

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Introduced**

## **Senate Bill 835**

BY SENATORS PLYMALE, AND WOELFEL

[Introduced February 17, 2020; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §5A-6-4 of the Code of West Virginia, 1931, as amended; to amend  
 2 said code by adding thereto a new section, designated §5A-6-9; to amend and reenact  
 3 §18B-2B-6 of said code; to amend and reenact §18B-4-2 of said code; and to amend and  
 4 reenact §18B-6-1a of said code, all relating to transferring the West Virginia Network for  
 5 Educational Telecomputing and all its property and personnel to the Office of Technology.

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

**CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

**ARTICLE 6. OFFICE OF TECHNOLOGY.**

**§5A-6-4. Powers and duties of the Chief Technology Officer generally.**

- 1 (a) With respect to all state spending units the Chief Technology Officer may:
- 2 (1) Develop an organized approach to information resource management for this state;
- 3 (2) Provide technical assistance to the administrators of the various state spending units  
 4 in the design and management of information systems;
- 5 (3) Evaluate the economic justification, system design, and suitability of information  
 6 equipment and related services, and review and make recommendations on the purchase, lease,  
 7 or acquisition of information equipment and contracts for related services by the state spending  
 8 units;
- 9 (4) Develop a mechanism for identifying those instances where systems of paper forms  
 10 should be replaced by direct use of information equipment and those instances where applicable  
 11 state or federal standards of accountability demand retention of some paper processes;
- 12 (5) Develop a mechanism for identifying those instances where information systems  
 13 should be linked and information shared, while providing for appropriate limitations on access and  
 14 the security of information;
- 15 (6) Create new technologies to be used in government, convene conferences, and  
 16 develop incentive packages to encourage the utilization of technology;

17 (7) Engage in any other activities as directed by the Governor;

18 (8) Charge a fee to the state spending units for evaluations performed and technical  
19 assistance provided under the provisions of this section. All fees collected by the Chief  
20 Technology Officer shall be deposited in a special account in the State Treasury to be known as  
21 the Chief Technology Officer Administration Fund. Expenditures from the fund shall be made by  
22 the Chief Technology Officer for the purposes set forth in this article and are not authorized from  
23 collections but are to be made only in accordance with appropriation by the Legislature and in  
24 accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the  
25 provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That the provisions of §11B-2-18  
26 of this code do not operate to permit expenditures in excess of the spending authority authorized  
27 by the Legislature. Amounts collected which are found to exceed the funds needed for purposes  
28 set forth in this article may be transferred to other accounts or funds and re-designated for other  
29 purposes by appropriation of the Legislature;

30 (9) Monitor trends and advances in information technology and technical infrastructure;

31 (10) Direct the formulation and promulgation of policies, guidelines, standards, and  
32 specifications for the development and maintenance of information technology and technical  
33 infrastructure, including, but not limited to:

34 (A) Standards to support state and local government exchange, acquisition, storage, use,  
35 sharing, and distribution of electronic information;

36 (B) Standards concerning the development of electronic transactions, including the use of  
37 electronic signatures;

38 (C) Standards necessary to support a unified approach to information technology across  
39 the totality of state government, thereby assuring that the citizens and businesses of the state  
40 receive the greatest possible security, value and convenience from investments made in  
41 technology;

42 (D) Guidelines directing the establishment of statewide standards for the efficient  
43 exchange of electronic information and technology, including technical infrastructure, between the

44 public and private sectors;

45 (E) Technical and data standards for information technology and related systems to  
46 promote efficiency and uniformity;

47 (F) Technical and data standards for the connectivity, priorities, and interoperability of  
48 technical infrastructure used for homeland security, public safety and health, and systems  
49 reliability necessary to provide continuity of government operations in times of disaster or  
50 emergency for all state, county, and local governmental units; and

51 (G) Technical and data standards for the coordinated development of infrastructure related  
52 to deployment of electronic government services among state, county, and local governmental  
53 units;

54 (11) Periodically evaluate the feasibility of subcontracting information technology  
55 resources and services, and to subcontract only those resources that are feasible and beneficial  
56 to the state;

57 (12) Direct the compilation and maintenance of an inventory of information technology and  
58 technical infrastructure of the state, including infrastructure and technology of all state, county,  
59 and local governmental units, which may include personnel, facilities, equipment, goods and  
60 contracts for service, wireless tower facilities, geographic information systems, and any technical  
61 infrastructure or technology that is used for law enforcement, homeland security, or emergency  
62 services;

63 (13) Develop job descriptions and qualifications necessary to perform duties related to  
64 information technology as outlined in this article; and

65 (14) Promulgate legislative rules, in accordance with the provisions of chapter 29A of this  
66 code, as may be necessary to standardize and make effective the administration of the provisions  
67 of §5A-6-1 *et seq.* of this code.

68 (b) With respect to executive agencies, the Chief Technology Officer may:

69 (1) Develop a unified and integrated structure for information systems for all executive  
70 agencies;

71 (2) Establish, based on need and opportunity, priorities and ~~time-lines~~ timelines for  
72 addressing the information technology requirements of the various executive agencies of state  
73 government;

74 (3) Exercise authority delegated by the Governor by executive order to overrule and  
75 supersede decisions made by the administrators of the various executive agencies of government  
76 with respect to the design and management of information systems and the purchase, lease, or  
77 acquisition of information equipment and contracts for related services;

78 (4) Draw upon staff of other executive agencies for advice and assistance in the  
79 formulation and implementation of administrative and operational plans and policies;

80 (5) Recommend to the Governor transfers of equipment and human resources from any  
81 executive agency and the most effective and efficient uses of the fiscal resources of executive  
82 agencies, to consolidate or centralize information-processing operations; and

83 (6) Ensure information technology equipment is properly cleansed before disposal or  
84 transfer to another agency or organization, and is responsible for the retirement or transfer of  
85 information technology equipment that may contain confidential or privileged electronic data.  
86 Information technology equipment shall be cleansed using appropriate and effective methods that  
87 are commensurate with the data, the decommissioning agency and the planned disposition of the  
88 information technology equipment. Following the cleansing, the Chief Technology Officer may  
89 distribute the information technology equipment for reuse by another state spending unit, send  
90 the information technology equipment to a state authorized recycler or send the information  
91 technology equipment to a certified information technology equipment refurbisher. Transfers and  
92 disposal of information technology equipment are specifically exempt from the surplus property  
93 requirements enumerated in §5A-3-43 through §5A-3-46 of this code.

94 (c) The Chief Technology Officer may employ the personnel necessary to carry out the  
95 work of the Office of Technology and may approve reimbursement of costs incurred by employees  
96 to obtain education and training.

97 (d) The Chief Technology Officer shall develop a comprehensive, statewide, four-year

98 strategic information technology and technical infrastructure policy and development plan to be  
99 submitted to the Governor and the Joint Committee on Government and Finance. A preliminary  
100 plan shall be submitted by December 1, 2006, and the final plan shall be submitted by June 1,  
101 2007. The plan shall include, but not be limited to:

102 (A) A discussion of specific projects to implement the plan;

103 (B) A discussion of the acquisition, management, and use of information technology by  
104 state agencies;

105 (C) A discussion of connectivity, priorities, and interoperability of the state's technical  
106 infrastructure with the technical infrastructure of political subdivisions and encouraging the  
107 coordinated development of facilities and services regarding homeland security, law enforcement,  
108 and emergency services to provide for the continuity of government operations in times of disaster  
109 or emergency;

110 (D) A discussion identifying potential market demand areas in which expanded resources  
111 and technical infrastructure may be expected;

112 (E) A discussion of technical infrastructure as it relates to higher education and health;

113 (F) A discussion of the use of public-private partnerships in the development of technical  
114 infrastructure and technology services; and

115 (G) A discussion of coordinated initiatives in website architecture and technical  
116 infrastructure to modernize and improve government to citizen services, government to business  
117 services, government-to-government relations, and internal efficiency and effectiveness of  
118 services, including a discussion of common technical data standards and common portals to be  
119 utilized by state, county, and local governmental units.

120 (e) The Chief Technology Officer shall oversee telecommunications services used by state  
121 spending units for the purpose of maximizing efficiency to the fullest possible extent. The Chief  
122 Technology Officer shall establish microwave or other networks and LATA hops; audit  
123 telecommunications services and usage; recommend and develop strategies for the  
124 discontinuance of obsolete or excessive utilization; participate in the renegotiation of

125 telecommunications contracts; and encourage the use of technology and take other actions  
126 necessary to provide the greatest value to the state.

127 (f) Effective July 1, 2020, the Chief Technology Officer shall administer the West Virginia  
128 Network for Educational Telecomputing in accordance with section nine of this article.

**§5A-6-9. Transfer of West Virginia Network for Educational Telecomputing.**

1 (a) Legislative Findings:

2 (1) The technological needs of the state are constantly evolving, and services must be  
3 provided to satisfy those needs in an efficient manner with the highest standards;

4 (2) All individuals and entities within the state, including schools, healthcare facilities,  
5 businesses, and the citizens of the state deserve access to exceptional telecommunication  
6 services;

7 (3) The Office of Technology works closely with the Broadband Enhancement Council and  
8 other interested groups to improve broadband access throughout the state; and

9 (4) The West Virginia Network for Educational Telecomputing has provided Internet  
10 related services to higher education institutions for years, but those services should now be  
11 deployed in a manner that benefits all of the state.

12 (b) Effective July 1, 2020, the West Virginia Network for Educational Telecomputing and  
13 all its property and personnel is transferred to the Office of Technology. It shall be administered  
14 by the Chief Technology Officer. Notwithstanding any provision of this code to the contrary,  
15 personnel and property of the West Virginia Network for Educational Telecomputing may be  
16 moved from Monongalia County without legislative approval.

**CHAPTER 18B. HIGHER EDUCATION.**

**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 and §29A-3A-1 *et seq.* of this  
7 code to implement the provisions of this section and applicable provisions of §18B-1D-1 *et seq.*  
8 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  
19 propose an emergency rule or rules to implement the provisions of this section relating to the  
20 financing policy and benchmarks and indicators in accordance with §18B-1-6 and §29A-3A-1 *et*  
21 *seq.* of this code by October 1, 2008. The emergency rule or rules may not be implemented  
22 without prior 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  
27 not limited to, the following:

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

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

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

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

50 and

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

53 (3) Create a policy leadership structure relating to community and technical college

54 education capable of the following actions:

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

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

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

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

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

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

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

79 (8) Propose a legislative rule pursuant to subsection (b) of this section and §29A-3A-1 *et*

80 *seq.* of this code to establish benchmarks and indicators in accordance with the provisions of this  
81 subsection;

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

84 (A) In meeting state goals, objectives, and priorities established in §18B-1-1 *et seq.* and  
85 18B-1D-1 *et seq.* of this code;

86 (B) In carrying out institutional missions; and

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

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

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

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

103 (13) Employ a chancellor for community and technical college education pursuant to  
104 section three of this article;

105 (14) Employ other staff as necessary and appropriate to carry out the duties and

106 responsibilities of the council consistent with the provisions of §18B-4-2 of this code;

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

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

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

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

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

129 (20) Seek out and attend regional and national meetings and forums on education and  
130 workforce development-related topics, as council members consider critical for the performance  
131 of their duties. The council shall keep abreast of national and regional community and technical

132 college education trends and policies to aid members in developing the policies for this state that  
133 meet the education goals and objectives established in §18B-1-1 *et seq.* and §18B-1D-1 *et seq.*  
134 of this code;

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

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

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

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

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

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

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

154 (25) Administer and distribute the independently accredited community and technical  
155 college development account;

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

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

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

164 (29) Advise and consent in the appointment of the presidents of the community and  
165 technical colleges pursuant to §18B-1B-6 of this code. The role of the council in approving a  
166 president is to assure through personal interview that the person selected understands and is  
167 committed to achieving the goals and objectives established in the institutional compact and in  
168 §18B-1-1 *et seq.*, §18B-1D-1 *et seq.*, and §18B-3C-1 *et seq.* of this code;

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

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

173 (A) Defining faculty roles and personnel policies;

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

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

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

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

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

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

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

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

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

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

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

203 (40) Develop and implement strategies and curriculum for providing developmental  
204 education which shall be applied by any state institution of higher education providing  
205 developmental education;

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

209 (42) Review and approve all institutional master plans for the community and technical

210 colleges pursuant to §18B-2A-4 of this code;

211 (43) Propose rules for promulgation pursuant to subsection (b) of this section and §29A-  
212 3A-1 *et seq.*, of this code that are necessary or expedient for the effective and efficient  
213 performance of community and technical colleges in the state;

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

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

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

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

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

230 (A) Policies to strengthen vocational-technical-occupational and adult basic education;  
231 and

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

234 (49) Distribute federal vocational education funding provided under the Carl D. Perkins  
235 Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing

236 financial assistance among secondary and post-secondary vocational-technical-occupational and  
237 adult basic education programs to help meet the public policy agenda.

238 In distributing funds, the council shall use the following guidelines:

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

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

245 (50) Collaborate, cooperate and interact with all secondary and post-secondary  
246 vocational-technical-occupational and adult basic education programs in the state, including the  
247 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of  
248 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of  
249 seamless curriculum and the elimination of duplicative programs;

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

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

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

260 (54) Promote public participation in the provision of vocational-technical-occupational  
261 education, adult basic education and community and technical education at the local level,

262 emphasizing programs which involve the participation of local employers and labor organizations;

263 (55) Promote equal access to quality vocational-technical-occupational education, adult  
264 basic education, and community and technical college education programs to handicapped and  
265 disadvantaged individuals, adults in need of training and retraining, single parents, homemakers,  
266 participants in programs designed to eliminate sexual bias and stereotyping, and criminal  
267 offenders serving in correctional institutions;

268 (56) Meet annually between the months of October and December with the Advisory  
269 Committee of Community and Technical College Presidents created pursuant to section eight of  
270 this article to discuss those matters relating to community and technical college education in which  
271 advisory committee members or the council may have an interest;

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

274 (58) Assume the powers set out in section nine of this article. The rules previously  
275 promulgated by the state College System Board of Directors pursuant to that section and  
276 transferred to the commission are hereby transferred to the council and shall continue in effect  
277 until rescinded, revised, altered, or amended by the council;

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

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

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

287 (A) Comparisons with peer institutions;

288 (B) Differences among institutional missions;

289 (C) Strategies for promoting student access;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

339 (2) The council has received information, substantiated by independent audit, of significant

340 mismanagement or failure to carry out the powers and duties of the board of governors according  
 341 to state law; or

342 (3) Other circumstances which, in the view of the council, severely limit the capacity of the  
 343 board of governors to carry out its duties and responsibilities.

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

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

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

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

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

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

#### **ARTICLE 4. GENERAL ADMINISTRATION.**

##### **§18B-4-2. Employment of Vice Chancellor for Administration; office; powers and duties generally.**

1 (a) By and with the advice and consent of the council, the commission shall employ a Vice  
 2 Chancellor for Administration who may not be dismissed without the consent of the council. ~~(4)~~  
 3 ~~The individual serving as Vice Chancellor for Administration on the effective date of this section~~  
 4 ~~may continue to serve on an interim basis until the commission and the council have agreed,~~

5 ~~jointly, on a candidate to fill the position; (2) The Interim Vice Chancellor for Administration may~~  
6 ~~be considered as a candidate for the position; (3) The position shall be filled on a permanent basis~~  
7 ~~no later than October 1, 2004; and (4) Any vacancy occurring in this position shall be filled~~  
8 pursuant to the requirements of this section.

9 (b) Any reference in this chapter or Chapter 18C of this code to the senior administrator  
10 means the Vice Chancellor for Administration.

11 (c) The Vice Chancellor for Administration has a ministerial duty, in consultation with and  
12 under direction of the chancellors, to perform such functions, tasks, and duties as may be  
13 necessary to carry out the policy directives of the council and commission and such other duties  
14 as may be prescribed by law.

15 (d) The Vice Chancellor for Administration shall supervise such professional,  
16 administrative, clerical, and other employees as may be necessary to these duties and shall  
17 delineate staff responsibilities as considered desirable and appropriate. It is the responsibility of  
18 the Vice Chancellor for Administration, within the parameters of the total resources available, to  
19 supervise and direct the staff in such a way that the staff and resource needs of the council, the  
20 commission and the offices of the chancellors are met.

21 (e) Any employee of the commission or the council whose job duties meet criteria listed in  
22 the system of job classifications as stated in §18B-9-1 *et seq.* of this code is accorded the job title,  
23 compensation, and rights established in the article as well as all other rights and privileges  
24 accorded classified employees by the provisions of this code.

25 (f) The Office of the Vice Chancellor for Administration and all personnel, except for the  
26 chancellor for community and technical college education and staff transferred to the jurisdiction  
27 of the council pursuant to §18B-2B-7(a) of this code, who are employed on January 1, 2004, within  
28 the higher education central office and the West Virginia Network For Educational Telecomputing  
29 remain under the jurisdiction of the commission: ~~Prior to October 1, 2004, any such employee~~  
30 ~~may not be terminated or have his or her salary and benefit levels reduced as the result of the~~

31 ~~higher education reorganization that occurs on the effective date of this section~~ Provided, That  
32 effective July 1, 2020, pursuant to §5A-6-9 of this code, the West Virginia Network for Educational  
33 Telecomputing and all of its property and personnel are transferred to the jurisdiction of the Office  
34 of Technology.

35 (g) The Vice Chancellor for Administration shall follow state and national education trends  
36 and gather data on higher education needs.

37 (h) The Vice Chancellor for Administration, in accordance with established guidelines and  
38 in consultation with and under the direction of the chancellors, shall administer, oversee, or  
39 monitor all state and federal student assistance and support programs administered on the state  
40 level, including those provided for in Chapter 18C of this code.

41 (i) The Vice Chancellor for Administration has a fiduciary responsibility to administer the  
42 tuition and registration fee capital improvement revenue bond accounts of the governing boards.

43 (j) The Vice Chancellor for Administration shall administer the purchasing system or  
44 systems of the council and commission, the offices of the chancellors, and the governing boards.  
45 By mutual agreement, the commission and the council may delegate authority for the purchasing  
46 systems or portions thereof to the institution presidents.

47 ~~(k) The Vice Chancellor for Administration is responsible for the management of the West~~  
48 ~~Virginia network for educational telecomputing (WVNET). The Vice Chancellor for Administration~~  
49 ~~shall establish a computer advisory board, which shall be representative of higher education and~~  
50 ~~other users of the West Virginia network for educational telecomputing as the commission and~~  
51 ~~council determine appropriate. It is the responsibility of the computer advisory board to~~  
52 ~~recommend to the commission and the council policies for a statewide shared computer system~~

53 ~~(k)~~ (k) The central office, under the direction of the Vice Chancellor for Administration, shall  
54 provide necessary staff support to the commission, the council and offices of the chancellors.

55 ~~(m)~~ (l) The Vice Chancellor for Administration may administer any program or service  
56 authorized or required to be performed by the board of trustees or the board of directors on June

57 30, 2000, and not specifically assigned to another agency. In addition, the Vice Chancellor for  
 58 Administration may administer any program or service authorized or required to be performed by  
 59 the commission, council, or chancellors, but not assigned specifically to the commission, council,  
 60 or chancellors. Any such program or service may include, but is not limited to, telecommunications  
 61 activities and other programs and services provided for under grants and contracts from federal  
 62 and other external funding sources.

## **ARTICLE 6. ADVISORY COUNCILS.**

### **§18B-6-1a. Definitions.**

1 For the purposes of this article, the following words have the meanings specified unless  
 2 the context clearly indicates a different meaning:

3 ~~(a)~~ “Advisory Council of Classified Employees” or “classified council” means the state  
 4 advisory organization of classified employees created pursuant to section five of this article.

5 ~~(b)~~ “Advisory Council of Faculty” or “faculty council” means the state advisory organization  
 6 of faculty created pursuant to section two of this article.

7 ~~(c)~~ “Advisory Council of Students” or “student advisory council” means the state advisory  
 8 organization of students created pursuant to section four of this article.

9 ~~(d)~~ “Classified employee”, in the singular or plural, means any regular full-time or regular  
 10 part-time employee of a governing board, the commission, or the council ~~or the West Virginia~~  
 11 ~~Network for Educational Telecomputing~~ who holds a position that is assigned a particular job title  
 12 and pay grade in accordance with the personnel classification system established by law.

13 ~~(e)~~ “Community and technical college” means Eastern West Virginia Community and  
 14 Technical College, Marshall Community and Technical College, New River Community and  
 15 Technical College, West Virginia Northern Community and Technical College, Blue Ridge  
 16 Community and Technical College, Southern West Virginia Community and Technical College,  
 17 West Virginia State Community and Technical College, the Community and Technical College at  
 18 West Virginia University Institute of Technology, West Virginia University at Parkersburg, and any

19 other community and technical college so designated by the Legislature.

20 (f) "Council" means the West Virginia Council for Community and Technical College  
 21 Education created pursuant to §18B-1B-3 of this code.

22 (g) "Institutional Classified Employee Council" or "staff council" means the advisory group  
 23 of classified employees formed at a state institution of higher education pursuant to section six of  
 24 this article.

25 (h) "Institutional faculty Senate", "faculty Senate" or "faculty assembly" means the advisory  
 26 group of faculty formed at a state institution of higher education pursuant to section three of this  
 27 article.

28 (i) "State institution of higher education", in the singular or plural, means the institutions as  
 29 defined in §18B-1-2 of this code and, additionally, Pierpont Community and Technical College, a  
 30 division of Fairmont State University; Marshall Community and Technical College; New River  
 31 Community and Technical College; Potomac State College of West Virginia University; Robert C.  
 32 Byrd Health Sciences Charleston Division of West Virginia University; Blue Ridge Community and  
 33 Technical College; West Virginia State Community and Technical College, West Virginia  
 34 University at Parkersburg; West Virginia University Institute of Technology, the Community and  
 35 Technical College at West Virginia University Institute of Technology; the Higher Education Policy  
 36 Commission; the West Virginia Council for Community and Technical College Education; ~~the~~  
 37 ~~West Virginia Network for Educational Telecomputing~~ and any other institution so designated by  
 38 the Legislature.

NOTE: The purpose of this bill is to transfer the West Virginia Network for Educational Telecomputing and all its property and personnel to the Office of Technology.

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