  
10 **funding.**

11 (a) The commission and council each has the responsibility to  
12 develop a budget for the state system of higher education under its  
13 respective jurisdiction. The commission submits the budget request  
14 for higher education, including the budget request as developed by  
15 the council, to the Governor before the September 1, annually. The  
16 budget requests of the commission and the council specifically  
17 shall include the amount of the institutional operating budgets, as  
18 defined in section two, article one of this chapter, required for  
19 all state institutions of higher education under their respective  
20 jurisdictions. The budget appropriation for the state systems of  
21 higher education under this chapter and other provisions of the law  
22 shall consist of separate control accounts or institutional control  
23 accounts, or some combination of these accounts, for appropriation  
24 of institutional operating budgets and other funds. The commission

1 and council each is responsible for allocating state appropriations  
2 to supplement institutional operating budgets in accordance with  
3 this section. In addition to the institutional operating budget  
4 and incentive funding, however, the commission and council each is  
5 responsible for allocating funds that are appropriated to it for  
6 other purposes.

7 (b) By July 1, 2013, the commission and council each shall  
8 promulgate a procedural rule pursuant to the provisions of article  
9 three-a, chapter twenty-nine-a of this code setting out a procedure  
10 to govern appropriation requests pursuant to this section.

11 (1) The procedural rules may not be implemented without prior  
12 approval of the Legislative Oversight Commission on Education  
13 Accountability.

14 (2) Any change the commission or council proposes to the rules  
15 required by this subsection after the initial approval and  
16 adoption, including amendment or repeal, require prior approval by  
17 the Legislative Oversight Commission on Education Accountability.

18 (c) The procedural rules shall establish formulae that take  
19 into consideration different institutional missions and measures  
20 each institution's success in accomplishing certain goals,  
21 including, but not limited to, the following:

22 (1) Student success as represented by certificate or degree  
23 completion;

24 (2) Student progression and persistence towards certificate or

1 degree completion;

2 (3) Affordability and productivity represented by on-time  
3 certificate or degree completion;

4 (4) Institution differentiation as represented by a mission  
5 focus on research, job placement, workforce training, etc.;

6 (5) Educating priority populations of adult and low-income  
7 students; and

8 (6) Increasing certificates or degrees in high need fields.

9 (d) The procedural rules shall establish appropriate weights,  
10 based on student numbers, to be assigned to each of the goals set  
11 forth in subsection (c) of this section. The appropriate weights  
12 shall be established to accomplish best the goal of an additional  
13 20,000 certificates or degrees earned in the state system of higher  
14 education by July 1, 2018.

15 (e) The formulae established by the procedural rules shall be  
16 used in a pilot project for the fiscal year beginning on July 1,  
17 2013, to determine what changes in request for appropriations from  
18 general revenue to each institution would have been made for that  
19 fiscal year.

20 (1) For the pilot year the formulae shall assume that a total  
21 of five per cent of the appropriations from general revenue for the  
22 previous fiscal year would be reallocated among the institutions in  
23 the state system of higher education based on the objectives  
24 achieved by each institution within the broad goals set out above.

1       (2) The results of this application of the formulae for the  
2 pilot year shall be reported to each institution and to the  
3 Legislative Oversight Commission on Education Accountability.

4       (f) For the fiscal year beginning on July 1, 2014, the  
5 formulae shall be used by the commission and council in their  
6 respective appropriation requests to reallocate among the  
7 institutions of higher education under their jurisdiction five per  
8 cent of the appropriations from general revenue in the prior fiscal  
9 year. In each successive fiscal year the appropriation request  
10 shall reallocate an additional five percent of general revenue  
11 based on the appropriate formula until a total of twenty-five per  
12 cent of reallocation is included in the appropriation request for  
13 each succeeding fiscal year.

14       (g) The President of the Senate and the Speaker of the House  
15 of Delegates jointly shall appoint a select committee for  
16 outcomes-based formulae rules finalization which shall advise the  
17 commission and council on promulgation of the procedural rules  
18 required by this section. The select committee periodically shall  
19 advise the commission and council on amendments to the formulae and  
20 procedural rules considered necessary to advance the goals set out  
21 in this section.

22       (h) The commission and council may not request an increase in  
23 appropriations under this section for any institution without an  
24 approved compact pursuant to section seven, article one-d of this

1 chapter.

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

3 **§18B-2A-3. Supervision of governing boards; promulgation of rules;**  
4 **data collection and dissemination.**

5 (a) The governing boards are subject to the supervision of the  
6 commission or the council, as appropriate, except in those  
7 instances where specific statutory exceptions are granted by law to  
8 the governing boards of Marshall University and West Virginia  
9 University.

10 (b) The governing boards of all state institutions of higher  
11 education are subject to the provisions of law that relate to the  
12 administration of personnel matters including, specifically,  
13 articles seven, eight, nine and nine-a of this chapter and to rules  
14 promulgated and adopted in accordance with these provisions.

15 (c) The Chancellor for Higher Education and the Chancellor for  
16 Community and Technical College Education, under the supervision of  
17 their respective boards, are responsible for the coordination of  
18 policies, purposes and rules of the governing boards and shall  
19 provide for and facilitate sufficient interaction among the  
20 governing boards and between the governing boards and the State  
21 Board of Education to meet the goals and objectives provided in the  
22 compacts and in section one-a, article one and article one-d of  
23 this chapter.

24 (d) The governing boards and the State Board of Education

1 shall provide all information requested by the commission and the  
2 council, whether the request is made separately or jointly, in an  
3 appropriate format and in a timely manner.

4 (1) Each governing board shall cooperate with the West  
5 Virginia Network for Educational Telecomputing (WVNET) in designing  
6 appropriate interfaces with the databases of institutions under its  
7 jurisdiction and shall grant WVNET direct access to these  
8 databases.

9 (2) WVNET, on behalf of the commission or council or both,  
10 shall generate reports from the data accessed for the purposes set  
11 forth in section five, article one-a and sections eight and ten,  
12 article one-d of this chapter.

13 (3) All data accessed or received from an institution shall be  
14 treated in a manner consistent with the privacy protections  
15 outlined in section ten, article one-d of this chapter.

NOTE: The purpose of this bill is to establish a process for making appropriation requests for the state system of higher education based on progress toward meeting established objectives and to establish a process for collecting and sharing data between WVNET and state institutions of higher education.

§18B-1A-5 is substantially rewritten; therefore, it has been completely underscored.

Strike-throughs indicate language that would be stricken from the present law; and underscoring indicates new language that would be added.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Select Committee on

Outcomes-Based Funding Models in Higher Education.