

1 **Senate Bill No. 622**

2 (By Senators Kessler (Mr. President), Green, Kirkendoll, Barnes,
3 Cann, Facemire, Miller, D. Hall, Boley, Carmichael, Chafin,
4 Edgell, Fitzsimmons, M. Hall, Stollings, Sypolt, Tucker, Walters,
5 Wells, Williams, Yost, Unger, McCabe, Palumbo and Jenkins)

6 _____
7 [Introduced March 22, 2013; referred to the Committee on
8 Education; and then to the Committee on Finance.]

9 _____
10 A BILL to amend and reenact §5-6-4a of the Code of West Virginia,
11 1931, as amended; to amend and reenact §18B-1-6 of said code;
12 to amend and reenact §18B-1B-4 of said code; to amend and
13 reenact §18B-2A-3 and §18B-2A-4 of said code; to amend and
14 reenact §18B-9A-2 of said code; to amend and reenact §18B-10-1
15 of said code; and to amend said code by adding thereto a new
16 section, designated §18B-19-19, all relating to higher
17 education; providing additional authority to and flexibility
18 measures for certain state institutions of higher education;
19 excepting certain institutions from certain required reports
20 to the Joint Committee on Government and Finance regarding
21 real property contracts and agreements; modifying rule-making
22 requirements and authority granted to certain institutions;
23 modifying, reducing or eliminating requirements related to the
24 review or approval by the Higher Education Policy Commission

1 of capital projects and facilities, capital project financing,
2 compensation packages for presidents, course credit transfer
3 rules, tuition and fee policies and academic programs with
4 respect to certain institutions; excepting certain
5 institutions from the supervision of the Higher Education
6 Policy Commission; excepting certain institutions from laws
7 and rules relating to the administration of personnel matters,
8 including classification, compensation and discipline;
9 expanding the definition of "nonclassified employee" at
10 certain institutions; transferring to certain institutions
11 authority to approve tuition and fee increases; and providing
12 flexibility and transferring to certain institutions the
13 authority to undertake, develop, maintain and finance capital
14 projects, campus development plans and related infrastructure
15 and items.

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

17 That §5-6-4a of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted; that §18B-1-6 of said code be amended and
19 reenacted; that §18B-1B-4 of said code be amended and reenacted;
20 that §18B-2A-3 and §18B-2A-4 of said code be amended and reenacted;
21 that §18B-9A-2 of said code be amended and reenacted; that
22 §18B-10-1 of said code be amended and reenacted; and that said code
23 be amended by adding thereto a new section, designated §18B-19-19,
24 all to read as follows:

1 **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY**
2 **OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS**
3 **AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

4 **ARTICLE 6. STATE BUILDINGS.**

5 **§5-6-4a. Review of real property contracts and agreements; master**
6 **plan for office space.**

7 (a) The Secretary of Administration shall provide to the Joint
8 Committee on Government and Finance a copy of a contract or
9 agreement for real property exceeding \$1 million and a report
10 setting forth a detailed summary of the terms of the contract or
11 agreement, including the name of the owner of the property and the
12 agent involved in the sale, at least thirty days prior to any sale,
13 exchange, transfer, purchase, lease purchase, lease or rental of
14 real property, any refundings of lease purchases, leases or rental
15 agreements, any construction of new buildings and any other
16 acquisition or lease of buildings, office space or grounds by any
17 state agency, but excepting the transactions the state institutions
18 of higher education known as Marshall University and West Virginia
19 University, and of the Higher Education Policy Commission, Council
20 for Community and Technical College Education, state institutions
21 of higher education and the Division of Highways for state road
22 purposes pursuant to article two-a, chapter seventeen of this code:
23 *Provided*, That a contract or agreement for the lease purchase,

1 lease or rental of real property by any state agency, where the
2 costs of real property acquisition and improvements are to be
3 financed, in whole or in part, with bond proceeds, may contain a
4 preliminary schedule of rents and leases for purposes of review by
5 the committee.

6 (b) For renewals of contracts or agreements required to be
7 reported by this section, the Secretary of Administration shall
8 provide a report setting forth a detailed summary of the terms of
9 the contract or agreement, including the name of the owner of the
10 property.

11 (c) Within thirty days after receipt of the contract,
12 agreement or report, the committee shall meet and review the
13 contract, agreement or report.

14 **CHAPTER 18B. HIGHER EDUCATION.**

15 **ARTICLE 1. GOVERNANCE.**

16 **§18B-1-6. Rulemaking.**

17 (a) The commission is hereby empowered to promulgate, adopt,
18 amend or repeal rules, in accordance with article three-a, chapter
19 twenty-nine-a of this code, subject to section three of this
20 article. This grant of rule-making power does not limit, restrict,
21 supplant or supersede the rule-making authority provided to
22 Marshall University and West Virginia University pursuant to
23 subdivision (c) (3) (D) of this section.

24 (b) The council is hereby empowered to promulgate, adopt,

1 amend or repeal rules in accordance with article three-a, chapter
2 twenty-nine-a of this code, subject to section three of this
3 article. This grant of rule-making power extends only to those
4 areas over which the council has been granted specific authority
5 and jurisdiction by law.

6 (c) As it relates to the authority granted to governing boards
7 of state institutions of higher education to promulgate, adopt,
8 amend or repeal any rule under this code:

9 (1) "Rule" means any regulation, guideline, directive,
10 standard, statement of policy or interpretation of general
11 application which has institution-wide effect or which affects the
12 rights, privileges or interests of employees, students or citizens.
13 Any regulation, guideline, directive, standard, statement of policy
14 or interpretation of general application that meets this definition
15 is a rule for the purposes of this section.

16 (2) Regulations, guidelines or policies established for
17 individual units, divisions, departments or schools of the
18 institution, which deal solely with the internal management or
19 responsibilities of a single unit, division, department or school
20 or with academic curricular policies that do not constitute a
21 mission change for the institution, are excluded from this
22 subsection, except for the requirements relating to posting.

23 (3) The commission and council each shall promulgate a rule to
24 guide the development and approval of rules made by their

1 respective governing boards, ~~including~~ except for the governing
2 boards of Marshall University and West Virginia University, each of
3 which may promulgate and implement rules pursuant to paragraph (D)
4 of this subdivision. The rules promulgated by the commission and
5 council shall include, but are not limited to, the following
6 provisions which shall be included in the rule ~~on~~ or rules adopted
7 by each governing board of a state institution of higher education:

8 (A) A procedure to ensure that public notice is given and that
9 the right of interested parties to have a fair and adequate
10 opportunity to respond is protected, including providing for a
11 thirty-day public comment period prior to final adoption of a rule;

12 (B) Designation of a single location where all proposed and
13 approved rules, guidelines and other policy statements are posted
14 and can be accessed by the public;

15 (C) A procedure to maximize Internet access to all proposed
16 and approved rules, guidelines and other policy statements to the
17 extent technically and financially feasible; and

18 (D) A procedure for the governing board to follow in
19 submitting its rules for review and approval to the commission
20 and/or council, as appropriate, except the following conditions
21 apply for the governing boards of Marshall University and West
22 Virginia University:

23 (i) The governing boards shall submit rules for review and
24 comment to the commission.

1 (ii) The commission shall return to the governing board its
2 comments and suggestions within thirty days of receiving the rule.

3 (iii) If a governing board receives comments or suggestions on
4 a rule from the commission, it shall record these as part of the
5 minute record. ~~The rule is not effective and may not be
6 implemented until the governing board holds a meeting and places on
7 the meeting agenda the comments it has received from the
8 commission.~~

9 (d) Nothing in this section requires that any rule
10 reclassified or transferred by the commission or the council under
11 this section be promulgated again under the procedures set out in
12 article three-a, chapter twenty-nine-a of this code unless the rule
13 is amended or modified.

14 (e) The commission and council each shall file with the
15 Legislative Oversight Commission on Education Accountability any
16 rule it proposes to promulgate, adopt, amend or repeal under the
17 authority of this article.

18 (f) The governing boards shall promulgate and adopt any rule
19 which they are required to adopt by this chapter or chapter
20 eighteen-c of this code no later than July 1, 2011, unless a later
21 date is specified. On and after this date:

22 (1) Any rule of a governing board which meets the definition
23 set out in subsection (c) of this section and which has not been
24 promulgated and adopted by formal vote of the appropriate governing

1 board is void and may not be enforced;

2 (2) Any authority granted by this code which inherently
3 requires the governing board to promulgate and adopt a rule is void
4 until the governing board complies with this section.

5 (g) Within thirty days of the adoption of a rule, including
6 repeal or amendment of an existing rule, and before the change is
7 implemented, a governing board shall furnish a copy of each rule
8 which it has adopted to the commission or the council,
9 respectively, for review and approval, except the governing boards
10 of Marshall University and West Virginia University are subject to
11 subsection (c) of this section.

12 (h) Annually, by October 1, each governing board shall file
13 with the commission or the council, as appropriate, a list of all
14 rules that were in effect for that institution on July 1 of that
15 year, including the most recent date on which each rule was
16 considered and adopted, amended or repealed by the governing board.
17 For all rules adopted, amended or repealed after the effective date
18 of this section, the list shall include a statement by the chair of
19 the governing board, except for the governing boards of Marshall
20 University and West Virginia University, certifying that the
21 governing board has complied with this section when each listed
22 rule was promulgated and adopted.

23 **ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.**

24 **§18B-1B-4. Powers and duties of Higher Education Policy**

1 **Commission.**

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

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

17 (A) The goals, objectives and priorities established in this
18 chapter including specifically those goals, objectives and
19 priorities pertaining to the compacts created pursuant to section
20 seven, article one-d of this chapter; and

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

24 (2) Develop, oversee and advance the promulgation and

1 implementation of a financing rule for state institutions of higher
2 education under its jurisdiction. The rule shall meet the
3 following criteria:

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

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

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

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

16 (A) Developing, building public consensus around and
17 sustaining attention to a long-range public policy agenda. In
18 developing the agenda, the commission and council shall seek input
19 from the Legislature and the Governor and specifically from the
20 state Board of Education and local school districts in order to
21 create the necessary linkages to assure smooth, effective and
22 seamless movement of students through the public education and
23 post-secondary education systems and to ensure that the needs of
24 public school courses and programs can be fulfilled by the

1 graduates produced and the programs offered;

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

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

8 (4) Develop and adopt each compact for the governing boards
9 under its jurisdiction;

10 (5) Review and adopt the annual updates of the institutional
11 compacts;

12 (6) Serve as the accountability point to state policymakers:

13 (A) The Governor for implementation of the public policy
14 agenda; and

15 (B) The Legislature by maintaining a close working
16 relationship with the legislative leadership and the Legislative
17 Oversight Commission on Education Accountability;

18 (7) Jointly with the council, promulgate legislative rules
19 pursuant to article three-a, chapter twenty-nine-a of this code to
20 fulfill the purposes of section five, article one-a of this
21 chapter;

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

24 (9) Establish and implement the benchmarks and performance

1 indicators necessary to measure institutional progress in achieving
2 state policy priorities and institutional missions pursuant to
3 section seven, article one-d of this chapter;

4 (10) Report to the Legislature and to the Legislative
5 Oversight Commission on Education Accountability annually during
6 the January interim meeting period on a date and at a time and
7 location to be determined by the President of the Senate and the
8 Speaker of the House of Delegates. The report shall address at
9 least the following:

10 (A) The performance of its system of higher education during
11 the previous fiscal year, including, but not limited to, progress
12 in meeting the goals, objectives and priorities set forth in
13 section one-a, article one and article one-d of this chapter and in
14 the commission's master plan and institutional compacts;

15 (B) The commission's priorities for new operating and capital
16 investments and the justification for the priority;

17 (C) Recommendations of the commission for statutory changes
18 necessary or expedient to achieve state goals, objectives and
19 priorities;

20 (11) Establish a formal process for identifying capital
21 investment needs and for determining priorities for these
22 investments for consideration by the Governor and the Legislature
23 as part of the appropriation request process pursuant to article
24 nineteen of this chapter.

1 (12) Develop standards and evaluate governing board requests
2 for capital project financing in accordance with article nineteen
3 of this chapter, except that Marshall University and West Virginia
4 University are not subject to this subdivision;

5 (13) Ensure that governing boards manage capital projects and
6 facilities needs effectively, including review and approval or
7 disapproval of capital projects, in accordance with article
8 nineteen of this chapter, except that the governing boards of
9 Marshall University and West Virginia University are not subject to
10 this subdivision;

11 (14) Acquire legal services as considered necessary, including
12 representation of the commission, its governing boards, employees
13 and officers before any court or administrative body,
14 notwithstanding any other provision of this code to the contrary.
15 The counsel may be employed either on a salaried basis or on a
16 reasonable fee basis. In addition, the commission may, but is not
17 required to, call upon the Attorney General for legal assistance
18 and representation as provided by law;

19 (15) Employ a Chancellor for Higher Education pursuant to
20 section five of this article;

21 (16) Employ other staff as necessary and appropriate to carry
22 out the duties and responsibilities of the commission and the
23 council, in accordance with article four of this chapter;

24 (17) Provide suitable offices in Kanawha County for the

1 chancellor, vice chancellors and other staff;

2 (18) Advise and consent in the appointment of the presidents
3 of the institutions of higher education under its jurisdiction
4 pursuant to section six of this article. The role of the
5 commission in approving an institutional president is to assure
6 through personal interview that the person selected understands and
7 is committed to achieving the goals, objectives and priorities set
8 forth in the compact, in section one-a, article one and article
9 one-d of this chapter;

10 (19) Approve the total compensation package from all sources
11 for presidents of institutions under its jurisdiction, as proposed
12 by the governing boards, except the compensation packages proposed
13 for the presidents of the state institutions of higher education
14 known as Marshall University and West Virginia University,
15 respectively, are not subject to the provisions of this
16 subdivision. The governing boards must obtain approval from the
17 commission of the total compensation package both when
18 institutional presidents are employed initially and afterward when
19 any change is made in the amount of the total compensation package;

20 (20) Establish and implement the policy of the state to assure
21 that parents and students have sufficient information at the
22 earliest possible age on which to base academic decisions about
23 what is required for students to be successful in college, other
24 post-secondary education and careers related, as far as possible,

1 to results from current assessment tools in use in West Virginia;

2 (21) Approve and implement a uniform standard jointly with the
3 council to determine which students shall be placed in remedial or
4 developmental courses. The standard shall be aligned with college
5 admission tests and assessment tools used in West Virginia and
6 shall be applied uniformly by the governing boards throughout the
7 public higher education system. The chancellors shall develop a
8 clear, concise explanation of the standard which they shall
9 communicate to the state Board of Education and the state
10 Superintendent of Schools;

11 (22) Jointly with the council, develop and implement an
12 oversight plan to manage systemwide technology including, but not
13 limited to, the following:

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

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

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

24 (23) Establish and implement policies and procedures to ensure

1 that a student may transfer and apply toward the requirements for
2 a bachelor's degree the maximum number of credits earned at any
3 regionally accredited in-state or out-of-state community and
4 technical college with as few requirements to repeat courses or to
5 incur additional costs as are consistent with sound academic
6 policy;

7 (24) Establish and implement policies and procedures to ensure
8 that a student may transfer and apply toward the requirements for
9 a degree the maximum number of credits earned at any regionally
10 accredited in-state or out-of-state higher education institution
11 with as few requirements to repeat courses or to incur additional
12 costs as are consistent with sound academic policy;

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

19 (26) Establish and implement policies and programs, in
20 cooperation with the council and the governing boards, through
21 which a student who has gained knowledge and skills through
22 employment, participation in education and training at vocational
23 schools or other education institutions, or Internet-based
24 education programs, may demonstrate by competency-based assessment

1 that he or she has the necessary knowledge and skills to be granted
2 academic credit or advanced placement standing toward the
3 requirements of an associate's degree or a bachelor's degree at a
4 state institution of higher education;

5 (27) Seek out and attend regional, national and international
6 meetings and forums on education and workforce development-related
7 topics as, in the commission's discretion, are critical for the
8 performance of their duties as members, for the purpose of keeping
9 abreast of education trends and policies to aid it in developing
10 the policies for this state to meet the established education
11 goals, objectives and priorities pursuant to section one-a, article
12 one and article one-d of this chapter;

13 (28) Promulgate and implement a rule for higher education
14 governing boards and institutions to follow when considering
15 capital projects pursuant to article nineteen of this chapter;

16 (29) Consider and submit to the appropriate agencies of the
17 executive and legislative branches of state government an
18 appropriation request that reflects recommended appropriations for
19 the commission and the governing boards under its jurisdiction.
20 The commission shall submit as part of its appropriation request
21 the separate recommended appropriation request it received from the
22 council, both for the council and for the governing boards under
23 the council's jurisdiction. The commission annually shall submit
24 the proposed allocations based on each institution's progress

1 toward meeting the goals of its compact;

2 (30) The commission may assess institutions under its
3 jurisdiction, including Marshall University and West Virginia
4 University, for the payment of expenses of the commission or for
5 the funding of statewide higher education services, obligations or
6 initiatives related to the goals set forth for the provision of
7 public higher education in the state;

8 (31) Promulgate rules allocating reimbursement of
9 appropriations, if made available by the Legislature, to governing
10 boards for qualifying noncapital expenditures incurred in providing
11 services to students with physical, learning or severe sensory
12 disabilities;

13 (32) Make appointments to boards and commissions where this
14 code requires appointments from the State College System Board of
15 Directors or the University of West Virginia System Board of
16 Trustees which were abolished effective June 30, 2000, except in
17 those cases where the required appointment has a specific and
18 direct connection to the provision of community and technical
19 college education, the appointment shall be made by the council.
20 Notwithstanding any provisions of this code to the contrary, the
21 commission or the council may appoint one of its own members or any
22 other citizen of the state as its designee. The commission and
23 council shall appoint the total number of persons in the aggregate
24 required to be appointed by these previous governing boards;

1 (33) Pursuant to article three-a, chapter twenty-nine-a of
2 this code and section six, article one of this chapter, promulgate
3 rules necessary or expedient to fulfill the purposes of this
4 chapter. The commission and the council shall promulgate a uniform
5 joint legislative rule for the purposes of standardizing, as much
6 as possible, the administration of personnel matters among the
7 state institutions of higher education and implementing the
8 provisions of articles seven, eight, nine and nine-a of this
9 chapter;

10 (34) Determine when a joint rule among the governing boards
11 under its jurisdiction is necessary or required by law and, in
12 those instances, in consultation with the governing boards under
13 its jurisdiction, promulgate the joint rule;

14 (35) In consultation with the governing boards of Marshall
15 University and West Virginia University, promulgate and implement
16 a rule jointly with the council whereby course credit earned at a
17 community and technical college transfers for program credit at any
18 other state institution of higher education and is not limited to
19 fulfilling a general education requirement;

20 (36) By October 1, ~~2011~~ 2014, promulgate a rule pursuant to
21 section one, article ten of this chapter, establishing tuition and
22 fee policy for all governing boards under the jurisdiction of the
23 commission, ~~including~~ except for Marshall University and West
24 Virginia University, which are subject to and governed by the

1 provisions of section one, article ten of this chapter. The rule
2 shall include, but is not limited to, the following:

3 (A) Comparisons with peer institutions;

4 (B) Differences among institutional missions;

5 (C) Strategies for promoting student access;

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

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

9 (37) Implement general disease awareness initiatives to
10 educate parents and students, particularly dormitory residents,
11 about meningococcal meningitis; the potentially life-threatening
12 dangers of contracting the infection; behaviors and activities that
13 can increase risks; measures that can be taken to prevent contact
14 or infection; and potential benefits of vaccination. The
15 commission shall encourage governing boards that provide medical
16 care to students to provide access to the vaccine for those who
17 wish to receive it; and

18 (38) Notwithstanding any other provision of this code to the
19 contrary sell, lease, convey or otherwise dispose of all or part of
20 any real property that it owns, in accordance with article nineteen
21 of this chapter.

22 (b) In addition to the powers and duties listed in subsection
23 (a) of this section, the commission has the following general
24 powers and duties related to its role in developing, articulating

1 and overseeing the implementation of the public policy agenda:

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

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

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

11 (4) Academic program review and approval for governing boards
12 under its jurisdiction, except for the governing boards of Marshall
13 University and West Virginia University. The review and approval
14 includes use of institutional missions as a template to judge the
15 appropriateness of both new and existing programs and the authority
16 to implement needed changes.

17 (A) The ~~commission's~~ commission may ~~authority to~~ review and
18 ~~approve~~ academic programs for either Marshall University or West
19 Virginia University ~~is limited to programs~~ that are proposed to be
20 offered at a new location not presently served by that institution,
21 but authority to approve those academic programs rests with the
22 respective governing boards;

23 (B) The commission shall approve or disapprove proposed
24 academic degree programs in those instances where approval is

1 required as soon as practicable, but in any case not later than six
2 months from the date the governing board makes an official request.
3 The commission may not withhold approval unreasonably.

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

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

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

13 (8) Developing, establishing and implementing information,
14 assessment, accountability and personnel systems, including
15 maintaining statewide data systems that facilitate long-term
16 planning and accurate measurement of strategic outcomes and
17 performance indicators;

18 (9) Jointly with the council, promulgating and implementing
19 rules for licensing and oversight for both public and private
20 degree-granting and nondegree-granting institutions that provide
21 post-secondary education courses or programs in the state. The
22 council has authority and responsibility for approval of all
23 post-secondary courses or programs providing community and
24 technical college education as defined in section two, article one

1 of this chapter.

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

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

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

14 (A) For all governing boards under its jurisdiction, except
15 the governing boards of Marshall University and West Virginia
16 University, the commission shall review institutional operating
17 budgets, review and approve capital budgets, and distribute
18 incentive and performance-based funds;

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

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

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

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

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

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

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

24 **ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNANCE.**

1 **§18B-2A-3. Supervision of governing boards; promulgation of rules.**

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

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

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

23 (d) The governing boards and the state Board of Education
24 shall provide all information requested by the commission and the

1 council, whether the request is made separately or jointly, in an
2 appropriate format and in a timely manner.

3 **§18B-2A-4. Powers and duties of governing boards generally.**

4 Each governing board separately has the following powers and
5 duties:

6 (a) Determine, control, supervise and manage the financial,
7 business and education policies and affairs of the state
8 institution of higher education under its jurisdiction;

9 (b) Develop a master plan for the institution under its
10 jurisdiction.

11 (1) The ultimate responsibility for developing and updating
12 each master plan at the institution resides with the governing
13 board, but the ultimate responsibility for approving the final
14 version of each master plan, including periodic updates, resides
15 with the commission or council, as appropriate.

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

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

20 (B) A well-developed set of goals, objectives and priorities
21 outlining missions, degree offerings, resource requirements,
22 physical plant needs, personnel needs, enrollment levels and other
23 planning determinates and projections necessary in a plan to assure
24 that the needs of the institution's area of responsibility for a

1 quality system of higher education are addressed;

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

6 (3) The plan shall be established for periods of not fewer
7 than three nor more than five years and shall be revised
8 periodically as necessary, including adding or deleting bachelor's,
9 master's and doctoral degree programs for all governing boards as
10 approved by the commission or council, respectively, except for the
11 governing boards of Marshall University and West Virginia
12 University only, the commission may review, but may not approve or
13 disapprove, additions or deletions of degree programs.

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

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

22 (e) Direct the preparation of an appropriation request for the
23 institution under its jurisdiction, which relates directly to
24 missions, goals and projections found in the master plan and the

1 compact;

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

5 (g) Review, at least every five years, all academic programs
6 offered at the institution under its jurisdiction. The review
7 shall address the viability, adequacy and necessity of the programs
8 in relation to established state goals, objectives and priorities,
9 the master plan, the compact and the education and workforce needs
10 of its responsibility district. As a part of the review, each
11 governing board shall require the institution under its
12 jurisdiction to conduct periodic studies of its graduates and their
13 employers to determine placement patterns and the effectiveness of
14 the education experience. Where appropriate, these studies should
15 coincide with the studies required of many academic disciplines by
16 their accrediting bodies;

17 (h) Ensure that the sequence and availability of academic
18 programs and courses offered by the institution under its
19 jurisdiction is such that students have the maximum opportunity to
20 complete programs in the time frame normally associated with
21 program completion. Each governing board is responsible to see
22 that the needs of nontraditional college-age students are
23 appropriately addressed and, to the extent it is possible for the
24 individual governing board to control, to assure core course work

1 completed at the institution is transferable to any other state
2 institution of higher education for credit with the grade earned;

3 (i) Subject to article one-b of this chapter, approve the
4 teacher education programs offered in the institution under its
5 control. In order to permit graduates of teacher education
6 programs to receive a degree from a nationally accredited program
7 and in order to prevent expensive duplication of program
8 accreditation, the commission may select and use one nationally
9 recognized teacher education program accreditation standard as the
10 appropriate standard for program evaluation;

11 (j) Involve faculty, students and classified employees in
12 institution-level planning and decisionmaking when those groups are
13 affected;

14 (k) Subject to federal law and pursuant to articles seven,
15 eight, nine and nine-a of this chapter and to rules adopted by the
16 commission and the council, administer a system for the management
17 of personnel matters, including, but not limited to, discipline for
18 employees at the institution under its jurisdiction, except that
19 the governing boards of West Virginia University and Marshall
20 University each may administer its own system for the management of
21 personnel matters, including, but not limited to, classification,
22 compensation, and discipline of employees at the institution under
23 its respective jurisdiction;

24 (l) Administer a system for hearing employee grievances and

1 appeals. Notwithstanding any other provision of this code to the
2 contrary, the procedure established in article two, chapter six-c
3 of this code is the exclusive mechanism for hearing prospective
4 employee grievances and appeals;

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

8 (n) Appoint a president for the institution under its
9 jurisdiction subject to section six, article one-b of this chapter;

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

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

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

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

1 community;

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

5 (t) Delegate, with prescribed standards and limitations, the
6 part of its power and control over the business affairs of the
7 institution to the president in any case where it considers the
8 delegation necessary and prudent in order to enable the institution
9 to function in a proper and expeditious manner and to meet the
10 requirements of its master plan and compact. If a governing board
11 elects to delegate any of its power and control under this
12 subsection, it shall enter the delegation in the minutes of the
13 meeting when the decision was made and shall notify the commission
14 or council, as appropriate. Any delegation of power and control
15 may be rescinded by the appropriate governing board, the commission
16 or council, as appropriate, at any time, in whole or in part,
17 except that the commission may not revoke delegations of authority
18 made by the governing board of Marshall University or West Virginia
19 University;

20 (u) Unless changed by the commission or the council, as
21 appropriate, continue to abide by existing rules setting forth
22 standards for accepting advanced placement credit for the
23 institution under its jurisdiction. Individual departments at a
24 state institution of higher education, with approval of the faculty

1 senate, may require higher scores on the advanced placement test
2 than scores designated by the governing board when the credit is to
3 be used toward meeting a requirement of the core curriculum for a
4 major in that department;

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

13 (w) In consultation with the appropriate chancellor and the
14 Secretary of the Department of Administration, develop, update as
15 necessary and maintain a plan to administer a consistent method of
16 conducting personnel transactions, including, but not limited to,
17 hiring, dismissal, promotions, changes in salary or compensation
18 and transfers at the institution under its jurisdiction. Each
19 personnel transaction shall be accompanied by the appropriate
20 standardized system or forms, as appropriate, which shall be
21 submitted to the respective governing board and the Department of
22 Administration:

23 (1) Not later than July 1, 2012, the Department of
24 Administration shall make available to each governing board the

1 option of using a standardized electronic system for these
2 personnel transactions.

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

9 (x) Notwithstanding any other provision of this code to the
10 contrary, transfer funds from any account specifically appropriated
11 for its use to any corresponding line item in a general revenue
12 account at any agency or institution under its jurisdiction as long
13 as the transferred funds are used for the purposes appropriated;

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

19 (z) Notwithstanding any other provision of this code to the
20 contrary, acquire legal services that are necessary, including
21 representation of the governing board, its institution, employees
22 and officers before any court or administrative body. The counsel
23 may be employed either on a salaried basis or on a reasonable fee
24 basis. In addition, the governing board may, but is not required

1 to, call upon the Attorney General for legal assistance and
2 representation as provided by law; and

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

6 **ARTICLE 9A. CLASSIFICATION AND COMPENSATION SYSTEM.**

7 **§18B-9A-2. Definitions.**

8 As used in this article and articles seven, eight and nine of
9 this chapter, the following words have the meanings ascribed to
10 them unless the context clearly indicates a different meaning:

11 (a) "Classification system" means the process by which jobs,
12 job titles, career ladders and assignment to pay grades are
13 determined.

14 (b) "Classified employee" or "employee" means any regular
15 employee of an organization who holds a position that is assigned
16 a particular job and job title within the classification system
17 established by this article, article nine and by duly promulgated
18 and adopted rules of the commission and council.

19 (c) "Job" means the total collection of tasks, duties and
20 responsibilities assigned to one or more individuals whose work is
21 of the same nature and level.

22 (d) "Job description" means a summary of the most important
23 features of a job, including the general nature and level of the
24 work performed.

1 (e) "Job evaluation" means a formal process used to create a
2 job worth hierarchy.

3 (f) "Job family" means a group of jobs having the same nature
4 of work, but requiring different levels of skill, effort,
5 responsibility or working conditions.

6 (g) "Job title" means the descriptive name for the total
7 collection of tasks, duties and responsibilities assigned to one or
8 more individuals whose positions have the same nature of work
9 performed at the same level.

10 (h) "Job worth hierarchy" means the perceived internal value
11 of jobs in relation to each other within an organization.

12 (i) "Nonclassified employee" means an employee of an
13 organization who holds a position that is not assigned a particular
14 job and job title within the classification system established by
15 this article, article nine, and by duly promulgated and adopted
16 rules of the commission and council and who meets one or more of
17 the following criteria:

18 (1) Holds a direct policy-making position at the department or
19 organization level; ~~or~~

20 (2) Reports directly to the president or chief executive
21 officer of the organization; or

22 (3) Is an employee of Marshall University or of West Virginia
23 University who:

24 (A) Is determined by the president of the respective

1 institution to be a critical employee; and

2 (B) Whose status as a critical employee as determined by the
3 respective president is consistent with the rules of procedures
4 established by the respective institution's governing board for
5 making such a determination.

6 (j) "Organization" means the commission, the council, an
7 agency or entity under the respective jurisdiction of the
8 commission or the council or a state institution of higher
9 education as defined in section two, article one of this chapter.

10 (k) "Pay grade" means the level to which a job is assigned
11 within a job worth hierarchy.

12 (l) "Point factor methodology" means a quantitative job
13 evaluation process in which elements of a job are given a factor
14 value and each factor is weighted according to its importance.

15 (m) "Position description" means a summary of the total duties
16 and responsibilities of a position based on factors provided in the
17 position information questionnaire (PIQ).

18 (n) "Position information questionnaire" or "PIQ" means a tool
19 used in the creation and evaluation of position descriptions and
20 includes the factors of knowledge, experience, complexity and
21 problem solving, freedom of action, scope and effect, breadth of
22 responsibility, intra-systems contacts, external contacts, direct
23 supervision of personnel, indirect supervision of personnel and
24 health, safety and physical considerations.

1 (o) "Step" means a standard progression in pay rate that is
2 established within a pay grade.

3 **ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS**
4 **OF HIGHER EDUCATION.**

5 **§18B-10-1. Enrollment, tuition and other fees at education**
6 **institutions; refund of fees.**

7 (a) Each governing board shall fix tuition and other fees for
8 each academic term for the different classes or categories of
9 students enrolling at the state institution of higher education
10 under its jurisdiction and may include among the tuition and fees
11 any one or more of the following as defined in section one-b of
12 this article:

- 13 (1) Tuition and required educational and general fees;
- 14 (2) Auxiliary and auxiliary capital fees; and
- 15 (3) Required educational and general capital fees.

16 (b) A governing board may establish a single special revenue
17 account for each of the following classifications of fees:

- 18 (1) All tuition and required educational and general fees
19 collected;
- 20 (2) All auxiliary and auxiliary capital fees collected; and
- 21 (3) All required educational and general capital fees
22 collected to support existing systemwide and institutional debt
23 service and future systemwide and institutional debt service,

1 capital projects and campus renewal for educational and general
2 facilities.

3 (4) Subject to any covenants or restrictions imposed with
4 respect to revenue bonds payable from the accounts, a governing
5 board may expend funds from each special revenue account for any
6 purpose for which funds were collected within that account
7 regardless of the original purpose for which the funds were
8 collected.

9 (c) The purposes for which tuition and fees may be expended
10 include, but are not limited to, health services, student
11 activities, recreational, athletic and extracurricular activities.
12 Additionally, tuition and fees may be used to finance a students'
13 attorney to perform legal services for students in civil matters at
14 the institutions. The legal services are limited to those types of
15 cases, programs or services approved by the president of the
16 institution where the legal services are to be performed.

17 (d) By October 1, 2011, the commission and council each shall
18 propose a rule for legislative approval in accordance with article
19 three-a, chapter twenty-nine-a of this code to govern the fixing,
20 collection and expenditure of tuition and other fees by the
21 governing boards under their respective jurisdictions.

22 (e) The schedule of all tuition and fees, and any changes in
23 the schedule, shall be entered in the minutes of the meeting of the
24 appropriate governing board and the board shall file with the

1 commission or council, or both, as appropriate, and the Legislative
2 Auditor a certified copy of the schedule and changes.

3 (f) The governing boards shall establish the rates to be
4 charged full-time students, as defined in section one-b of this
5 article, who are enrolled during a regular academic term.

6 (1) Undergraduate students taking fewer than twelve credit
7 hours in a regular term shall have their fees reduced pro rata
8 based upon one twelfth of the full-time rate per credit hour and
9 graduate students taking fewer than nine credit hours in a regular
10 term shall have their fees reduced pro rata based upon one ninth of
11 the full-time rate per credit hour.

12 (2) Fees for students enrolled in summer terms or other
13 nontraditional time periods shall be prorated based upon the number
14 of credit hours for which the student enrolls in accordance with
15 this subsection.

16 (g) All fees are due and payable by the student upon
17 enrollment and registration for classes except as provided in this
18 subsection:

19 (1) The governing boards shall permit fee payments to be made
20 in installments over the course of the academic term. All fees
21 shall be paid prior to awarding course credit at the end of the
22 academic term.

23 (2) The governing boards also shall authorize the acceptance
24 of credit cards or other payment methods which may be generally

1 available to students for the payment of fees. The governing
2 boards may charge the students for the reasonable and customary
3 charges incurred in accepting credit cards and other methods of
4 payment.

5 (3) If a governing board determines that a student's finances
6 are affected adversely by a legal work stoppage, it may allow the
7 student an additional six months to pay the fees for any academic
8 term. The governing board shall determine on a case-by-case basis
9 whether the finances of a student are affected adversely.

10 (4) The commission and council jointly shall propose a rule in
11 accordance with article three-a, chapter twenty-nine-a of this code
12 defining conditions under which a governing board may offer tuition
13 and fee deferred payment plans itself or through third parties.

14 (5) A governing board may charge interest or fees for any
15 deferred or installment payment plans.

16 (h) In addition to the other fees provided in this section,
17 each governing board may impose, collect and distribute a fee to be
18 used to finance a nonprofit, student-controlled public interest
19 research group if the students at the institution demonstrate
20 support for the increased fee in a manner and method established by
21 that institution's elected student government. The fee may not be
22 used to finance litigation against the institution.

23 (i) Governing boards shall retain tuition and fee revenues not
24 pledged for bonded indebtedness or other purposes in accordance

1 with the tuition rules proposed by the commission and council
2 pursuant to this section. The tuition rules shall address the
3 following areas:

4 (1) Providing a basis for establishing nonresident tuition and
5 fees;

6 (2) Allowing governing boards to charge different tuition and
7 fees for different programs;

8 (3) Authorizing a governing board to propose to the
9 commission, council or both, as appropriate, a mandatory auxiliary
10 fee under the following conditions:

11 (A) The fee shall be approved by the commission, council or
12 both, as appropriate, and either the students below the senior
13 level at the institution or the Legislature before becoming
14 effective;

15 (B) Increases may not exceed previous state subsidies by more
16 than ten percent;

17 (C) The fee may be used only to replace existing state funds
18 subsidizing auxiliary services such as athletics or bookstores;

19 (D) If the fee is approved, the amount of the state subsidy
20 shall be reduced annually by the amount of money generated for the
21 institution by the fees. All state subsidies for the auxiliary
22 services shall cease five years from the date the mandatory
23 auxiliary fee is implemented;

24 (E) The commission or council or both, as appropriate, shall

1 certify to the Legislature annually by October 1 the amount of fees
2 collected for each of the five years;

3 (4) Establishing methodology, where applicable, to ensure
4 that, within the appropriate time period under the compact,
5 community and technical college tuition rates for students in all
6 community and technical colleges will be commensurate with the
7 tuition and fees charged by their peer institutions.

8 (j) A penalty may not be imposed by the commission or council
9 upon any governing board based upon the number of nonresidents who
10 attend the institution unless the commission or council determines
11 that admission of nonresidents to any institution or program of
12 study within the institution is impeding unreasonably the ability
13 of resident students to attend the institution or participate in
14 the programs of the institution. The governing boards shall report
15 annually to the commission or council on the numbers of
16 nonresidents and any other enrollment information the commission or
17 council may request.

18 (k) The governing boards of Marshall University and West
19 Virginia University each may annually:

20 (1) Increase tuition and fees for undergraduate resident
21 students to the maximum allowed by this section without seeking
22 approval from the commission; and

23 (2) Set tuition and fee rates for post-baccalaureate resident
24 students and for all nonresident students, including establishing

1 regional tuition and fee rates, reciprocity agreements or both.

2 ~~(k)~~ (l) Tuition and fee increases of the governing boards,
3 ~~including~~ except for the governing boards of Marshall University
4 and West Virginia University, are subject to rules adopted by the
5 commission and council pursuant to this section and in accordance
6 with article three-a, chapter twenty-nine-a of this code. The
7 commission or council, as appropriate, shall examine individually
8 each request from a governing board for an increase and make its
9 determinations as follows:

10 (1) A tuition and fee increase greater than five percent for
11 resident students proposed by a governing board requires the
12 approval of the commission or council, as appropriate.

13 (2) A fee used solely for the purpose of complying with the
14 athletic provisions of 20 U.S.C. 1681, *et seq.*, known as Title IX
15 of the Education Amendment of 1972, is exempt from the limitations
16 on fee increases set forth in this subsection for three years from
17 the effective date of the section.

18 (3) In determining whether to approve or deny a governing
19 board's request for a tuition and/or fee increase for resident
20 students greater than the increases granted pursuant to subdivision
21 (1) of this subsection, the commission or council shall determine
22 the progress the governing board has made toward meeting the
23 conditions outlined in this subsection and shall make this
24 determination the predominate factor in its decision. The

1 commission or council shall consider the degree to which each
2 governing board has met the following conditions:

3 (A) Maximizes resources available through nonresident tuition
4 and fee charges to the satisfaction of the commission or council;

5 (B) Consistently achieves the benchmarks established in the
6 compact pursuant to article one-d of this chapter;

7 (C) Continuously pursues the statewide goals for
8 post-secondary education and the statewide compact established in
9 this chapter;

10 (D) Demonstrates to the satisfaction of the commission or
11 council that an increase will be used to maintain high-quality
12 programs at the institution;

13 (E) Demonstrates to the satisfaction of the commission or
14 council that the governing board is making adequate progress toward
15 achieving the goals for education established by the southern
16 regional education board;

17 (F) Demonstrates to the satisfaction of the commission or
18 council that the governing board has considered the average per
19 capita income of West Virginia families and their ability to pay
20 for any increases; and

21 (G) Demonstrates to the satisfaction of the commission or
22 council that base appropriation increases have not kept pace with
23 recognized nation-wide inflationary benchmarks;

24 (4) This section does not require equal increases among

1 governing boards nor does it require any level of increase by a
2 governing board.

3 (5) The commission and council shall report to the Legislative
4 Oversight Commission on Education Accountability regarding the
5 basis for approving or denying each request as determined using the
6 criteria established in this subsection.

7 **ARTICLE 19. CAPITAL PROJECTS AND FACILITIES NEEDS.**

8 **§18B-19-19. Applicability to certain institutions.**

9 (a) The governing boards of Marshall University and West
10 Virginia University each may take any action in this article that
11 does not require approval of the commission.

12 (b) The governing boards of Marshall University and West
13 Virginia University each may, without obtaining approval of the
14 commission, take any action described or set forth in this article
15 that otherwise would require the approval of the commission. The
16 respective governing board shall provide notice of the action to
17 the commission. If the commission requests additional information
18 relevant to the action from the respective governing board, the
19 governing board shall provide information regarding the action to
20 the commission.

NOTE: The purpose of this bill is to provide additional
authority and flexibility to the Boards of Governors of Marshall
University and West Virginia University with regard to real
property contracts and agreements, rulemaking, capital project

financing, capital projects, facility needs, the setting of compensation of the president, course credit transfers, tuition and fees, academic program review and approval, personnel matters, and the definition of nonclassified employees.

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

§18B-19-19 is new, therefore strike-throughs and underscoring have been omitted.