

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2770

BY DELEGATE ROWE

[Introduced March 1, 2017; Referred
to the Committee on Education.]

1 A BILL to amend and reenact §18B-1B-4 of the Code of West Virginia, 1931, as amended; to
 2 amend and reenact §18B-1D-7 of said code; and to amend and reenact §18B-2A-4 of said
 3 code, all relating to reducing regulatory control over academic programs of state
 4 institutions; providing that the powers of the Higher Education Policy Commission and the
 5 powers and duties of governing boards generally apply to state institutions of higher
 6 education under their jurisdiction only in so far as it is necessary to prevent expensive
 7 duplication and competition of academic programs in a region or for support of specified
 8 performance higher education goals.

Be it enacted by the Legislature of West Virginia:

1 That §18B-1B-4 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; that §18B-1D-7 of said code be amended and reenacted; and that §18B-2A-4 of said
 3 code be amended and reenacted, all to read as follows:

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 develop, establish and implement
 2 policy that will achieve the goals, objectives and priorities found in section one-a, article one and
 3 article one-d of this chapter. The commission shall exercise its authority and carry out its
 4 responsibilities in a manner that is consistent and not in conflict with the powers and duties
 5 assigned by law to the West Virginia Council for Community and Technical College Education
 6 and the powers and duties assigned to the governing boards. To that end, the commission has
 7 the following powers and duties relating to the governing boards under its jurisdiction:

8 (1) Develop, oversee and advance the public policy agenda pursuant to article one-d of
 9 this chapter to address major challenges facing the state, including, but not limited to, the
 10 following:

11 (A) The goals, objectives and priorities established in this chapter including specifically
 12 those goals, objectives and priorities pertaining to the compacts created pursuant to section

13 seven, article one-d of this chapter; and

14 (B) Development and implementation of the master plan described in section five, article
15 one-d of this chapter for the purpose of accomplishing the mandates of this section;

16 (2) Develop, oversee and advance the promulgation and implementation of a financing
17 rule for state institutions of higher education under its jurisdiction. The rule shall meet the following
18 criteria:

19 (A) Provide for an adequate level of educational and general funding for institutions
20 pursuant to section five, article one-a of this chapter;

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

23 (C) Invest and provide incentives for achieving the priority goals in the public policy
24 agenda, including, but not limited to, those found in section one-a, article one and article one-d of
25 this chapter;

26 (3) In collaboration with the council, create a policy leadership structure capable of the
27 following actions:

28 (A) Developing, building public consensus around and sustaining attention to a long-range
29 public policy agenda. In developing the agenda, the commission and council shall seek input from
30 the Legislature and the Governor and specifically from the State Board of Education and local
31 school districts in order to create the necessary linkages to assure smooth, effective and
32 seamless movement of students through the public education and post-secondary education
33 systems and to ensure that the needs of public school courses and programs can be fulfilled by
34 the graduates produced and the programs offered;

35 (B) Ensuring that the governing boards carry out their duty effectively to govern the
36 individual institutions of higher education; and

37 (C) Holding the governing boards and the higher education systems as a whole
38 accountable for accomplishing their missions and implementing their compacts;

- 39 (4) Develop and adopt each compact for the governing boards under its jurisdiction;
- 40 (5) Review and adopt the annual updates of the institutional compacts;
- 41 (6) Serve as the accountability point to state policymakers:
- 42 (A) The Governor for implementation of the public policy agenda; and
- 43 (B) The Legislature by maintaining a close working relationship with the legislative
- 44 leadership and the Legislative Oversight Commission on Education Accountability;
- 45 (7) Jointly with the council, promulgate legislative rules pursuant to article three-a, chapter
- 46 twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;
- 47 (8) Establish and implement a peer group for each institution as described in section three,
- 48 article one-a of this chapter;
- 49 (9) Establish and implement the benchmarks and performance indicators necessary to
- 50 measure institutional progress in achieving state policy priorities and institutional missions
- 51 pursuant to section seven, article one-d of this chapter;
- 52 (10) Establish a formal process for identifying capital investment needs and for
- 53 determining priorities for these investments for consideration by the Governor and the Legislature
- 54 as part of the appropriation request process pursuant to article nineteen of this chapter;
- 55 (11) Develop standards and evaluate governing board requests for capital project
- 56 financing in accordance with article nineteen of this chapter;
- 57 (12) Ensure that governing boards manage capital projects and facilities needs effectively,
- 58 including review and approval or disapproval of capital projects, in accordance with article
- 59 nineteen of this chapter;
- 60 (13) Acquire legal services as considered necessary, including representation of the
- 61 commission, its governing boards, employees and officers before any court or administrative
- 62 body, notwithstanding any other provision of this code to the contrary. The counsel may be
- 63 employed either on a salaried basis or on a reasonable fee basis. In addition, the commission
- 64 may, but is not required to, call upon the Attorney General for legal assistance and representation

65 as provided by law;

66 (14) Employ a Chancellor for Higher Education pursuant to section five of this article;

67 (15) Employ other staff as necessary and appropriate to carry out the duties and
68 responsibilities of the commission and the council, in accordance with article four of this chapter;

69 (16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors and
70 other staff;

71 (17) Advise and consent in the appointment of the presidents of the institutions of higher
72 education under its jurisdiction pursuant to section six of this article. The role of the commission
73 in approving an institutional president is to assure through personal interview that the person
74 selected understands and is committed to achieving the goals, objectives and priorities set forth
75 in the compact, in section one-a, article one and article one-d of this chapter;

76 (18) Approve the total compensation package from all sources for presidents of institutions
77 under its jurisdiction, as proposed by the governing boards. The governing boards must obtain
78 approval from the commission of the total compensation package both when institutional
79 presidents are employed initially and afterward when any change is made in the amount of the
80 total compensation package;

81 (19) Establish and implement the policy of the state to assure that parents and students
82 have sufficient information at the earliest possible age on which to base academic decisions about
83 what is required for students to be successful in college, other post-secondary education and
84 careers related, as far as possible, to results from current assessment tools in use in West
85 Virginia;

86 (20) Approve and implement a uniform standard jointly with the council to determine which
87 students shall be placed in remedial or developmental courses. The standard shall be aligned
88 with college admission tests and assessment tools used in West Virginia and shall be applied
89 uniformly by the governing boards throughout the public higher education system. The
90 chancellors shall develop a clear, concise explanation of the standard which they shall

91 communicate to the State Board of Education and the state superintendent of Schools;

92 (21) Jointly with the council, develop and implement an oversight plan to manage system
93 wide technology including, but not limited to, the following:

94 (A) Expanding distance learning and technology networks to enhance teaching and
95 learning, promote access to quality educational offerings with minimum duplication of effort; and

96 (B) Increasing the delivery of instruction to nontraditional students, to provide services to
97 business and industry and increase the management capabilities of the higher education system.

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

101 (22) Establish and implement policies and procedures to ensure that a student may
102 transfer and apply toward the requirements for a bachelor's degree the maximum number of
103 credits earned at any regionally accredited in-state or out-of-state community and technical
104 college with as few requirements to repeat courses or to incur additional costs as are consistent
105 with sound academic policy;

106 (23) Establish and implement policies and procedures to ensure that a student may
107 transfer and apply toward the requirements for a degree the maximum number of credits earned
108 at any regionally accredited in-state or out-of-state higher education institution with as few
109 requirements to repeat courses or to incur additional costs as are consistent with sound academic
110 policy;

111 (24) Establish and implement policies and procedures to ensure that a student may
112 transfer and apply toward the requirements for a master's degree the maximum number of credits
113 earned at any regionally accredited in-state or out-of-state higher education institution with as few
114 requirements to repeat courses or to incur additional costs as are consistent with sound academic
115 policy;

116 (25) Establish and implement policies and programs, in cooperation with the council and

117 the governing boards, through which a student who has gained knowledge and skills through
118 employment, participation in education and training at vocational schools or other education
119 institutions, or Internet-based education programs, may demonstrate by competency-based
120 assessment that he or she has the necessary knowledge and skills to be granted academic credit
121 or advanced placement standing toward the requirements of an associate's degree or a
122 bachelor's degree at a state institution of higher education;

123 (26) Seek out and attend regional, national and international meetings and forums on
124 education and workforce development-related topics as, in the commission's discretion, are
125 critical for the performance of their duties as members, for the purpose of keeping abreast of
126 education trends and policies to aid it in developing the policies for this state to meet the
127 established education goals, objectives and priorities pursuant to section one-a, article one and
128 article one-d of this chapter;

129 (27) Promulgate and implement a rule for higher education governing boards and
130 institutions to follow when considering capital projects pursuant to article nineteen of this chapter;

131 (28) Consider and submit to the appropriate agencies of the executive and legislative
132 branches of state government an appropriation request that reflects recommended appropriations
133 for the commission and the governing boards under its jurisdiction. The commission shall submit
134 as part of its appropriation request the separate recommended appropriation request it received
135 from the council, both for the council and for the governing boards under the council's jurisdiction.
136 The commission annually shall submit the proposed allocations based on each institution's
137 progress toward meeting the goals of its compact;

138 (29) The commission may assess institutions under its jurisdiction, including Marshall
139 University and West Virginia University, for the payment of expenses of the commission or for the
140 funding of statewide higher education services, obligations or initiatives related to the goals set
141 forth for the provision of public higher education in the state;

142 (30) Promulgate rules allocating reimbursement of appropriations, if made available by the

143 Legislature, to governing boards for qualifying noncapital expenditures incurred in providing
144 services to students with physical, learning or severe sensory disabilities;

145 (31) Make appointments to boards and commissions where this code requires
146 appointments from the State College System Board of Directors or the University of West Virginia
147 System Board of Trustees which were abolished effective June 30, 2000, except in those cases
148 where the required appointment has a specific and direct connection to the provision of
149 community and technical college education, the appointment shall be made by the council.
150 Notwithstanding any provisions of this code to the contrary, the commission or the council may
151 appoint one of its own members or any other citizen of the state as its designee. The commission
152 and council shall appoint the total number of persons in the aggregate required to be appointed
153 by these previous governing boards;

154 (32) Pursuant to article three-a, chapter twenty-nine-a of this code and section six, article
155 one of this chapter, promulgate rules necessary or expedient to fulfill the purposes of this chapter.
156 The commission and the council shall promulgate a uniform joint legislative rule for the purposes
157 of standardizing, as much as possible, the administration of personnel matters among the state
158 institutions of higher education and implementing the provisions of articles seven, eight, nine and
159 nine-a of this chapter;

160 (33) Determine when a joint rule among the governing boards under its jurisdiction is
161 necessary or required by law and, in those instances, in consultation with the governing boards
162 under its jurisdiction, promulgate the joint rule;

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

166 (35) By October 1, 2011, promulgate a rule pursuant to section one, article ten of this
167 chapter, establishing tuition and fee policy for all governing boards under the jurisdiction of the
168 commission, including Marshall University and West Virginia University. The rule shall include,

169 but is not limited to, the following:

170 (A) Comparisons with peer institutions;

171 (B) Differences among institutional missions;

172 (C) Strategies for promoting student access;

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

174 (E) Such other policies as the commission and council consider appropriate;

175 (36) Implement general disease awareness initiatives to educate parents and students,
176 particularly dormitory residents, about meningococcal meningitis; the potentially life-threatening
177 dangers of contracting the infection; behaviors and activities that can increase risks; measures
178 that can be taken to prevent contact or infection; and potential benefits of vaccination. The
179 commission shall encourage governing boards that provide medical care to students to provide
180 access to the vaccine for those who wish to receive it; and

181 (37) Notwithstanding any other provision of this code to the contrary sell, lease, convey or
182 otherwise dispose of all or part of any real property that it owns, in accordance with article nineteen
183 of this chapter.

184 (b) In addition to the powers and duties listed in subsection (a) of this section, the
185 commission has the following general powers and duties related to its role in developing,
186 articulating and overseeing the implementation of the public policy agenda:

187 (1) Planning and policy leadership, including a distinct and visible role in setting the state's
188 policy agenda and in serving as an agent of change;

189 (2) Policy analysis and research focused on issues affecting the system as a whole or a
190 geographical region thereof;

191 (3) Development and implementation of institutional mission definitions, including use of
192 incentive funds to influence institutional behavior in ways that are consistent with public priorities;

193 (4) Academic program review and approval for governing boards under its jurisdiction. The
194 review and approval includes use of institutional missions as a template to judge the

195 appropriateness of both new and existing programs and the authority to implement needed
196 changes: Provided, That this authority applies to state institutions of higher education under its
197 jurisdiction only in so far as it is necessary to prevent expensive duplication and competition of
198 academic programs in a region or for support of specified performance higher education goals.

199 (A) The commission's authority to review and approve academic programs for either
200 Marshall University or West Virginia University is limited to programs that are proposed to be
201 offered at a new location not presently served by that institution;

202 (B) The commission shall approve or disapprove proposed academic degree programs in
203 those instances where approval is required as soon as practicable, but in any case not later than
204 six months from the date the governing board makes an official request. The commission may
205 not withhold approval unreasonably

206 (5) Distribution of funds appropriated to the commission, including incentive and
207 performance-based funds;

208 (6) Administration of state and federal student aid programs under the supervision of the
209 vice chancellor for administration, including promulgation of rules necessary to administer those
210 programs;

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

213 (8) Developing, establishing and implementing information, assessment, accountability
214 and personnel systems, including maintaining statewide data systems that facilitate long-term
215 planning and accurate measurement of strategic outcomes and performance indicators;

216 (9) Jointly with the council, promulgating and implementing rules for licensing and
217 oversight for both public and private degree-granting and nondegree-granting institutions that
218 provide post-secondary education courses or programs in the state. The council has authority
219 and responsibility for approval of all post-secondary courses or programs providing community
220 and technical college education as defined in section two, article one of this chapter;

221 (10) Developing, implementing and overseeing statewide and regional projects and
222 initiatives related to providing post-secondary education at the baccalaureate level and above
223 such as those using funds from federal categorical programs or those using incentive and
224 performance-based funds from any source;

225 (11) Quality assurance that intersects with all other duties of the commission particularly
226 in the areas of research, data collection and analysis, personnel administration, planning, policy
227 analysis, program review and approval, budgeting and information and accountability systems;
228 and

229 (12) Developing budgets and allocating resources for governing boards under its
230 jurisdiction:

231 (A) For all governing boards under its jurisdiction, except the governing boards of Marshall
232 University and West Virginia University, the commission shall review institutional operating
233 budgets, review and approve capital budgets, and distribute incentive and performance-based
234 funds;

235 (B) For the governing boards of Marshall University and West Virginia University, the
236 commission shall distribute incentive and performance-based funds and may review and
237 comment upon the institutional operating budgets and capital budgets. The commission's
238 comments, if any, shall be made part of the governing board's minute record.

239 (c) In addition to the powers and duties provided in subsections (a) and (b) of this section
240 and any other powers and duties assigned to it by law, the commission has other powers and
241 duties necessary or expedient to accomplish the purposes of this article.

242 (d) The commission may withdraw specific powers of a governing board under its
243 jurisdiction for a period not to exceed two years, if the commission determines that any of the
244 following conditions exist:

245 (1) The governing board has failed for two consecutive years to develop or implement an
246 institutional compact as required in article one-d of this chapter;

247 (2) The commission has received information, substantiated by independent audit, of
248 significant mismanagement or failure to carry out the powers and duties of the governing board
249 according to state law; or

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

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

ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.

§18B-1D-7. Findings; establishment of institutional compacts; compact elements; submission date; review and approval process; rule required.

1 (a) The Legislature finds that West Virginia long has recognized the value of education
2 and, on a per capita income basis, ranks very high among the states in its investment to support
3 public education. The Legislature further finds that a combination of state and national
4 demographic and economic factors as well as significant changes in methods of course and
5 program delivery compel both the state and public higher education to create a process that will
6 strengthen institutional capacity to provide the services so valued by the citizens of the state and
7 so essential to promoting economic vitality.

8 (b) Therefore, each state college and university shall prepare an institutional compact for
9 submission to the commission and each community and technical college shall prepare an
10 institutional compact for submission to the council. When the process herein provided is
11 completed, the resulting institutional compact constitutes a negotiated contract between the state
12 institution of higher education and the commission or council, respectively, containing at a
13 minimum the following basic components:

14 (1) Institutional strategies for focusing resources on meeting the goals and objectives set
15 forth in this article and section one-a, article one of this chapter; and

16 (2) Commission or council strategies for promoting and supporting the institution in fulfilling
17 its mission and objectives, to make it more competitive with its peers and to ensure the continuity
18 of academic programs and services to its students.

19 (c) In addition to the basic contract components described in subsection (b) of this section,
20 each compact shall contain at least the following elements:

21 (1) A determination of the mission of the institution which specifically addresses changes
22 necessary or expedient to accomplish the goals and objectives articulated by the state and the
23 appropriate statewide master plan;

24 (2) A detailed statement of how the compact is aligned with and will be implemented in
25 conjunction with the master plan of the institution;

26 (3) A comprehensive assessment of education needs within the institution's geographic
27 area of responsibility;

28 (4) A strategy to ensure access to comprehensive community and technical college and
29 workforce development services within each respective region of the state consistent with the
30 mission of the institution;

31 (5) Provision for collaboration and brokering of education services as necessary or
32 expedient to carry out the institutional mission and meet its objectives;

33 (6) Provision of student services at the optimum level to support the institutional mission
34 and to achieve state goals and objectives;

35 (7) Strategies for using existing infrastructure and resources within each region, where
36 feasible, to increase student access while controlling costs and maintaining academic quality; and

37 (8) Other public policy objectives or initiatives adopted by the commission or council
38 pursuant to the intent and purposes of this article and section one-a, article one of this chapter.

39 (d) Each institutional compact shall be updated annually and shall follow the same general
40 guidelines contained in this section.

41 (e) Development and updating of the institutional compacts is subject to the following

42 conditions:

43 (1) The ultimate responsibility for developing and updating the compacts at the institutional
44 level resides with the Board of Advisors or the Board of Governors, as appropriate. It is the
45 responsibility of the commission or council to provide technical assistance as requested and to
46 negotiate with the institution development of the strategies to promote and support the institution
47 pursuant to subsection (b) of this section;

48 (2) The commission and the council each shall establish a date by which institutions under
49 their respective jurisdictions shall submit their compacts to the commission or council pursuant to
50 the provisions of this article. The date established by each state-level coordinating board shall
51 apply uniformly to all institutions under the jurisdiction of that coordinating board and shall meet
52 the following additional conditions:

53 (A) Allow sufficient time for careful analysis of the compacts by the central office staff and
54 for review by members of the commission or the council, as appropriate; and

55 (B) Allow sufficient time for the institutions to make necessary revisions to the compacts
56 as provided in this section.

57 (3) The commission and council shall review each compact from the institutions under
58 their respective jurisdictions and either adopt the compact or return it with specific comments for
59 change or improvement. The commission and council, respectively, shall continue this process
60 as long as each considers advisable;

61 (4) By May 1 annually, if the institutional compact of any institution as presented by that
62 institution is not adopted by the respective commission or council, then the commission or council
63 is empowered and directed to develop and adopt the institutional compact for the institution and
64 the institution is bound by the compact so adopted; and

65 (5) As far as practicable, the commission and council each shall establish uniform
66 processes and forms for the development and submission of the institutional compacts by the
67 institutions under their respective jurisdictions, taking into consideration the differences in

68 institutional missions and objectives. As a part of this function, the commission and council each
69 shall organize the statements of legislative goals and objectives contained in this article and
70 section one-a, article one of this chapter in a manner that facilitates the purposes therein.

71 (f) *Assignment of geographic areas of responsibility.* --

72 (1) The commission shall assign geographic areas of responsibility to the state institutions
73 of higher education under its jurisdiction, except for the state institutions of higher education
74 known as West Virginia School of Osteopathic Medicine, Marshall University and West Virginia
75 University. For institutions other than the state institutions of higher education known as West
76 Virginia School of Osteopathic Medicine, Marshall University and West Virginia University, the
77 geographic areas of responsibility are made a part of their institutional compacts to ensure that
78 all areas of the state are provided necessary programs and services to achieve state goals and
79 objectives. The commission and the council each shall develop data-based measures to
80 determine the extent to which institutions under their respective jurisdictions are providing higher
81 education services aligned with state goals and objectives and institutional missions within their
82 geographic areas of responsibility. This information shall be reported in the statewide report card
83 established pursuant to section eight of this article: Provided, That this authority applies only to
84 state institutions of higher education under its jurisdiction in so far as it is necessary to prevent
85 expensive duplication and competition of academic programs in a region or for support of
86 specified performance higher education goals.

87 (2) The council shall assign geographic areas of responsibility to the state institutions of
88 higher education under its jurisdiction, including the administratively linked institution known as
89 Marshall Community and Technical College, the administratively linked institution known as the
90 Community and Technical College at West Virginia University Institute of Technology and the
91 regional campus known as West Virginia University at Parkersburg.

92 (3) The geographic areas of responsibility for the state institutions of higher education
93 known as West Virginia School of Osteopathic Medicine, Marshall University and West Virginia

94 University are assigned by the Legislature.

95 (4) The benchmarks established in the institutional compacts include measures of
96 programs and services by geographic area throughout the assigned geographic area of
97 responsibility.

98 (g) The compacts shall contain benchmarks to be used to determine progress toward
99 meeting the objectives established in the compacts. The benchmarks shall meet the following
100 criteria:

101 (1) They shall be objective;

102 (2) They shall be directly linked to the objectives in the compacts;

103 (3) They shall be measured by the indicators described in subsection (h) of this section;

104 and

105 (4) Where applicable, they shall be used to measure progress in geographic areas of
106 responsibility.

107 (h) The rules required by subsection (c), section one of this article shall include indicators
108 which measure the degree to which the goals and objectives set forth in this article and section
109 one-a, article one of this chapter are being met by the institutions under the jurisdiction of the
110 commission and the council, respectively.

111 (1) The rules pertaining to benchmarks and indicators in effect for the commission and the
112 council on the effective date of this section remain in effect for the institutions under their
113 respective jurisdictions until amended, modified, repealed or replaced by the commission or the
114 council, respectively, pursuant to the provisions of this article, section six, article one of this
115 chapter and article three-a, chapter twenty-nine-a of this code.

116 (2) The rules shall set forth at least the following as pertains to all state institutions of
117 higher education:

118 (A) The indicators used to measure the degree to which the goals and objectives are being
119 met;

120 (B) Uniform definitions for the various data elements to be used in establishing the
121 indicators;

122 (C) Guidelines for the collection and reporting of data; and

123 (D) Sufficient detail within the benchmarks and indicators to provide the following
124 information:

125 (i) Measurable evidence that the pursuits of the institution are focused on the education
126 needs of the citizens of the state and are aligned with the objectives of the institutional compacts
127 and statewide master plans;

128 (ii) Delineation of the objectives and benchmarks for an institution so that the commission
129 or council can precisely measure the degree to which progress is being made toward achieving
130 the goals and objectives provided in this article and section one-a, article one of this chapter; and

131 (iii) Identification of specific objectives within the master plan or compact of an institution
132 that are not being met or toward which sufficient progress is not being made.

133 (3) In addition to any other requirement, the rule established by the council shall set forth
134 at least the following as pertains to community and technical college education:

135 (A) Benchmarks and indicators which are targeted to identify the following:

136 (i) The degree to which progress is being made by institutions toward meeting state goals
137 and objectives and the essential conditions for community and technical college education
138 pursuant to section three, article three-c of this chapter;

139 (ii) Information and data necessary to be considered by the council in making the
140 determination required by section three, article two-c of this chapter; and

141 (B) Sufficient detail within the benchmarks and indicators to provide clear evidence to
142 support an objective determination by the council that an institution's progress toward achieving
143 state goals and objectives and the essential conditions for community and technical college
144 education is so deficient that implementation of the provisions of section four, article two-c of this
145 chapter is warranted and necessary.

146 (i) The commission and the council, respectively, shall approve the compacts developed
147 for the institutions under their respective jurisdictions by the boards of Governors or the boards of
148 advisors pursuant to this section and consistent with the powers and duties prescribed in section
149 four, article two-a of this chapter and section one, article six of this chapter.

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.

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

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

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

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

19 (3) The plan shall be established for periods of not fewer than three nor more than five
20 years and shall be revised periodically as necessary, including adding or deleting bachelor's,

21 master's and doctoral degree programs for all governing boards as approved by the commission
22 or council, respectively, except for the governing boards of Marshall University and West Virginia
23 University only, the commission may review, but may not approve or disapprove, additions or
24 deletions of degree programs: Provided, That this authority applies to state institutions of higher
25 education under its jurisdiction only in so far as it is necessary to prevent expensive duplication
26 and competition of academic programs in a region or for support of specified performance higher
27 education goals.

28 (c) Develop a ten-year campus development plan in accordance with article nineteen of
29 this chapter;

30 (d) Prescribe for the institution, under its jurisdiction, in accordance with its master plan
31 and compact, specific functions and responsibilities to achieve the goals, objectives and priorities
32 established in articles one and one-d of this chapter to meet the higher education needs of its
33 area of responsibility and to avoid unnecessary duplication;

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

37 (f) Consider, revise and submit for review and approval to the commission or council, as
38 appropriate, an appropriation request on behalf of the institution under its jurisdiction;

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

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

54 (i) Subject to article one-b of this chapter, approve the teacher education programs offered
55 in the institution under its control. In order to permit graduates of teacher education programs to
56 receive a degree from a nationally accredited program and in order to prevent expensive
57 duplication of program accreditation, the commission may select and use one nationally
58 recognized teacher education program accreditation standard as the appropriate standard for
59 program evaluation;

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

62 (k) Subject to federal law and pursuant to articles seven, eight, nine and nine-a of this
63 chapter and to rules adopted by the commission and the council, administer a system for the
64 management of personnel matters, including, but not limited to, discipline for employees at the
65 institution under its jurisdiction;

66 (l) Administer a system for hearing employee grievances and appeals. Notwithstanding
67 any other provision of this code to the contrary, the procedure established in article two, chapter
68 six-c of this code is the exclusive mechanism for hearing prospective employee grievances and
69 appeals;

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

72 (n) Appoint a president for the institution under its jurisdiction subject to section six, article

73 one-b of this chapter;

74 (o) Conduct written performance evaluations of the president pursuant to section six,
75 article one-b of this chapter;

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

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

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

85 (s) Provide and transfer funds and property to certain corporations pursuant to section ten,
86 article twelve of this chapter;

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

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

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

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

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

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

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

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

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

127 (y) Transfer funds from appropriated special revenue accounts for capital improvements
128 under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction
129 as long as the transferred funds are used for the purposes appropriated in accordance with article
130 nineteen of this chapter;

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

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

NOTE: The purpose of this bill is to reduce regulatory control over academic programs of state institutions. The bill provides that the powers of the Higher Education Policy Commission and the powers and duties of governing boards generally apply to state institutions of higher education under their jurisdiction only in so far as it is necessary to prevent expensive duplication and competition of academic programs in a region or for support of specified performance higher education goals.

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