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WEST VIRGINIA LEGISLATURE
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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 611

(BY SENATORS HELMICK, McCABE,
BOWMAN, EDGELL, FACEMIRE, FANNING,
GREEN, PREZIOSO, UNGER, WELLS, BOLEY,
FACEMYER, GUILLS AND SYPOLT)

[Passed March 12, 2010; in effect from passage.]

SB 611

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(BY SENATORS HELMICK, MCCABE, BOWMAN, EDGELL,
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WELLS, BOLEY, FACEMYER, GUILLS AND SYPOLT)

[Passed March 12, 2010; in effect from passage.]

AN ACT to amend and reenact §18B-1B-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-2B-6 of said code; and to amend and reenact §18B-4-1 of said code, all relating to the location of the offices of the Higher Education Policy Commission, the Vice Chancellor for Administration, the West Virginia Council for Community and Technical College Education, and WVNET.

Be it enacted by the Legislature of West Virginia:

That §18B-1B-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18B-2B-6 of said code be amended and reenacted; and that §18B-4-1 of said 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
2 develop, establish and implement policy that will achieve
3 the goals and objectives found in section one-a, article one
4 of this chapter. The commission shall exercise its authority
5 and carry out its responsibilities in a manner that is
6 consistent and not in conflict with the powers and duties
7 assigned by law to the West Virginia Council for Commu-
8 nity and Technical College Education and the powers and
9 duties assigned to the governing boards of Marshall
10 University and West Virginia University, respectively. To
11 that end, the commission has the following powers and
12 duties relating to the institutions under its jurisdiction:

13 (1) Develop, oversee and advance the public policy
14 agenda pursuant to section one, article one-a of this
15 chapter to address major challenges facing the state,
16 including, but not limited to, the goals and objectives
17 found in section one-a, article one of this chapter and
18 including specifically those goals and objectives pertaining
19 to the compacts created pursuant to section two, article
20 one-a of this chapter and to develop and implement the
21 master plan described in section nine of this article for the
22 purpose of accomplishing the mandates of this section;

23 (2) Develop, oversee and advance the implementation
24 jointly with the council of a financing policy for higher
25 education in West Virginia. The policy shall meet the
26 following criteria:

27 (A) Provide an adequate level of education and general
28 funding for institutions pursuant to section five, article
29 one-a of this chapter;

30 (B) Serve to maintain institutional assets, including, but
31 not limited to, human and physical resources and deferred
32 maintenance;

33 (C) Invest and provide incentives for achieving the
34 priority goals in the public policy agenda, including, but

35 not limited to, those found in section one-a, article one of
36 this chapter; and

37 (D) Incorporate the plan for strategic funding to
38 strengthen capacity for support of community and techni-
39 cal college education established by the West Virginia
40 Council for Community and Technical College Education
41 pursuant to the provisions of section six, article two-b of
42 this chapter;

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

45 (A) Developing, building public consensus around and
46 sustaining attention to a long-range public policy agenda.
47 In developing the agenda, the commission and council
48 shall seek input from the Legislature and the Governor
49 and specifically from the State Board of Education and
50 local school districts in order to create the necessary
51 linkages to assure smooth, effective and seamless move-
52 ment of students through the public education and post-
53 secondary education systems and to ensure that the needs
54 of public school courses and programs can be fulfilled by
55 the graduates produced and the programs offered;

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

59 (C) Holding the higher education institutions and the
60 higher education systems as a whole accountable for
61 accomplishing their missions and implementing the
62 provisions of the compacts;

63 (4) Develop and adopt each institutional compact;

64 (5) Review and adopt the annual updates of the institu-
65 tional compacts;

66 (6) Serve as the accountability point to:

67 (A) The Governor for implementation of the public
68 policy agenda; and

69 (B) The Legislature by maintaining a close working
70 relationship with the legislative leadership and the
71 Legislative Oversight Commission on Education Account-
72 ability;

73 (7) Jointly with the council, promulgate legislative rules
74 pursuant to article three-a, chapter twenty-nine-a of this
75 code to fulfill the purposes of section five, article one-a of
76 this chapter;

77 (8) Establish and implement a peer group for each
78 institution as described in section three, article one-a of
79 this chapter;

80 (9) Establish and implement the benchmarks and
81 performance indicators necessary to measure institutional
82 achievement towards state policy priorities and institu-
83 tional missions pursuant to section two, article one-a of
84 this chapter;

85 (10) Annually report to the Legislature and to the
86 Legislative Oversight Commission on Education Account-
87 ability during the January interim meetings on a date and
88 at a time and location to be determined by the President of
89 the Senate and the Speaker of the House of Delegates. The
90 report shall address at least the following:

91 (A) The performance of its system of higher education
92 during the previous fiscal year, including, but not limited
93 to, progress in meeting goals stated in the compacts and
94 progress of the institutions and the higher education
95 system as a whole in meeting the goals and objectives set
96 forth in section one-a, article one of this chapter;

97 (B) An analysis of enrollment data collected pursuant to
98 section one, article ten of this chapter and recommenda-
99 tions for any changes necessary to assure access to high-

100 quality, high-demand education programs for West
101 Virginia residents;

102 (C) The priorities established for capital investment
103 needs pursuant to subdivision (11) of this subsection and
104 the justification for such priority;

105 (D) Recommendations of the commission for statutory
106 changes needed to further the goals and objectives set
107 forth in section one-a, article one of this chapter;

108 (11) Establish a formal process for identifying needs for
109 capital investments and for determining priorities for
110 these investments for consideration by the Governor and
111 the Legislature as part of the appropriation request
112 process. It is the responsibility of the commission to
113 assure a fair distribution of funds for capital projects
114 between the commission and the council. To that end the
115 commission shall take the following steps:

116 (A) Receive the list of priorities developed by the council
117 for capital investment for the institutions under the
118 council's jurisdiction pursuant to subsection (b), section
119 six, article two-b of this chapter;

120 (B) Place the ranked list of projects on the agenda for
121 action within sixty days of the date on which the list was
122 received;

123 (C) Select a minimum of three projects from the list
124 submitted by the council to be included on the ranked list
125 established by the commission. At least one of the three
126 projects selected must come from the top two priorities
127 established by the council;

128 (12) Maintain guidelines for institutions to follow
129 concerning extensive capital project management except
130 the governing boards of Marshall University and West
131 Virginia University are not subject to the provisions of this
132 subdivision as it relates to the state institutions of higher

133 education known as Marshall University and West Vir-
134 ginia University. The guidelines shall provide a process
135 for developing capital projects, including, but not limited
136 to, the notification by an institution to the commission of
137 any proposed capital project which has the potential to
138 exceed \$1 million in cost. Such a project may not be
139 pursued by an institution without the approval of the
140 commission. An institution may not participate directly or
141 indirectly with any public or private entity in any capital
142 project which has the potential to exceed \$1 million in
143 cost;

144 (13) Acquire legal services as are considered necessary,
145 including representation of the commission, its institu-
146 tions, employees and officers before any court or adminis-
147 trative body, notwithstanding any other provision of this
148 code to the contrary. The counsel may be employed either
149 on a salaried basis or on a reasonable fee basis. In addi-
150 tion, the commission may, but is not required to, call upon
151 the Attorney General for legal assistance and representa-
152 tion as provided by law;

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

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

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

161 (17) Advise and consent in the appointment of the
162 presidents of the institutions of higher education under its
163 jurisdiction pursuant to section six of this article. The role
164 of the commission in approving an institutional president
165 is to assure through personal interview that the person
166 selected understands and is committed to achieving the

167 goals and objectives as set forth in the institutional
168 compact and in section one-a, article one of this chapter;

169 (18) Approve the total compensation package from all
170 sources for presidents of institutions under its jurisdiction,
171 as proposed by the governing boards. The governing
172 boards must obtain approval from the commission of the
173 total compensation package both when institutional
174 presidents are employed initially and afterward when any
175 change is made in the amount of the total compensation
176 package;

177 (19) Establish and implement the policy of the state to
178 assure that parents and students have sufficient informa-
179 tion at the earliest possible age on which to base academic
180 decisions about what is required for students to be suc-
181 cessful in college, other post-secondary education and
182 careers related, as far as possible, to results from current
183 assessment tools in use in West Virginia;

184 (20) Approve and implement a uniform standard jointly
185 with the council to determine which students shall be
186 placed in remedial or developmental courses. The stan-
187 dard shall be aligned with college admission tests and
188 assessment tools used in West Virginia and shall be
189 applied uniformly by the governing boards throughout the
190 public higher education system. The chancellors shall
191 develop a clear, concise explanation of the standard which
192 they shall communicate to the State Board of Education
193 and the State Superintendent of Schools;

194 (21) Review and approve or disapprove capital projects
195 as described in subdivision (11) of this subsection;

196 (22) Jointly with the council, develop and implement an
197 oversight plan to manage systemwide technology such as
198 the following:

199 (A) Expanding distance learning and technology net-
200 works to enhance teaching and learning, promote access to

201 quality educational offerings with minimum duplication
202 of effort; and

203 (B) Increasing the delivery of instruction to nontradi-
204 tional students, to provide services to business and indus-
205 try and increase the management capabilities of the higher
206 education system.

207 (C) Notwithstanding any other provision of law or this
208 code to the contrary, the council, commission and state
209 institutions of higher education are not subject to the
210 jurisdiction of the Chief Technology Officer for any
211 purpose;

212 (23) Establish and implement policies and procedures to
213 ensure that students may transfer and apply toward the
214 requirements for a bachelor's degree the maximum
215 number of credits earned at any regionally accredited in-
216 state or out-of-state community and technical college with
217 as few requirements to repeat courses or to incur addi-
218 tional costs as is consistent with sound academic policy;

219 (24) Establish and implement policies and procedures to
220 ensure that students may transfer and apply toward the
221 requirements for a degree the maximum number of credits
222 earned at any regionally accredited in-state or out-of-state
223 higher education institution with as few requirements to
224 repeat courses or to incur additional costs as is consistent
225 with sound academic policy;

226 (25) Establish and implement policies and procedures to
227 ensure that students may transfer and apply toward the
228 requirements for a master's degree the maximum number
229 of credits earned at any regionally accredited in-state or
230 out-of-state higher education institution with as few
231 requirements to repeat courses or to incur additional costs
232 as is consistent with sound academic policy;

233 (26) Establish and implement policies and programs, in
234 cooperation with the council and the institutions of higher
235 education, through which students who have gained
236 knowledge and skills through employment, participation
237 in education and training at vocational schools or other
238 education institutions, or internet-based education
239 programs, may demonstrate by competency-based assess-
240 ment that they have the necessary knowledge and skills to
241 be granted academic credit or advanced placement
242 standing toward the requirements of an associate degree
243 or a bachelor's degree at a state institution of higher
244 education;

245 (27) Seek out and attend regional, national and interna-
246 tional meetings and forums on education and workforce
247 development-related topics, as in the commission's
248 discretion is critical for the performance of their duties as
249 members, for the purpose of keeping abreast of education
250 trends and policies to aid it in developing the policies for
251 this state to meet the established education goals and
252 objectives pursuant to section one-a, article one of this
253 chapter;

254 (28) Develop, establish and implement a rule for higher
255 education governing boards and institutions to follow
256 when considering capital projects. The guidelines shall
257 assure that the governing boards and institutions do not
258 approve or promote capital projects involving private
259 sector businesses which would have the effect of reducing
260 property taxes on existing properties or avoiding, in whole
261 or in part, the full amount of taxes which would be due on
262 newly developed or future properties;

263 (29) Consider and submit to the appropriate agencies of
264 the executive and legislative branches of state government
265 a budget that reflects recommended appropriations from
266 the commission and the institutions under its jurisdiction.
267 The commission shall submit as part of its budget proposal

268 the separate recommended appropriations it received from
269 the council, both for the council and the institutions under
270 the council's jurisdiction. The commission annually shall
271 submit the proposed institutional allocations based on
272 each institution's progress toward meeting the goals of its
273 institutional compact;

274 (30) The commission has the authority to assess institu-
275 tions under its jurisdiction, including the state institutions
276 of higher education known as Marshall University and
277 West Virginia University, for the payment of expenses of
278 the commission or for the funding of statewide higher
279 education services, obligations or initiatives related to the
280 goals set forth for the provision of public higher education
281 in the state;

282 (31) Promulgate rules allocating reimbursement of
283 appropriations, if made available by the Legislature, to
284 institutions of higher education for qualifying noncapital
285 expenditures incurred in the provision of services to
286 students with physical, learning or severe sensory disabili-
287 ties;

288 (32) Make appointments to boards and commissions
289 where this code requires appointments from the State
290 College System Board of Directors or the University of
291 West Virginia System Board of Trustees which were
292 abolished effective June 30, 2000, except in those cases
293 where the required appointment has a specific and direct
294 connection to the provision of community and technical
295 college education, the appointment shall be made by the
296 council. Notwithstanding any provisions of this code to the
297 contrary, the commission or the council may appoint one
298 of its own members or any other citizen of the state as its
299 designee. The commission and council shall appoint the
300 total number of persons in the aggregate required to be
301 appointed by these previous governing boards;

302 (33) Pursuant to the provisions of article three-a, chapter
303 twenty-nine-a of this code and section six, article one of
304 this chapter, promulgate rules as necessary or expedient to
305 fulfill the purposes of this chapter. The commission and
306 the council shall promulgate a uniform joint legislative
307 rule for the purpose of standardizing, as much as possible,
308 the administration of personnel matters among the
309 institutions of higher education;

310 (34) Determine when a joint rule among the governing
311 boards of the institutions under its jurisdiction is neces-
312 sary or required by law and, in those instances, in consul-
313 tation with the governing boards of all the institutions
314 under its jurisdiction, promulgate the joint rule;

315 (35) In consultation with the governing boards of
316 Marshall University and West Virginia University, imple-
317 ment a policy jointly with the council whereby course
318 credit earned at a community and technical college
319 transfers for program credit at any other state institution
320 of higher education and is not limited to fulfilling a
321 general education requirement;

322 (36) Promulgate a joint rule with the council establishing
323 tuition and fee policy for all institutions of higher educa-
324 tion, other than state institutions of higher education
325 known as Marshall University and West Virginia Univer-
326 sity which are subject to the provisions of section one,
327 article ten of this chapter. The rule shall include, but is
328 not limited to, the following:

329 (A) Comparisons with peer institutions;

330 (B) Differences among institutional missions;

331 (C) Strategies for promoting student access;

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

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

336 (37) Implement general disease awareness initiatives to
337 educate parents and students, particularly dormitory
338 residents, about meningococcal meningitis; the potentially
339 life-threatening dangers of contracting the infection;
340 behaviors and activities that can increase risks; measures
341 that can be taken to prevent contact or infection; and
342 potential benefits of vaccination. The commission shall
343 encourage institutions that provide medical care to
344 students to provide access to the vaccine for those who
345 wish to receive it; and

346 (38) Notwithstanding any other provision of this code to
347 the contrary, sell, lease, convey or otherwise dispose of all
348 or part of any real property which it may own, either by
349 contract or at public auction, and to retain the proceeds of
350 any such sale or lease: *Provided*, That:

351 (A) The commission may not sell, lease, convey or
352 otherwise dispose of any real property without first:

353 (i) Providing notice to the public in the county in which
354 the real property is located by a Class II legal advertise-
355 ment pursuant to section two, article three, chapter fifty-
356 nine of this code;

357 (ii) Holding a public hearing on the issue in the county
358 in which the real property is located; and

359 (iii) Providing notice to the Joint Committee on Govern-
360 ment and Finance; and

361 (B) Any proceeds from the sale, lease, conveyance or
362 other disposal of real property that is used jointly by
363 institutions or for statewide programs under the jurisdic-
364 tion of the commission or the council shall be transferred
365 to the General Revenue Fund of the state.

366 (b) In addition to the powers and duties listed in subsec-
367 tion (a) of this section, the commission has the following
368 general powers and duties related to its role in developing,
369 articulating and overseeing the implementation of the
370 public policy agenda:

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

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

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

381 (4) Academic program review and approval for institu-
382 tions under its jurisdiction, including the use of institu-
383 tional missions as a template to judge the appropriateness
384 of both new and existing programs and the authority to
385 implement needed changes. The commission's authority to
386 review and approve academic programs for either the state
387 institution of higher education known as Marshall Univer-
388 sity or West Virginia University is limited to programs
389 that are proposed to be offered at a new location not
390 presently served by that institution;

391 (5) Distribution of funds appropriated to the commis-
392 sion, including incentive and performance-based funding;

393 (6) Administration of state and federal student aid
394 programs under the supervision of the vice chancellor for
395 administration, including promulgation of any rules
396 necessary to administer those programs;

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

400 (8) Development, establishment and implementation of
401 information, assessment and accountability systems,
402 including maintenance of statewide data systems that
403 facilitate long-term planning and accurate measurement
404 of strategic outcomes and performance indicators;

405 (9) Jointly with the council, developing, establishing and
406 implementing policies for licensing and oversight for both
407 public and private degree-granting and nondegree-grant-
408 ing institutions that provide post-secondary education
409 courses or programs in the state pursuant to the findings
410 and policy recommendations required by section eleven of
411 this article;

412 (10) Development, implementation and oversight of
413 statewide and regionwide projects and initiatives related
414 to providing post-secondary education at the baccalaure-
415 ate level and above such as those using funds from federal
416 categorical programs or those using incentive and
417 performance-based funding from any source; and

418 (11) Quality assurance that intersects with all other
419 duties of the commission particularly in the areas of
420 research, data collection and analysis, planning, policy
421 analysis, program review and approval, budgeting and
422 information and accountability systems.

423 (c) In addition to the powers and duties provided in
424 subsections (a) and (b) of this section and any other powers
425 and duties as may be assigned to it by law, the commission
426 has such other powers and duties as may be necessary or
427 expedient to accomplish the purposes of this article.

428 (d) The commission is authorized to withdraw specific
429 powers of any governing board of an institution under its

430 jurisdiction for a period not to exceed two years, if the
431 commission makes a determination that:

432 (1) The governing board has failed for two consecutive
433 years to develop an institutional compact as required in
434 article one of this chapter;

435 (2) The commission has received information, substanti-
436 ated by independent audit, of significant mismanagement
437 or failure to carry out the powers and duties of the board
438 of governors according to state law; or

439 (3) Other circumstances which, in the view of the
440 commission, severely limit the capacity of the board of
441 governors to carry out its duties and responsibilities.

442 The period of withdrawal of specific powers may not
443 exceed two years during which time the commission is
444 authorized to take steps necessary to reestablish the
445 conditions for restoration of sound, stable and responsible
446 institutional governance.

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 admin-
2 istration of vocational-technical-occupational education
3 and community and technical college education in the
4 state. The council has jurisdiction and authority over the
5 community and technical colleges and the statewide
6 network of independently accredited community and
7 technical colleges as a whole, including community and
8 technical college education programs as defined in section
9 two, article one of this chapter.

10 (b) The council shall propose rules pursuant to section
11 six, article one of this chapter and article three-a, chapter
12 twenty-nine-a of this code to implement the provisions of

13 this section and applicable provisions of article one-d of
14 this chapter:

15 (1) To implement the provisions of article one-d of this
16 chapter relevant to community and technical colleges, the
17 council may propose rules jointly with the commission or
18 separately and may choose to address all components of
19 the accountability system in a single rule or may propose
20 additional rules to cover specific components;

21 (2) The rules pertaining to financing policy and
22 benchmarks and indicators required by this section shall
23 be filed with the Legislative Oversight Commission on
24 Education Accountability by October 1, 2008. Nothing in
25 this subsection requires other rules of the council to be
26 promulgated again under the procedure set forth in article
27 three-a, chapter twenty-nine-a of this code unless such
28 rules are rescinded, revised, altered or amended; and

29 (3) The Legislature finds that an emergency exists and,
30 therefore, the council shall propose an emergency rule or
31 rules to implement the provisions of this section relating
32 to the financing policy and benchmarks and indicators in
33 accordance with section six, article one of this chapter and
34 article three-a, chapter twenty-nine-a of this code by
35 October 1, 2008. The emergency rule or rules may not be
36 implemented without prior approval of the Legislative
37 Oversight Commission on Education Accountability.

38 (c) The council has the following powers and duties
39 relating to the authority established in subsection (a) of
40 this section:

41 (1) Develop, oversee and advance the public policy
42 agenda for community and technical college education for
43 the purpose of accomplishing the mandates of this section,
44 including, but not limited to, the following:

45 (A) Achieving the goals and objectives established in
46 articles one and one-d of this chapter;

47 (B) Addressing the goals and objectives contained in the
48 institutional compacts created pursuant to section seven,
49 article one-d of this chapter; and

50 (C) Developing and implementing the master plan
51 described in section five, article one-d of this chapter;

52 (2) Propose a legislative rule pursuant to subsection (b)
53 of this section and article three-a, chapter twenty-nine-a
54 of this code to develop and implement a financing policy
55 for community and technical college education in West
56 Virginia. The rule shall meet the following criteria:

57 (A) Provide an adequate level of education and general
58 funding for institutions pursuant to section five, article
59 one-a of this chapter;

60 (B) Serve to maintain institutional assets, including, but
61 not limited to, human and physical resources and deferred
62 maintenance;

63 (C) Establish a plan for strategic funding to strengthen
64 capacity for support of community and technical college
65 education; and

66 (D) Establish a plan that measures progress and provides
67 performance-based funding to institutions which make
68 significant progress in the following specific areas:

69 (i) Achieving the objectives and priorities established in
70 article one-d of this chapter;

71 (ii) Serving targeted populations, especially working age
72 adults twenty-five years of age and over;

73 (iii) Providing access to high cost, high demand technical
74 programs in every region of the state;

75 (iv) Increasing the percentage of functionally literate
76 adults in every region of the state; and

77 (v) Providing high quality community and technical
78 college education services to residents of every region of
79 the state.

80 (3) Create a policy leadership structure relating to
81 community and technical college education capable of the
82 following actions:

83 (A) Developing, building public consensus around and
84 sustaining attention to a long-range public policy agenda.
85 In developing the agenda, the council shall seek input from
86 the Legislature and the Governor and specifically from the
87 State Board of Education and local school districts in
88 order to create the necessary linkages to assure smooth,
89 effective and seamless movement of students through the
90 public education and post-secondary education systems
91 and to ensure that the needs of public school courses and
92 programs can be fulfilled by the graduates produced and
93 the programs offered;

94 (B) Ensuring that the governing boards of the institu-
95 tions under the council's jurisdiction carry out their duty
96 effectively to govern the individual institutions of higher
97 education; and

98 (C) Holding each community and technical college and
99 the statewide network of independently accredited
100 community and technical colleges as a whole accountable
101 for accomplishing their missions and achieving the goals
102 and objectives established in articles one, one-d, and
103 three-c of this chapter;

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

109 (5) Provide statewide leadership, coordination, support,
110 and technical assistance to the community and technical

111 colleges and to provide a focal point for visible and
112 effective advocacy for their work and for the public policy
113 agendas approved by the commission and council;

114 (6) Review and adopt annually all institutional compacts
115 for the community and technical colleges pursuant to the
116 provisions of section seven, article one-d of this chapter;

117 (7) Fulfill the mandates of the accountability system
118 established in article one-d of this chapter and report on
119 progress in meeting established goals, objectives, and
120 priorities to the elected leadership of the state;

121 (8) Propose a legislative rule pursuant to subsection (b)
122 of this section and article three-a, chapter twenty-nine-a
123 of this code to establish benchmarks and indicators in
124 accordance with the provisions of this subsection;

125 (9) Establish and implement the benchmarks and
126 performance indicators necessary to measure institutional
127 progress:

128 (A) In meeting state goals, objectives, and priorities
129 established in articles one and one-d of this chapter;

130 (B) In carrying out institutional missions; and

131 (C) In meeting the essential conditions established in
132 article three-c of this chapter;

133 (10) Collect and analyze data relating to the performance
134 of community and technical colleges in every region of
135 West Virginia and report periodically or as directed to the
136 Legislative Oversight Commission on Education Account-
137 ability on the progress in meeting the goals and objectives
138 established in articles one and one-d of this chapter.

139 Additionally, the council shall report annually during
140 the January interim meetings on a date and at a time and
141 location to be determined by the President of the Senate
142 and the Speaker of the House of Delegates.

143 The annual report shall address at least the following:

144 (A) The performance of the community and technical
145 college network during the previous fiscal year, including,
146 but not limited to, progress in meeting goals stated in the
147 compacts and progress of the institutions and the network
148 as a whole in meeting the goals and objectives established
149 in articles one and one-d of this chapter;

150 (B) The priorities established for capital investment
151 needs pursuant to subdivision (11) of this subsection and
152 the justification for such priority; and

153 (C) Recommendations of the council for statutory
154 changes necessary or expedient to achieve established
155 state goals and objectives.

156 (11) Establish a formal process for identifying needs for
157 capital investments and for determining priorities for
158 these investments for consideration by the Governor and
159 the Legislature as part of the appropriation request
160 process. Notwithstanding the language in subdivision
161 eleven, subsection a, section four, article one-b of this
162 chapter, the commission is not a part of the process for
163 identifying needs for capital investments for the statewide
164 network of independently accredited community and
165 technical colleges;

166 (12) Draw upon the expertise available within the
167 Governor's Workforce Investment Office and the West
168 Virginia Development Office as a resource in the area of
169 workforce development and training;

170 (13) Acquire legal services that are considered necessary,
171 including representation of the council, its institutions,
172 employees and officers before any court or administrative
173 body, notwithstanding any other provision of this code to
174 the contrary. The counsel may be employed either on a
175 salaried basis or on a reasonable fee basis. In addition, the

176 council may, but is not required to, call upon the Attorney
177 General for legal assistance and representation as pro-
178 vided by law;

179 (14) Employ a chancellor for community and technical
180 college education pursuant to section three of this article;

181 (15) Employ other staff as necessary and appropriate to
182 carry out the duties and responsibilities of the council
183 consistent with the provisions of section two, article four
184 of this chapter;

185 (16) Employ other staff as necessary and appropriate to
186 carry out the duties and responsibilities of the council who
187 are employed solely by the council;

188 (17) Provide suitable offices in Charleston for the
189 chancellor and other staff: *Provided*, That the offices may
190 be located outside of Charleston at a technology and
191 research center: *Provided, however*, That the current
192 employees of WVNET shall not be moved from
193 Monongalia County without legislative approval;

194 (18) Approve the total compensation package from all
195 sources for presidents of community and technical col-
196 leges, as proposed by the governing boards. The governing
197 boards must obtain approval from the council of the total
198 compensation package both when presidents are employed
199 initially and subsequently when any change is made in the
200 amount of the total compensation package;

201 (19) Establish and implement policies and procedures to
202 ensure that students may transfer and apply toward the
203 requirements for a degree the maximum number of credits
204 earned at any regionally accredited in-state or out-of-state
205 higher education institution with as few requirements to
206 repeat courses or to incur additional costs as is consistent
207 with sound academic policy;

208 (20) Establish and implement policies and programs,
209 jointly with the community and technical colleges,
210 through which students who have gained knowledge and
211 skills through employment, participation in education and
212 training at vocational schools or other education institu-
213 tions, or internet-based education programs, may demon-
214 strate by competency-based assessment that they have the
215 necessary knowledge and skills to be granted academic
216 credit or advanced placement standing toward the re-
217 quirements of an associate degree or a bachelor's degree at
218 a state institution of higher education;

219 (21) Seek out and attend regional and national meetings
220 and forums on education and workforce development-
221 related topics, as council members consider critical for the
222 performance of their duties. The council shall keep
223 abreast of national and regional community and technical
224 college education trends and policies to aid members in
225 developing the policies for this state that meet the educa-
226 tion goals and objectives established in articles one and
227 one-d of this chapter;

228 (22) Assess community and technical colleges for the
229 payment of expenses of the council or for the funding of
230 statewide services, obligations or initiatives related
231 specifically to the provision of community and technical
232 college education;

233 (23) Promulgate rules allocating reimbursement of
234 appropriations, if made available by the Legislature, to
235 community and technical colleges for qualifying
236 noncapital expenditures incurred in the provision of
237 services to students with physical, learning or severe
238 sensory disabilities;

239 (24) Assume the prior authority of the commission in
240 examining and approving tuition and fee increase propos-
241 als submitted by community and technical college govern-

242 ing boards as provided in section one, article ten of this
243 chapter;

244 (25) Develop and submit to the commission, a single
245 budget for community and technical college education
246 that reflects recommended appropriations for community
247 and technical colleges and that meets the following
248 conditions:

249 (A) Incorporates the provisions of the financing rule
250 mandated by this section to measure and provide perfor-
251 mance funding to institutions which achieve or make
252 significant progress toward achieving established state
253 objectives and priorities;

254 (B) Considers the progress of each institution toward
255 meeting the essential conditions set forth in section three,
256 article three-c of this chapter, including independent
257 accreditation; and

258 (C) Considers the progress of each institution toward
259 meeting the goals, objectives, and priorities established in
260 article one-d of this chapter and its approved institutional
261 compact.

262 (26) Administer and distribute the independently
263 accredited community and technical college development
264 account;

265 (27) Establish a plan of strategic funding to strengthen
266 capacity for support and assure delivery of high quality
267 community and technical college education in all regions
268 of the state;

269 (28) Foster coordination among all state-level, regional
270 and local entities providing post-secondary vocational
271 education or workforce development and coordinate all
272 public institutions and entities that have a community and
273 technical college mission;

274 (29) Assume the principal responsibility for oversight of
275 those community and technical colleges seeking independ-
276 ent accreditation and for holding governing boards
277 accountable for meeting the essential conditions pursuant
278 to article three-c of this chapter;

279 (30) Advise and consent in the appointment of the
280 presidents of the community and technical colleges
281 pursuant to section six, article one-b of this chapter. The
282 role of the council in approving a president is to assure
283 through personal interview that the person selected
284 understands and is committed to achieving the goals and
285 objectives established in the institutional compact and in
286 articles one, one-d, and three-c of this chapter;

287 (31) Provide a single, statewide link for current and
288 prospective employers whose needs extend beyond one
289 locality;

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

293 (A) Defining faculty roles and personnel policies;

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

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

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

300 (33) Provide support and technical assistance to develop,
301 coordinate, and deliver effective and efficient community
302 and technical college education programs and services in
303 all regions of the state;

304 (34) Assist the community and technical colleges in
305 establishing and promoting links with business, industry

306 and labor in the geographic areas for which each commu-
307 nity and technical college is responsible;

308 (35) Develop alliances among the community and
309 technical colleges for resource sharing, joint development
310 of courses and courseware, and sharing of expertise and
311 staff development;

312 (36) Serve aggressively as an advocate for development
313 of a seamless curriculum;

314 (37) Cooperate with all providers of education services
315 in the state to remove barriers relating to a seamless
316 system of public and higher education and to transfer and
317 articulation between and among community and technical
318 colleges, state colleges and universities and public educa-
319 tion, preschool through grade twelve;

320 (38) Encourage the most efficient use of available
321 resources;

322 (39) Coordinate with the commission in informing public
323 school students, their parents and teachers of the academic
324 preparation that students need in order to be prepared
325 adequately to succeed in their selected fields of study and
326 career plans, including presentation of academic career
327 fairs;

328 (40) Jointly with the commission, approve and imple-
329 ment a uniform standard, as developed by the chancellors,
330 to determine which students shall be placed in remedial or
331 developmental courses. The standard shall be aligned
332 with college admission tests and assessment tools used in
333 West Virginia and shall be applied uniformly by the
334 governing boards throughout the public higher education
335 system. The chancellors shall develop a clear, concise
336 explanation of the standard which the governing boards
337 shall communicate to the State Board of Education and
338 the State Superintendent of Schools;

339 (41) Develop and implement strategies and curriculum
340 for providing developmental education which shall be
341 applied by any state institution of higher education
342 providing developmental education;

343 (42) Develop a statewide system of community and
344 technical college programs and services in every region of
345 West Virginia for competency-based certification of
346 knowledge and skills, including a statewide competency-
347 based associate degree program;

348 (43) Review and approve all institutional master plans
349 for the community and technical colleges pursuant to
350 section four, article two-a of this chapter;

351 (44) Propose rules for promulgation pursuant to subsec-
352 tion (b) of this section and article three-a, chapter twenty-
353 nine-a of this code that are necessary or expedient for the
354 effective and efficient performance of community and
355 technical colleges in the state;

356 (45) In its sole discretion, transfer any rule under its
357 jurisdiction, other than a legislative rule, to the jurisdic-
358 tion of the governing boards who may rescind, revise, alter
359 or amend any rule transferred pursuant to rules adopted
360 by the council and provide technical assistance to the
361 institutions under its jurisdiction to aid them in promul-
362 gating rules;

363 (46) Develop for inclusion in the higher education report
364 card, as defined in section eight, article one-d of this
365 chapter, a separate section on community and technical
366 colleges. This section shall include, but is not limited to,
367 evaluation of the institutions based upon the benchmarks
368 and indicators developed in subdivision (9) of this subsec-
369 tion;

370 (47) Facilitate continuation of the Advantage Valley
371 Community College Network under the leadership and
372 direction of Marshall Community and Technical College;

373 (48) Initiate and facilitate creation of other regional
374 networks of affiliated community and technical colleges
375 that the council finds to be appropriate and in the best
376 interests of the citizens to be served;

377 (49) Develop with the State Board of Education plans for
378 secondary and post-secondary vocational-technical-
379 occupational and adult basic education, including, but not
380 limited to the following:

381 (A) Policies to strengthen vocational-technical-occupa-
382 tional and adult basic education; and

383 (B) Programs and methods to assist in the improvement,
384 modernization and expanded delivery of vocational-
385 technical-occupational and adult basic education pro-
386 grams;

387 (50) Distribute federal vocational education funding
388 provided under the Carl D. Perkins Vocational and
389 Technical Education Act of 1998, PL 105-332, with an
390 emphasis on distributing financial assistance among
391 secondary and post-secondary vocational- technical-
392 occupational and adult basic education programs to help
393 meet the public policy agenda.

394 In distributing funds the council shall use the following
395 guidelines:

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

398 (B) The percentage split between the State Board of
399 Education and the council shall be determined by rule
400 promulgated by the council under the provisions of article
401 three-a, chapter twenty-nine-a of this code. The council
402 shall first obtain the approval of the State Board of
403 Education before proposing a rule;

404 (51) Collaborate, cooperate and interact with all second-
405 ary and post-secondary vocational-technical-occupational
406 and adult basic education programs in the state, including
407 the programs assisted under the federal Carl D. Perkins
408 Vocational and Technical Education Act of 1998, PL 105-
409 332, and the Workforce Investment Act of 1998, to pro-
410 mote the development of seamless curriculum and the
411 elimination of duplicative programs;

412 (52) Coordinate the delivery of vocational-technical-
413 occupational and adult basic education in a manner
414 designed to make the most effective use of available public
415 funds to increase accessibility for students;

416 (53) Analyze and report to the State Board of Education
417 on the distribution of spending for vocational-technical-
418 occupational and adult basic education in the state and on
419 the availability of vocational-technical-occupational and
420 adult basic education activities and services within the
421 state;

422 (54) Promote the delivery of vocational-technical-
423 occupational education, adult basic education and com-
424 munity and technical college education programs in the
425 state which emphasize the involvement of business,
426 industry and labor organizations;

427 (55) Promote public participation in the provision of
428 vocational-technical-occupational education, adult basic
429 education and community and technical education at the
430 local level, emphasizing programs which involve the
431 participation of local employers and labor organizations;

432 (56) Promote equal access to quality vocational-
433 technical-occupational education, adult basic education
434 and community and technical college education programs
435 to handicapped and disadvantaged individuals, adults in
436 need of training and retraining, single parents, homemak-
437 ers, participants in programs designed to eliminate sexual

438 bias and stereotyping and criminal offenders serving in
439 correctional institutions;

440 (57) Meet annually between the months of October and
441 December with the Advisory Committee of Community
442 and Technical College Presidents created pursuant to
443 section eight of this article to discuss those matters
444 relating to community and technical college education in
445 which advisory committee members or the council may
446 have an interest;

447 (58) Accept and expend any gift, grant, contribution,
448 bequest, endowment or other money for the purposes of
449 this article;

450 (59) Assume the powers set out in section nine of this
451 article. The rules previously promulgated by the State
452 College System Board of Directors pursuant to that
453 section and transferred to the commission are hereby
454 transferred to the council and shall continue in effect until
455 rescinded, revised, altered or amended by the council;

456 (60) Pursuant to the provisions of subsection (b) of this
457 section and article three-a, chapter twenty-nine-a of this
458 code, promulgate a uniform joint legislative rule with the
459 commission for the purpose of standardizing, as much as
460 possible, the administration of personnel matters among
461 the institutions of higher education;

462 (61) Determine when a joint rule among the governing
463 boards of the community and technical colleges is neces-
464 sary or required by law and, in those instances and in
465 consultation with the governing boards, promulgate the
466 joint rule;

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

471 (A) Comparisons with peer institutions;

472 (B) Differences among institutional missions;

473 (C) Strategies for promoting student access;

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

475 and

476 (E) Any other policies the commission and council

477 consider appropriate;

478 (63) In cooperation with the West Virginia Division of

479 Highways, study a method for increasing the signage

480 signifying community and technical college locations

481 along the state interstate highways, and report to the

482 Legislative Oversight Commission on Education Account-

483 ability regarding any recommendations and required costs;

484 and

485 (64) Implement a policy jointly with the commission

486 whereby any course credit earned at a community and

487 technical college transfers for program credit at any other

488 state institution of higher education and is not limited to

489 fulfilling a general education requirement.

490 (d) In addition to the powers and duties listed in subsec-

491 tions (a), (b) and (c) of this section, the council has the

492 following general powers and duties related to its role in

493 developing, articulating and overseeing the implementa-

494 tion of the public policy agenda for community and

495 technical colleges:

496 (1) Planning and policy leadership including a distinct

497 and visible role in setting the state's policy agenda for the

498 delivery of community and technical college education and

499 in serving as an agent of change;

500 (2) Policy analysis and research focused on issues

501 affecting the community and technical college network as

502 a whole or a geographical region thereof;

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

508 (4) Academic program review and approval for the
509 institutions under its jurisdiction, including the use of
510 institutional missions as a template to judge the appropri-
511 ateness of both new and existing programs and the
512 authority to implement needed changes;

513 (5) Development of budget and allocation of resources
514 for institutions delivering community and technical
515 college education, including reviewing and approving
516 institutional operating and capital budgets and distribut-
517 ing incentive and performance-based funding;

518 (6) Acting as the agent to receive and disburse public
519 funds related to community and technical college educa-
520 tion when a governmental entity requires designation of a
521 statewide higher education agency for this purpose;

522 (7) Development, establishment and implementation of
523 information, assessment and internal accountability
524 systems, including maintenance of statewide data systems
525 that facilitate long-term planning and accurate measure-
526 ment of strategic outcomes and performance indicators for
527 community and technical colleges;

528 (8) Jointly with the commission, development, establish-
529 ment and implementation of policies for licensing and
530 oversight of both public and private degree-granting and
531 nondegree-granting institutions that provide post-second-
532 ary education courses or programs;

533 (9) Development, implementation and oversight of
534 statewide and regionwide projects and initiatives related
535 specifically to providing community and technical college

536 education such as those using funds from federal categori-
537 cal programs or those using incentive and performance-
538 based funding from any source; and

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

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

547 (1) The governing board has failed for two consecutive
548 years to develop an institutional compact as required in
549 section seven, article one-d of this chapter;

550 (2) The council has received information, substantiated
551 by independent audit, of significant mismanagement or
552 failure to carry out the powers and duties of the board of
553 governors according to state law; or

554 (3) Other circumstances which, in the view of the
555 council, severely limit the capacity of the board of gover-
556 nors to carry out its duties and responsibilities.

557 The period of withdrawal of specific powers may not
558 exceed two years during which time the council is autho-
559 rized to take steps necessary to reestablish the conditions
560 for restoration of sound, stable and responsible institu-
561 tional governance.

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

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

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

573 (2) The commission or the council, as the receiving body,
 574 shall place the proposal on its agenda and shall take final
 575 action within sixty days of the date when the request for
 576 concurrence is received; and

577 (3) If the receiving body fails to take final action within
 578 sixty days, the original proposal stands and is binding on
 579 both the commission and the council.

ARTICLE 4. GENERAL ADMINISTRATION.

**§18B-4-1. Employment of chancellors; designation of staff;
 offices.**

1 (a) The council and commission each shall employ a
 2 chancellor to assist in the performance of their respective
 3 duties and responsibilities subject to the following condi-
 4 tions:

5 (1) Each chancellor serves at the will and pleasure of the
 6 hiring body.

7 (2) Neither chancellor may hold or retain any other
 8 administrative position within the system of higher
 9 education while employed as chancellor.

10 (3) Each chancellor is responsible for carrying out the
 11 directives of the body by whom employed and shall work
 12 with that body in developing policy options.

13 (4) The commission is responsible to the council and the
 14 Chancellor for Community and Technical College Educa-
 15 tion for providing services in areas essential to exercising

16 the powers and duties assigned to the council by law. The
17 commission may not charge the council any fee for the
18 provision of these essential services. The service areas
19 include, but are not limited to, legal services, research,
20 technology, computing, finance and facilities, academic
21 affairs, telecommunications, human resources, student
22 services and any other general areas the council considers
23 to be essential to the exercise of its legal authority. The
24 services are provided under the general supervision of the
25 Vice Chancellor for Administration.

26 (5) For the purpose of developing or evaluating policy
27 options, the chancellors may request the assistance of the
28 presidents and staff of the institutions under their respec-
29 tive jurisdictions.

30 (b) In addition to the staff positions designated in
31 subdivision (4), subsection (a) of this section, the Vice
32 Chancellor for Administration, employed pursuant to
33 section two of this article, serves the offices of the chancel-
34 lers to discharge jointly the duties and responsibilities of
35 the council and commission.

36 (c) The Vice Chancellor for Health Sciences shall coordi-
37 nate the West Virginia University School of Medicine, the
38 Marshall University School of Medicine and the West
39 Virginia School of Osteopathic Medicine.

40 (d) Suitable offices for the vice chancellor of administra-
41 tion and other staff shall be provided in Kanawha County.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is appended* this the *3/8*
Day of *March* 2010.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2010

Time 3:40pm