

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 511

FISCAL NOTE

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Introduced March 3, 2017; Referred

to the Committee on Education; and then to the

Committee on Finance]

1 A BILL to repeal §18B-1-5a, §18B-1-8b and §18B-1-10 of the Code of West Virginia, 1931, as
2 amended; to repeal §18B-1A-3 and §18B-1A-5 of said code; to repeal §18B-1B-10 and
3 §18B-1B-13 of said code; to repeal §18B-2-5 and §18B-2-7 of said code; to repeal §18B-
4 5-2a of said code; to amend and reenact §18B-1-2 and §18B-1-6 of said code; to amend
5 and reenact §18B-1B-1, §18B-1B-2, §18B-1B-4, §18B-1B-5 and §18B-1B-6 of said code;
6 to amend and reenact §18B-1D-2, §18B-1D-4 and §18B-1D-7 of said code; to amend and
7 reenact §18B-2A-3 and §18B-2A-4 of said code; to amend and reenact §18B-3-1 of said
8 code; to amend and reenact §18B-4-7 of said code; to amend and reenact §18B-5-4 and
9 §18B-5-9 of said code; to amend and reenact §18B-10-1, §18B-10-1c, §18B-10-8 and
10 §18B-10-16 of said code; to amend and reenact §18B-19-4, §18B-19-5, §18B-19-6, §18B-
11 19-7, §18B-19-10, §18B-19-13 and §18B-19-14 of said code; and to amend said code by
12 adding thereto two new sections, designated §18B-19-19 and §18B-19-20, all relating
13 generally to higher education governance; defining terms; repealing obsolete provisions
14 of code; clarifying scope of rule-making authority of Higher Education Policy Commission,
15 Council for Community and Technical College Education and certain institutions of higher
16 education; providing for rule-making procedures; providing for shorter time period for the
17 commission and council to review and comment on rules proposed by governing boards
18 of institutions of higher education; providing legislative intent; providing for composition of
19 the commission; providing for primary responsibility of the commission; updating and
20 clarifying powers of the commission; limiting authority of the commission over certain
21 institutions of higher education; eliminating authority of the commission to assess
22 institutions for payment of expenses of commission and for funding of statewide higher
23 education services, obligations or initiatives on and after July 1, 2018; eliminating outdated
24 language; eliminating authority of the commission with respect to certain financial and
25 budget reviews and approvals; providing for updated authority and powers of the
26 chancellor of the commission; expanding authority of certain governing boards over

27 appointment of presidents of certain higher education institutions; eliminating requirement
28 for approval by the commission of appointment of presidents for certain institutions of
29 higher education; eliminating jurisdiction of the commission relative to the accountability
30 system over certain institutions of higher education; providing for updated responsibility of
31 the commission in development and advancement of public policy agenda and collection
32 of data for certain institutions of higher education; eliminating certain reporting
33 responsibilities for certain institutions of higher education; eliminating authority of the
34 commission over institutional compacts of certain institutions of higher education;
35 eliminating requirement for certain institutions of higher education to prepare an
36 institutional compact for submission to the commission; eliminating application of certain
37 data-based measures on certain institutions of higher education; eliminating commission
38 approval of institutional compacts of certain institutions of higher education; eliminating
39 authority of the chancellor over coordination of policies, purposes and rules of governing
40 boards of certain institutions of higher education; eliminating requirement for governing
41 boards to cooperate with West Virginia Network for Educational Telecomputing on certain
42 matters; eliminating requirement for WVNET to generate certain reports; updating powers
43 of governing boards; eliminating requirement of commission approval of master plans for
44 certain institutions of higher education; providing that rules of the commission and the
45 council related to administering a system for the management of personnel matters do not
46 apply to certain institutions of higher education; providing for legislative findings and
47 purposes; clarifying authority of certain governing boards to delegate authority to their
48 presidents; clarifying authority of commission and governing boards of certain institutions
49 of higher education with respect to development of rules for accreditation and
50 determination of minimum standards for conferring degrees; eliminating authority of the
51 commission and the council to revoke an institution's authority to confer degrees when the
52 governing board or its chief executive officer does not provide certain information to the

53 commission or the council; eliminating applicability of certain commission and council rules
54 on certain institutions of higher education; requiring certain governing boards to
55 promulgate and adopt rules related to acquisitions and purchases; clarifying authority of
56 certain governing boards over certain purchasing activities; authorizing prepayment by the
57 commission, council or governing boards in certain instances; expanding scope of
58 authorized purchasers of certain purchase contracts; updating power of the Joint
59 Committee over performance audits of purchasing; updating authority of the commission,
60 the council and governing boards over purchase card procedures; requiring certain
61 governing boards to establish purchasing card procedures; updating certain best practices
62 applicable to ensuring fiscal integrity of institutions of higher education; authorizing
63 additional situations where emergency purchase card use is permitted; updating time
64 frame for payment of fees by students; updating applicability of rule by commission and
65 council for tuition and deferred payment plans; authorizing certain governing boards to
66 propose a rule related to tuition and fee deferred payment plans; authorizing certain
67 governing boards to authorize a mandatory auxiliary fee without commission approval;
68 updating tuition and fee increase percentage that requires commission or council
69 approval; updating conditions commission or council are required to consider in
70 determining whether to approve a tuition or fee increase; revising requirements and
71 parameters for certain revenue bonds issued by certain governing boards; updating
72 approvals required for issuance of certain revenue bonds by state institutions of higher
73 education; providing for deposit of certain fees by certain governing boards into single
74 special revenue account; requiring each governing board to adopt a campus development
75 plan; updating time frame for reporting to the commission and the council of campus
76 development plans; eliminating requirement for commission approval of campus
77 development plans of certain governing boards; eliminating commission approval over
78 certain capital and maintenance project lists; authorizing certain governing boards to

79 undertake projects not contained in campus development plans; eliminating certain
80 commission and council approvals related to capital improvements; updating conditions
81 to be met for certain institutions to be responsible for capital project management;
82 updating requirements for capital project management rule to be promulgated and
83 adopted by certain governing board; eliminating certain requirements related to leasing of
84 real property by the commission, the council and governing boards; expanding permitted
85 uses of proceeds from sale, lease, conveyance or other disposal of real property received
86 by the commission, the council or a governing board; eliminating requirement of
87 commission approval for certain real estate and construction transactions; authorizing
88 conveyance of real property or any interest therein from governing board to a real estate
89 foundation; providing for procedures related to a real estate foundation; providing for
90 conditions associated with transfer of real property to a real estate foundation by governing
91 board; providing the purpose of real estate foundations; clarifying that real estate
92 foundation provisions do not waive or abrogate sovereign immunity; clarifying that
93 obligations of real estate foundations do not constitute debts or obligations of institution of
94 higher education; setting forth the conditions for a conveyance of property; permitting the
95 governing boards of exempted schools to take certain actions without commission
96 approval; and requiring certain governing boards to provide notice of actions to the
97 commission and, if requested, provide certain information to the commission.

Be it enacted by the Legislature of West Virginia:

1 That §18B-1-5a, §18B-1-8b and §18B-1-10 of the Code of West Virginia, 1931, as
2 amended, be repealed; that §18B-1A-3 and §18B-1A-5 of said code be repealed; that §18B-1B-
3 10 and §18B-1B-13 of said code be repealed; that §18B-2-5 and §18B-2-7 of said code be
4 repealed; that §18B-5-2a of said code be repealed; that §18B-1-2 and §18B-1-6 of said code be
5 amended and reenacted; that §18B-1B-1, §18B-1B-2, §18B-1B-4, §18B-1B-5 and §18B-1B-6 of
6 said code be amended and reenacted; that §18B-1D-2, §18B-1D-4 and §18B-1D-7 of said code

7 be amended and reenacted; that §18B-2A-3 and §18B-2A-4 of said code be amended and
8 reenacted; that §18B-3-1 of said code be amended and reenacted; that §18B-4-7 of said code be
9 amended and reenacted; that §18B-5-4 and §18B-5-9 of said code be amended and reenacted;
10 that §18B-10-1, §18B-10-1c, §18B-10-8 and §18B-10-16 of said code be amended and
11 reenacted; that §18B-19-4, §18B-19-5, §18B-19-6, §18B-19-7, §18B-19-10, §18B-19-13 and
12 §18B-19-14 of said code be amended and reenacted; and that said code be amended by adding
13 thereto two new sections, designated §18B-19-19 and §18B-19-20, all to read as follows:

ARTICLE 1. GOVERNANCE.

§18B-1-2. Definitions.

1 The following words when used in this chapter and chapter eighteen-c of this code have
2 the meanings ascribed to them unless the context clearly indicates a different meaning:

3 ~~(1)~~ "Administratively linked community and technical college" means a state institution of
4 higher education delivering community and technical college education and programs which has
5 maintained a contractual agreement to receive essential services from another accredited state
6 institution of higher education prior to July 1, 2008;

7 ~~(2)~~ "Advanced technology center" means a facility established under the direction of an
8 independent community and technical college or the council for the purpose of implementing and
9 delivering education and training programs for high-skill, high-performance Twenty-first Century
10 workplaces;

11 ~~(3)~~ "Board of visitors" means the advisory board previously appointed for the West Virginia
12 Graduate College and the advisory board previously appointed for West Virginia University
13 Institute of Technology, which provide guidance to the Marshall University Graduate College and
14 West Virginia University Institute of Technology, respectively;

15 ~~(4)~~ "Broker" or "brokering" means serving as an agent on behalf of students, employers,

16 communities or responsibility areas to obtain education services not offered at that institution.
17 These services include courses, degree programs or other services contracted through an
18 agreement with a provider of education services either in-state or out-of-state;

19 ~~(5)~~ "Chancellor" means the Chancellor for Higher Education where the context refers to a
20 function of the Higher Education Policy Commission. "Chancellor" means the Chancellor for
21 Community and Technical College Education where the context refers to a function of the West
22 Virginia Council for Community and Technical College Education;

23 ~~(6)~~ "Chancellor for Community and Technical College Education" means the chief
24 executive officer of the West Virginia Council for Community and Technical College Education
25 employed pursuant to section three, article two-b of this chapter;

26 ~~(7)~~ "Chancellor for Higher Education" means the chief executive officer of the Higher
27 Education Policy Commission employed pursuant to section five, article one-b of this chapter;

28 ~~(8)~~ "Collaboration" means entering into an agreement with one or more providers of
29 education services in order to enhance the scope, quality or efficiency of education services;

30 ~~(9)~~ "Community and technical college", in the singular or plural, means the free-standing
31 community and technical colleges and other state institutions of higher education which deliver
32 community and technical college education. This definition includes Blue Ridge Community and
33 Technical College, Bridgemont Community and Technical College, Eastern West Virginia
34 Community and Technical College, Kanawha Valley Community and Technical College,
35 Mountwest Community and Technical College, New River Community and Technical College,
36 Pierpont Community and Technical College, Southern West Virginia Community and Technical
37 College, West Virginia Northern Community and Technical College and West Virginia University
38 at Parkersburg;

39 ~~(10)~~ "Community and technical college education" means the programs, faculty,
40 administration and funding associated with the delivery of community and technical college
41 education programs;

42 ~~(11)~~ "Community and technical college education program" means any college-level
43 course or program beyond the high school level provided through a public institution of higher
44 education resulting in or which may result in a two-year associate degree award including an
45 associate of arts, an associate of science and an associate of applied science; certificate
46 programs and skill sets; developmental education; continuing education; collegiate credit and
47 noncredit workforce development programs; and transfer and baccalaureate parallel programs.
48 All programs are under the jurisdiction of the council. Any reference to "post-secondary vocational
49 education programs" means community and technical college education programs as defined in
50 this subsection;

51 ~~(12)~~ "Council" means the West Virginia Council for Community and Technical College
52 Education created by article two-b of this chapter;

53 ~~(13)~~ "Dual credit course" or "dual enrollment course" means a credit-bearing college-level
54 course offered in a high school by a state institution of higher education for high school students
55 in which the students are concurrently enrolled and receiving credit at the secondary level.

56 ~~(14)~~ "Essential conditions" means those conditions which shall be met by community and
57 technical colleges as provided in section three, article three-c of this chapter;

58 "Exempted schools" means West Virginia University, including West Virginia University
59 Potomac State College and West Virginia University Institute of Technology; Marshall University;
60 and the West Virginia School of Osteopathic Medicine;

61 ~~(15)~~ "Free-standing community and technical colleges" means Southern West Virginia
62 Community and Technical College, West Virginia Northern Community and Technical College,
63 and Eastern West Virginia Community and Technical College, which may not be operated as
64 branches or off-campus locations of any other state institution of higher education;

65 ~~(16)~~ "Governing boards" or "boards" means the institutional boards of Governors created
66 by section one, article two-a of this chapter;

67 ~~(17)~~ "Higher Education Policy Commission", "Policy Commission" or "Commission" means

68 the commission created by section one, article one-b of this chapter;

69 ~~(18)~~ "Independent community and technical college" means a state institution of higher
70 education under the jurisdiction of the council which is independently accredited, is governed by
71 its own independent governing board, and may not be operated as a branch or off-campus
72 location of any other state institution of higher education. This definition includes Blue Ridge
73 Community and Technical College, Bridgemont Community and Technical College, Eastern West
74 Virginia Community and Technical College, Kanawha Valley Community and Technical College,
75 Mountwest Community and Technical College, New River Community and Technical College,
76 Pierpont Community and Technical College, Southern West Virginia Community and Technical
77 College, West Virginia Northern Community and Technical College, and West Virginia University
78 at Parkersburg;

79 ~~(19)~~ "Institutional compact" means the compact between ~~the commission or council and~~
80 developed by a state institution of higher education under its jurisdiction; ~~as described in section~~
81 ~~seven, article one-d of this chapter;~~

82 ~~(20)~~ "Institutional operating budget" or "operating budget" means for any fiscal year an
83 institution's total unrestricted education and general funding from all sources, including, but not
84 limited to, tuition and fees and legislative appropriation, and any adjustments to that funding as
85 approved by the commission or council based on comparisons with peer institutions or to reflect
86 consistent components of peer operating budgets;

87 ~~(21)~~ "Peer institutions", "peer group" or "peers" means ~~public institutions of higher~~
88 ~~education used for comparison purposes and selected by the commission pursuant to section~~
89 ~~three, article one-a of this chapter;~~

90 ~~(22)~~ "Rule" or "rules" means a regulation, standard, policy or interpretation of general
91 application and future effect;

92 ~~(23)~~ "Sponsoring institution" means a state institution of higher education that maintained
93 an administrative link to a community and technical college providing essential services prior to

94 July 1, 2008. This definition includes institutions whose governing boards had under their
95 jurisdiction a community and technical college, regional campus or a division delivering
96 community and technical college education and programs;

97 ~~(24)~~ "State college and university" means Bluefield State College, Concord University,
98 Fairmont State University, Glenville State College, Shepherd University, West Liberty University
99 or West Virginia State University;

100 ~~(25)~~ "State institution of higher education" means any university, college or community
101 and technical college under the jurisdiction of a governing board as that term is defined in this
102 section;

103 ~~(26)~~ "Statewide network of independently accredited community and technical colleges"
104 or "community and technical college network" means the state institutions of higher education
105 under the jurisdiction of the West Virginia Council for Community and Technical College
106 Education which are independently accredited, each governed by its own independent governing
107 board, and each having a core mission of providing affordable access to and delivering high
108 quality community and technical education in every region of the state;

109 ~~(27)~~ "Vice Chancellor for Administration" means the person employed in accordance with
110 section two, article four of this chapter. Any reference in this chapter or chapter eighteen-c of this
111 code to "Senior Administrator" means Vice Chancellor for Administration; and

112 ~~(28)~~ "Vice Chancellor for Human Resources" means the person employed by the
113 commission and the council jointly pursuant to section two-a, article four of this chapter. The
114 person employed as senior director of human resources by the commission on January 1, 2011,
115 becomes the Vice Chancellor for Human Resources on the effective date of this section. and

116 ~~(29)~~ "~~West Virginia Consortium for Undergraduate Research and Engineering~~" or "~~West~~
117 ~~Virginia CURE~~" means the collaborative planning group established by article one-c of this
118 chapter.

§18B-1-6. Rulemaking.

1 (a) The commission is hereby empowered to promulgate, adopt, amend or repeal rules,
2 in accordance with article three-a, chapter twenty-nine-a of this code, subject to section three of
3 this article. This grant of rule-making authority does not limit, restrict, supplant or supersede the
4 rule-making authority provided to the exempted schools.

5 (b) The council is hereby empowered to promulgate, adopt, amend or repeal rules in
6 accordance with article three-a, chapter twenty-nine-a of this code, subject to section three of this
7 article. This grant of rule-making power extends only to those areas over which the council has
8 been granted specific authority and jurisdiction by law.

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

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

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

21 (3) The commission and council each shall promulgate a rule to guide the development
22 and approval of rules made by their respective governing boards, ~~including the governing boards~~
23 ~~of Marshall University and West Virginia University~~ except the exempted schools. The rules
24 promulgated by the commission and council shall include, but are not limited to, the following
25 provisions which shall be included in the rule on rules adopted by each governing board of a state
26 institution of higher education:

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

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

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

34 (D) A procedure for the governing board to follow in submitting its rules for review and
35 approval comment to the commission and/or council, as appropriate. ~~except the following~~
36 ~~conditions apply for the governing boards of Marshall University and West Virginia University:~~

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

38 (ii) The commission shall return to the governing board its comments and suggestions
39 within ~~thirty~~ fifteen days of receiving the rule.

40 (iii) If a governing board receives comments or suggestions on a rule from the commission,
41 it shall record these as part of the minute record. The rule is not effective and may not be
42 implemented until the governing board holds a meeting and places on the meeting agenda the
43 comments it has received from the commission.

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

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

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

53 (1) Any rule of a governing board which meets the definition set out in subsection (c) of
 54 this section and which has not been promulgated and adopted by formal vote of the appropriate
 55 governing board is void and may not be enforced;

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

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

63 (h) Annually, by October 1, each governing board shall file with the commission or the
 64 council, as appropriate, a list of all rules that were in effect for that institution on July 1 of that
 65 year, including the most recent date on which each rule was considered and adopted, amended
 66 or repealed by the governing board. For all rules adopted, amended or repealed after the effective
 67 date of this section, the list shall include a statement by the chair of the governing board certifying
 68 that the governing board has complied with this section when each listed rule was promulgated
 69 and adopted.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-1. Higher education policy commission established; development of public policy agenda.

1 There is hereby created the "Higher Education Policy Commission", hereinafter referred
 2 to as the "commission". It is the intent of the Legislature that the commission be responsible to
 3 provide shared services in a cost-effective manner to the state colleges and universities, the
 4 council, and the community and technical colleges; undertake certain statewide and regional
 5 initiatives as specifically designated in this code, including those related to the administration of
 6 grants and scholarships and including those in conjunction with the council; to provide, review,

7 confirm or approve certain actions undertaken by governing boards, as delineated in this chapter;
 8 and develop and gain consensus around and ~~oversee~~ the public policy agenda for higher
 9 education and other statewide issues pursuant to section one-a, article one of this chapter under
 10 the following conditions:

11 (a) It is the responsibility of the commission to work collaboratively with the governing
 12 boards and the council to develop and gain consensus around the public policy agenda for
 13 ~~community and technical colleges~~ higher education.

14 (b) It is the responsibility of the council to oversee the implementation of the public policy
 15 agenda for the institutions under its jurisdiction.

16 (c) All matters of governance not specifically assigned to the commission or council by law
 17 are the duty and responsibility of the governing boards.

**§18B-1B-2. Composition of commission; terms and qualifications of members; vacancies;
 eligibility for reappointment; oath of office; removal from office.**

1 (a) The commission is comprised of ten members, all of whom are entitled to vote. The
 2 membership of the commission is as follows:

3 (1) The Secretary of Education and the Arts, ex officio.

4 (2) The State Superintendent of Schools, ex officio;

5 (3) The chair of the West Virginia Council for Community and Technical College
 6 Education, ex officio.

7 (4) ~~Seven~~ Four at-large members who are citizens of the state, appointed by the Governor,
 8 by and with the advice and consent of the Senate. ~~Provided, That prior to appointment, the~~
 9 ~~Governor shall interview each candidate to assure that the person selected understands and is~~
 10 ~~committed to achieving the goals and objectives as set forth in the institutional compacts and in~~
 11 ~~section one-a, article one of this chapter. The Governor shall invite the President of the Senate,~~
 12 ~~the Speaker of the House of Delegates, the chairs of the Senate and House of Delegates~~
 13 ~~Committees on Finance and Education and such other legislative leaders as the Governor may~~

14 ~~determine to participate in interviewing potential candidates~~

15 (5) Three at-large members who are designated as higher education representatives,
16 appointed by the Governor, by and with the advice and consent of the Senate; for each of the
17 higher education representatives, the Governor shall choose from recommendations made by
18 any state college and university or exempted school.

19 ~~(b) Each of the at-large members appointed by the Governor shall represent the public~~
20 ~~interest and shall be committed to the legislative intent and goals set forth in state law and policy~~

21 ~~(e) (b)~~ The Governor may not appoint any person to be a member of the commission who
22 is an officer, employee or member of the council or an advisory board of any state college or
23 university or exempted school; an officer or member of any political party executive committee;
24 the holder of any other public office or public employment under the government of this state or
25 any of its political subdivisions; an appointee or employee of any governing board; or an
26 immediate family member of any employee under the jurisdiction of the commission, the council
27 or any governing board.

28 ~~(d) (c)~~ Of the seven, at-large members appointed by the Governor:

29 (1) No more than four may belong to the same political party;

30 (2) At least two shall be appointed from each congressional district; and

31 (3) Effective July 1, 2008, no more than one member may serve from the same county.

32 ~~(e) (d)~~ The at-large members appointed by the Governor serve overlapping terms of four
33 years.

34 ~~(f) (e)~~ The Governor shall appoint a member to fill any vacancy among the seven at-large
35 members, by and with the advice and consent of the Senate. Any member appointed to fill a
36 vacancy serves for the unexpired term of the vacating member. The Governor shall fill the vacancy
37 within thirty days of the occurrence of the vacancy.

38 ~~(g) An at-large~~ (f) Any member appointed by the Governor may not serve more than two
39 consecutive terms.

40 ~~(h)~~ (g) Before exercising any authority or performing any duties as a member of the
 41 commission, each member shall qualify as such by taking and subscribing to the oath of office
 42 prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof
 43 shall be filed with the Secretary of State.

44 ~~(i)~~ (h) A member of the commission appointed by the Governor may not be removed from
 45 office by the Governor except for official misconduct, incompetence, neglect of duty or gross
 46 immorality and then only in the manner prescribed by law for the removal of the state elective
 47 officers by the Governor.

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

1 (a) The primary responsibility of the commission is to ~~develop, establish and implement~~
 2 provide shared services in a cost-effective manner to the state colleges and universities, the
 3 council, and the community and technical colleges; undertake certain statewide and regional
 4 initiatives as specifically designated in this chapter, including those related to the administration
 5 of grants and scholarships and including those in conjunction with the council; to provide, review,
 6 confirm or approve certain actions undertaken by governing boards, as delineated in this chapter;
 7 and assist in the development of policy that will achieve the goals, objectives and priorities found
 8 in section one-a, article one and article one-d of this chapter. The commission shall exercise its
 9 authority and carry out its responsibilities in a manner that is consistent and not in conflict with
 10 the powers and duties assigned by law to the West Virginia Council for Community and Technical
 11 College Education and the powers and duties assigned to the governing boards. To that end, the
 12 commission has the following powers and duties relating to the governing boards under its
 13 jurisdiction:

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

17 (A) The goals, objectives and priorities established in this chapter including specifically

18 those goals, objectives and priorities pertaining to the compacts created pursuant to section
19 seven, article one-d of this chapter; and

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

22 (2) Develop, oversee and advance the promulgation and implementation of a financing
23 rule for state institutions of higher education under its jurisdiction except exempted schools. The
24 rule shall meet the following criteria:

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

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

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

32 (3) In collaboration with the council, ~~create a policy leadership structure capable of the~~
33 ~~following actions~~ and the governing boards:

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

41 (B) ~~Ensuring that the governing~~ Assisting state colleges and universities' boards to carry
42 out their duty effectively to govern the individual institutions of higher education; ~~and~~

43 (C) ~~Holding the governing boards and the higher education systems as a whole~~

44 ~~accountable for accomplishing their missions and implementing their compacts;~~

45 (4) ~~Develop and adopt~~ Review and approve each compact for the governing boards under
46 its jurisdiction, except exempted schools;

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

48 (6) Serve as ~~the accountability~~ a point of contact to state policymakers:

49 (A) The Governor for ~~implementation of~~ the public policy agenda; and

50 (B) The Legislature by maintaining a close working relationship with the legislative
51 leadership and the Legislative Oversight Commission on Education Accountability.

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

54 Provide shared services to the state colleges and universities;

55 (8) ~~Establish and implement a peer group for each institution as described in section three,~~
56 ~~article one-a of this chapter~~ Administer scholarship and grant programs as provided for in this
57 code;

58 (9) Establish and implement the benchmarks and performance indicators for state colleges
59 and universities and community and technical colleges necessary to measure institutional
60 progress in achieving state policy priorities and institutional missions pursuant to section seven,
61 article one-d of this chapter;

62 (10) Establish a formal process for identifying capital investment needs and for
63 determining priorities for state colleges and universities for these investments for consideration
64 by the Governor and the Legislature as part of the appropriation request process pursuant to
65 article nineteen of this chapter;

66 (11) Develop standards and evaluate ~~governing board~~ state colleges and universities
67 requests for capital project financing in accordance with article nineteen of this chapter;

68 (12) Ensure that ~~governing boards~~ state colleges and universities manage capital projects
69 and facilities needs effectively, including review and approval or disapproval of capital projects, in

70 accordance with article nineteen of this chapter;

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

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

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

80 ~~(16)~~ (15) Provide suitable offices in Kanawha County for the chancellor, vice chancellors
81 and other staff;

82 ~~(17)~~ (16) Advise and consent in the appointment of the presidents of the institutions of
83 higher education under its jurisdiction pursuant to section six of this article, except exempted
84 schools. The role of the commission in approving an institutional president is to assure through
85 personal interview that the person selected understands and is committed to achieving the goals,
86 objectives and priorities set forth in the compact, in section one-a, article one and article one-d of
87 this chapter;

88 ~~(18)~~ (17) Approve the total compensation package from all sources for presidents of
89 institutions under its jurisdiction, except exempted schools, as proposed by the governing boards.
90 The governing boards, except exempted schools, must obtain approval from the commission of
91 the total compensation package both when institutional presidents are employed initially and
92 afterward when any change is made in the amount of the total compensation package;

93 ~~(19)~~ (18) Establish and implement the policy of the state to assure that parents and
94 students have sufficient information at the earliest possible age on which to base academic
95 decisions about what is required for students to be successful in college, other post-secondary

96 education and careers related, as far as possible, to results from current assessment tools in use
97 in West Virginia;

98 ~~(20)~~ (19) Approve and implement a uniform standard jointly with the council to determine
99 which students shall be placed in remedial or developmental courses. The standard shall be
100 aligned with college admission tests and assessment tools used in West Virginia and shall be
101 applied uniformly by the governing boards. ~~throughout the public higher education system.~~ The
102 chancellors shall develop a clear, concise explanation of the standard which they shall
103 communicate to the State Board of Education and the state superintendent of Schools;

104 ~~(24)~~ (20) Jointly with the council, develop and implement an oversight plan to manage
105 systemwide technology for state colleges and universities including, but not limited to, the
106 following:

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

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

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

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

119 ~~(23)~~ (21) Establish and implement policies and procedures to ensure that a student may
120 transfer and apply toward the requirements for a any degree the maximum number of credits
121 earned at any regionally accredited in-state or out-of-state higher education institution with as few

122 requirements to repeat courses or to incur additional costs as are consistent with sound academic
123 policy;

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

129 ~~(25)~~ (22) Establish and implement policies and programs, in cooperation with the council
130 and the governing boards, through which a student who has gained knowledge and skills through
131 employment, participation in education and training at vocational schools or other education
132 institutions, or Internet-based education programs, may demonstrate by competency-based
133 assessment that he or she has the necessary knowledge and skills to be granted academic credit
134 or advanced placement standing toward the requirements of an associate's degree or a
135 bachelor's degree at a state institution of higher education;

136 ~~(26)~~ (23) Seek out and attend regional, national and international meetings and forums on
137 education and workforce development-related topics as, in the commission's discretion, are
138 critical for the performance of their duties as members, for the purpose of keeping abreast of
139 education trends and policies to aid it in developing the policies for this state to meet the
140 established education goals, objectives and priorities pursuant to section one-a, article one and
141 article one-d of this chapter;

142 ~~(27)~~ (24) Promulgate and implement a rule for higher education governing boards and
143 institutions, except exempted schools, to follow when considering capital projects pursuant to
144 article nineteen of this chapter;

145 ~~(28)~~ (25) ~~Consider and submit~~ Submit to the appropriate agencies of the executive and
146 legislative branches of state government an appropriation request that reflects recommended
147 appropriations for the commission and the governing boards under its jurisdiction. The

148 commission shall submit as part of its appropriation request the separate recommended
149 appropriation request it received from the council, both for the council and for the governing
150 boards under the council's jurisdiction. The commission annually shall submit the proposed
151 allocations based on each institution's progress toward meeting the goals of its compact;

152 ~~(29)~~ (26) The commission may assess institutions under its jurisdiction, including Marshall
153 University and West Virginia University, for the payment of expenses of the commission or for the
154 funding of statewide higher education services, obligations or initiatives related to the goals set
155 forth for the provision of public higher education in the state: Provided, That the commission may
156 not assess institutions pursuant to this subdivision on and after July 1, 2018;

157 ~~(30)~~ (27) Promulgate rules allocating reimbursement of appropriations, if made available
158 by the Legislature, to governing boards for qualifying noncapital expenditures incurred in providing
159 services to students with physical, learning or severe sensory disabilities;

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

169 ~~(32)~~ (28) Pursuant to article three-a, chapter twenty-nine-a of this code and section six,
170 article one of this chapter, promulgate rules necessary or expedient to fulfill the purposes of this
171 chapter. The commission and the council shall promulgate a uniform joint legislative rule for the
172 purposes of standardizing, as much as possible, the administration of personnel matters among
173 the state ~~institutions of higher education~~ colleges and universities and implementing the

174 provisions of articles seven, eight, nine and nine-a of this chapter;

175 ~~(33)~~ (29) Determine when a joint rule among the governing boards under its jurisdiction is
176 necessary or required by law and, in those instances, in consultation with the governing boards
177 under its jurisdiction, promulgate the joint rule;

178 ~~(34)~~ (30) Promulgate and implement a rule jointly with the council whereby course credit
179 earned at a community and technical college transfers for program credit at any other state
180 institution of higher education and is not limited to fulfilling a general education requirement;

181 ~~(35)~~ (31) By October 1, 2011, promulgate a rule pursuant to section one, article ten of this
182 chapter, establishing tuition and fee policy for all governing boards under the jurisdiction of the
183 commission, including Marshall University and West Virginia University. The rule shall include,
184 but is not limited to, the following:

185 ~~(A)~~ (A) Comparisons with peer institutions;

186 ~~(B)~~ (A) Differences among institutional missions;

187 ~~(C)~~ (B) Strategies for promoting student access;

188 ~~(D)~~ (C) Consideration of charges to out-of-state students; and

189 ~~(E)~~ (D) Such other policies as the commission and council consider appropriate;

190 ~~(36)~~ (32) Assist governing boards in actions to implement general disease
191 awareness initiatives to educate parents and students, particularly dormitory residents, about
192 meningococcal meningitis; the potentially life-threatening dangers of contracting the infection;
193 behaviors and activities that can increase risks; measures that can be taken to prevent contact or
194 infection; and potential benefits of vaccination. The commission shall encourage governing
195 boards that provide medical care to students to provide access to the vaccine for those who wish
196 to receive it; and

197 ~~(37)~~ (33) Notwithstanding any other provision of this code to the contrary sell, lease,
198 convey or otherwise dispose of all or part of any real property that it owns, in accordance with
199 article nineteen of this chapter.

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

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

205 ~~(2) (34) Policy analysis and research focused on issues affecting the system as a whole~~
206 ~~institutions of higher education generally or a geographical region thereof;~~

207 ~~(3) (35) Development and implementation of institutional mission definitions for state~~
208 ~~colleges and universities and community and technical colleges, including use of incentive funds~~
209 ~~to influence institutional behavior in ways that are consistent with public priorities;~~

210 ~~(4) (36) Academic program review and approval for governing boards under its jurisdiction.~~
211 ~~The review and approval includes use of institutional missions as a template to judge the~~
212 ~~appropriateness of both new and existing programs and the authority to implement needed~~
213 ~~changes.~~

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

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

221 ~~(5) (37) Distribution of funds appropriated to the commission, including incentive and~~
222 ~~performance-based funds;~~

223 ~~(6) (38) Administration of state and federal student aid programs under the supervision of~~
224 ~~the vice chancellor for administration, including promulgation of rules necessary to administer~~
225 ~~those programs;~~

226 ~~(7)~~ (39) Serving as the agent to receive and disburse public funds when a governmental
227 entity requires designation of a statewide higher education agency for this purpose;

228 ~~(8)~~ (40) Developing, establishing and implementing information, assessment,
229 accountability and personnel systems for state colleges and universities, including maintaining
230 statewide data systems that facilitate long-term planning and accurate measurement of strategic
231 outcomes and performance indicators;

232 ~~(9)~~ (41) Jointly with the council, promulgating and implementing rules for licensing and
233 oversight for both public and private degree-granting and nondegree-granting institutions that
234 provide post-secondary education courses or programs in the state. The council has authority
235 and responsibility for approval of all post-secondary courses or programs providing community
236 and technical college education as defined in section two, article one of this chapter;

237 ~~(10)~~ (42) Developing, implementing and overseeing statewide and regional projects and
238 initiatives related to providing post-secondary education at the baccalaureate level and above
239 such as those using funds from federal categorical programs or those using incentive and
240 performance-based funds from any source; and

241 ~~(11) Quality assurance that intersects with all other duties of the commission particularly~~
242 ~~in the areas of research, data collection and analysis, personnel administration, planning, policy~~
243 ~~analysis, program review and approval, budgeting and information and accountability systems;~~
244 ~~and~~

245 ~~(12) Developing budgets and allocating resources for governing boards under its~~
246 ~~jurisdiction:~~

247 ~~(A)~~ (43) For all governing boards under its jurisdiction ~~except the governing boards of~~
248 ~~Marshall University and West Virginia University, the commission shall review institutional~~
249 ~~operating budgets, review and approve capital budgets, and distribute incentive and performance-~~
250 ~~based funds;~~

251 ~~(B) For the governing boards of Marshall University and West Virginia University, the~~

252 commission shall distribute incentive and performance-based funds and may review and
 253 comment upon the institutional operating budgets and capital budgets. The commission's
 254 comments, if any, shall be made part of the governing board's minute record.

255 ~~(e)~~ (b) In addition to the powers and duties provided in subsections (a) and (b) of this
 256 section and any other powers and duties assigned to it by law, the commission has other powers
 257 and duties necessary or expedient to accomplish the purposes of this article.

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

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

263 ~~(2)~~ (1) The commission has received information, substantiated by independent audit, of
 264 significant mismanagement or failure to carry out the powers and duties of the governing board
 265 according to state law; or

266 ~~(3)~~ (2) Other circumstances which, in the view of the commission, severely limit the
 267 capacity of the governing board to exercise its powers or carry out its duties and responsibilities.

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

**§18B-1B-5. Employment of Chancellor for Higher Education; office; powers and duties
 generally; employment of Vice Chancellors and other staff.**

1 (a) The commission, created by section one of this article, shall employ a Chancellor for
 2 Higher Education who is the Chief Executive Officer of the Commission and who serves at its will
 3 and pleasure.

4 (b) The commission shall set the qualifications for the position of chancellor and, when a
 5 vacancy occurs, shall conduct a thorough nationwide search for qualified candidates. A qualified

6 candidate is one who meets at least the following criteria:

7 (1) Possesses an excellent academic and administrative background;

8 (2) Demonstrates strong communication skills;

9 (3) Has significant experience and an established national reputation as a professional in
10 the field of higher education;

11 (4) Is free of institutional or regional biases; and

12 (5) Holds or retains no other administrative position within a system of higher education
13 while employed as chancellor.

14 (c) The commission shall conduct written performance evaluations of the chancellor
15 annually and may offer the chancellor a contract not to exceed three years. At the end of each
16 contract period, the commission shall review the evaluations and make a determination by vote
17 of its members on continuing employment and compensation level.

18 (d) When filling a vacancy in the position of chancellor, the commission shall enter into an
19 initial employment contract for one year with the candidate selected. At the end of the initial
20 contract period, and each contract period thereafter, the commission shall review the evaluations
21 and make a determination by vote of its members on continuing employment and compensation
22 level for the chancellor.

23 (e) The commission sets the chancellor's salary. The salary may not exceed by more than
24 twenty percent the average annual salary of chief executive officers of state systems of higher
25 education in the states that comprise the membership of the Southern Regional Education Board.

26 (f) The commission may employ a Vice Chancellor for Health Sciences who serves at the
27 will and pleasure of the commission. The Vice Chancellor for Health Sciences shall coordinate
28 the West Virginia University School of Medicine, the Marshall University School of Medicine and
29 the West Virginia School of Osteopathic Medicine and also shall provide assistance to the
30 governing boards on matters related to medical education and health sciences. The Vice
31 Chancellor for Health Sciences shall perform all duties assigned by the chancellor, the

32 commission and state law. In the case of a vacancy in the office of Vice Chancellor of Health
33 Sciences, the duties assigned to this office by law are the responsibility of the chancellor or a
34 designee.

35 (g) The commission shall employ a Vice Chancellor for Administration pursuant to section
36 two, article four of this chapter.

37 (h) The commission shall employ a Vice Chancellor for Human Resources pursuant to
38 section two-a, article four of this chapter. The person serving as senior director of human
39 resources by the commission on January 1, 2011, is Vice Chancellor for Human Resources on
40 the effective date of this section. Additionally, the commission shall employ a qualified generalist
41 in the field of human resources pursuant to section two-a, article four of this chapter. The human
42 resources generalist shall report to the Vice Chancellor for Human Resources.

43 (i) The commission may employ a Vice Chancellor for State Colleges who serves at the
44 will and pleasure of the commission. At a minimum, the Vice Chancellor for State Colleges shall
45 perform the following duties:

46 (1) Provide assistance to the commission, the chancellor and the state colleges on matters
47 related to or of interest and concern to these institutions;

48 (2) Advise, assist and consult regularly with the presidents and governing boards of each
49 state college;

50 (3) Serve as an advocate and spokesperson for the state colleges to represent them and
51 to make their interests, views and issues known to the chancellor, the commission and
52 governmental agencies;

53 (4) Perform all duties assigned by the chancellor, the commission and state law.

54 In addition, the Vice Chancellor for State Colleges shall provide staff assistance to the
55 presidents and governing boards to the extent practicable.

56 (j) On behalf of the commission, the chancellor may enter into agreements with any state
57 agency or political subdivision of the state, any state institution of higher education or any other

58 person or entity to enlist staff assistance to implement the powers and duties assigned by the
59 commission or by state law.

60 (k) The chancellor is responsible for the daily operations of the commission and has the
61 following responsibilities relating to the commission and the governing boards under its
62 jurisdiction:

63 (1) To carry out policy and program directives of the commission;

64 (2) To develop and submit annual reports on the implementation plan to achieve the goals
65 and objectives set forth in section one-a, article one and article one-d of this chapter, and in the
66 compacts;

67 (3) To prepare and submit to the commission for its approval the proposed budget of the
68 commission including the offices of the chancellor and the vice chancellors;

69 (4) To assist the governing boards in developing rules, subject to the provisions of section
70 six, article one of this chapter. Nothing in this chapter requires the rules of the governing boards
71 to be filed pursuant to the rule-making procedures provided in article three-a, chapter twenty-nine-
72 a of this code. The commission and the council, either separately or jointly as appropriate, are
73 responsible for ensuring that any policy which is required to be uniform across the institutions is
74 applied in a uniform manner;

75 (5) To perform all other duties and responsibilities assigned by the commission or by state
76 law; and

77 (6) Employ other staff as necessary and appropriate to carry out the duties and
78 responsibilities of the commission and the council, including those relating to administration,
79 human resources and health initiatives;

80 (l) The chancellor shall be reimbursed for all actual and necessary expenses incurred in
81 the performance of all assigned duties and responsibilities.

82 (m) The chancellor, with the commission, advises the Legislature on matters of higher
83 education in West Virginia, after consultation with the presidents of the governing boards. The

84 chancellor shall work closely with the Legislative Oversight Commission on Education
 85 Accountability and with the elected leadership of the state to ensure that they are fully informed
 86 about higher education issues and that the commission fully understands the goals, objectives
 87 and priorities for higher education that the Legislature has established by law.

88 (n) The chancellor may design and develop for consideration by the commission new
 89 statewide or region-wide initiatives in accordance with the goals set forth in section one-a, article
 90 one and article one-d of this chapter, and the public policy agenda articulated by the commission.
 91 In those instances where the initiatives to be proposed have a direct and specific impact or
 92 connection to community and technical college education as well as to baccalaureate and
 93 graduate education, the Chancellor for Higher Education and the Chancellor for Community and
 94 Technical College Education shall design and develop the initiatives jointly for consideration by
 95 the commission and the council.

96 (o) To further the goals of cooperation and coordination between the commission and the
 97 State Board of Education, the chancellor serves as an ex officio, nonvoting member of the state
 98 board. The chancellor shall work closely with members of the State Board of Education and with
 99 the State Superintendent of Schools to assure that the following goals are met:

- 100 (1) Development and implementation of a seamless kindergarten-through-college system
 101 of education; and
 102 (2) Appropriate coordination of missions and programs.

§18B-1B-6. Appointment of institutional presidents; evaluation.

1 (a) *Appointment of institutional presidents.* -- Appointment of presidents of the state
 2 institutions of higher education, except exempted schools, shall be made as follows:

3 (1) The initial contract term for a president of a state institution of higher education may
 4 not exceed two years. At the end of the initial contract period, and subject to the provisions of
 5 subsection (c) of this section, the governing board may offer the president a contract of longer
 6 duration, but not to exceed five years.

7 (2) The president of a state institution of higher education serves at the will and pleasure
8 of the appointing governing board.

9 (3) Subject to the approval of the commission, the governing board of the institution
10 appoints a president for Bluefield State College, Concord University, Fairmont State University,
11 Glenville State College, Marshall University, Shepherd University, West Liberty University, West
12 Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia
13 University, except that the commission does not approve presidents of the exempted schools.

14 (4) Subject to the approval of the council, the governing board of the community and
15 technical college appoints a president for Blue Ridge Community and Technical College, Bridge
16 Valley Community and Technical College, Eastern West Virginia Community and Technical
17 College, Mountwest Community and Technical College, New River Community and Technical
18 College, Pierpont Community and Technical College, Southern West Virginia Community and
19 Technical College, West Virginia Northern Community and Technical College and West Virginia
20 University at Parkersburg.

21 (b) *Other appointments.* -- The President of West Virginia University appoints a campus
22 president to be the administrative head of Potomac State College of West Virginia University and
23 a campus president to be the administrative head of West Virginia University Institute of
24 Technology.

25 (c) *Evaluation of presidents.* --

26 (1) The appointing governing board shall conduct written performance evaluations of the
27 institution's president. Evaluations shall be done at the end of the initial contract period and in
28 every third year of employment as president thereafter, recognizing unique characteristics of the
29 institution and using institutional personnel, boards of advisors as appropriate, staff of the
30 appropriate governing board and persons knowledgeable in higher education matters who are
31 not otherwise employed by a governing board. A part of the evaluation shall be a determination

32 of the success of the institution in meeting the requirements of its institutional compact and in
33 achieving the goals, objectives and priorities established in articles one and one-d of this chapter.

34 (2) After reviewing the evaluations, the governing board shall make a determination by
35 majority vote of its members on continuing employment and the compensation level for the
36 president in accordance with subsection (a) of this section.

37 (d) The legislative rules of the commission and council promulgated in accordance with
38 section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code which
39 are in effect on January 1, 2014, continue in effect unless amended or repealed. The rules provide
40 guidance for the governing boards, but are not applicable to the exempted schools, in filling
41 vacancies in the office of president in accordance with this chapter and shall include, but are not
42 limited to, clarifying the powers, duties and roles of the governing boards, commission, council
43 and chancellors in the presidential appointment process.

ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.

§18B-1D-2. Definitions.

1 (a) *General.* -- For the purposes of this article and section one-a, article one of this chapter,
2 terms have the meaning ascribed to them in section two, article one of this chapter, unless the
3 context in which the term is used clearly requires a different meaning or a specific definition is
4 provided in this section.

5 (b) *Definitions.* --

6 (1) "Accountability system for public higher education" or "accountability system" means
7 all research, reports, documents, data and any other materials, the collection, analysis and
8 dissemination of which are necessary or expedient to accomplish the purposes of this article or
9 section one-a, article one of this chapter. The system includes legislative goals, objectives and
10 priorities; public policy agendas; statewide master plans; state and institutional compacts;

11 implementation plans; institutional mission statements and master plans; and the statewide report
12 card.

13 (2) "Education partnership to achieve state goals and objectives" or "education
14 partnership" means the formal and informal working relationships established between and
15 among the State of West Virginia, the commission, the council, the State Board of Education and
16 State Department of Education and the state institutions of higher education for the purpose of
17 achieving state goals and objectives.

18 (3) "Functional literacy rate" means the percentage of adults over the age of seventeen
19 who are able to read beyond a fourth grade level and interpret basic information from sources
20 such as road signs, job applications, newspaper articles and food and medicine labels.

21 (4) "Goals" means those long-term public purposes which are the desired and expected
22 end result for which public higher education is established.

23 (5) "Implementation plan" means a document developed within the higher education
24 community that identifies a series of objectives, sets forth performance indicators that can be
25 used to determine if objectives are being achieved, outlines strategies for accomplishing the
26 objectives and identifies benchmarks for evaluating progress in accomplishing the objectives over
27 the life cycle of the plan.

28 (6) "Institutional compact" means a formal, written contract between either the commission
29 or council and a state institution of higher education under its jurisdiction expressing intent to
30 accomplish state and system goals and objectives.

31 (7) "Institutions under the jurisdiction of the commission" relative to the accountability
32 system established by this article and section one-a, article one of this chapter means Bluefield
33 State College, Concord University, Fairmont State University, Glenville State College, ~~Marshall~~
34 ~~University,~~ Shepherd University, West Liberty State College, the West Virginia School of
35 Osteopathic Medicine and West Virginia State University and West Virginia University. ~~including~~

36 ~~Potomac State College of West Virginia University and the West Virginia University Institute of~~
37 ~~Technology.~~

38 (8) "Institutions under the jurisdiction of the council" relative to the accountability system
39 established by this article and section one-a, article one of this chapter means Blue Ridge
40 Community and Technical College, the Community and Technical College at West Virginia
41 University Institute of Technology, Eastern West Virginia Community and Technical College,
42 Marshall Community and Technical College, New River Community and Technical College,
43 Pierpont Community and Technical College, Southern West Virginia Community and Technical
44 College, West Virginia Northern Community and Technical College, West Virginia State
45 Community and Technical College and West Virginia University at Parkersburg.

46 (9) "Net college costs" means the total cost of tuition, room and board minus the amount
47 of financial aid a student receives.

48 (10) "Objectives" means the ends to be accomplished or attained within a specified period
49 of time for the purpose of meeting the established goals.

50 (11) "Priority" or "priorities" means the order in which objectives are to be addressed for
51 the purpose of achieving state goals.

52 (12) "Strategy" or "strategies" means specific activities carried out by public higher
53 education which are directed toward accomplishing specific objectives.

54 (13) "Statewide master plan" or "system master plan" means a document developed by
55 the council or commission that sets forth system goals, objectives and strategies and is aligned
56 with, but not limited to, meeting state goals, objectives and priorities.

57 (14) "STEM courses and programs" means curricula leading to a degree or other
58 recognized credential in the science, technology, engineering and mathematics fields of study or
59 specialization.

60 (15) "State compact" means a formal, written agreement between the council and/or the

61 commission and at least one other member of the education partnership to achieve state goals
62 and objectives where significant collaboration and commitment of resources between the parties
63 to the agreement is required in order to achieve the desired results.

**§18B-1D-4. Responsibilities of Higher Education Policy Commission and Council for
Community and Technical College Education; development of public policy
agendas; reports; institutional responsibilities.**

1 (a) It is the responsibility of the commission, in cooperation with the council, to develop,
2 oversee and advance the public policy agenda mandated by section four, article one-b of this
3 chapter to address the goals and objectives established pursuant to this article and section one-
4 a, article one of this chapter, including, but not limited to, aligning state and institutional compacts,
5 master plans, implementation plans and institutional missions for institutions of higher education
6 except exempted schools with state goals and objectives to accomplish the purposes of this
7 article.

8 (b) It is the responsibility of the council, in cooperation with the commission when
9 applicable, to develop, oversee and advance the public policy agenda mandated by section six,
10 article two-b of this chapter to address the goals and objectives established pursuant to this article
11 and section one-a, article one of this chapter, including, but not limited to, aligning state and
12 institutional compacts, master plans, implementation plans and institutional missions with state
13 goals and objectives to accomplish the purposes of this article.

14 (c) It is further the responsibility of the commission and council to collect the data, for
15 institutions of higher education except exempted schools, assemble it in the appropriate format
16 and transmit all reports and any other essential documents as needed to fulfill the purposes of
17 this article. Each report shall contain a brief, concise executive summary and shall include trends
18 and recommendations in text format. Recommendations shall be ranked by order of importance
19 and shall be supported by objective data available elsewhere in the report. In addition to those

20 specifically mandated by this chapter or chapter eighteen-c of this code, reporting responsibilities
21 include, but are not limited to, the following:

22 (1) Ensuring that data systems collect the essential information state-level policymakers
23 need to answer key policy questions to fulfill the purposes of the accountability system established
24 pursuant to this article and section one-a, article one of this chapter;

25 (2) Collaborating with public education to establish policies to link existing preK, K-12,
26 higher education and teacher data systems to enable tracking of student progress and teacher
27 performance over time; and

28 (3) Ensuring that reports provide data analyses to determine if students entering the public
29 higher education systems are prepared for post-secondary education and if students obtaining
30 degrees, certificates or other credentials are prepared to pursue careers or to continue their
31 education.

32 (d) It is the responsibility of public institutions of higher education except exempted schools
33 to report to the commission or the council, as appropriate, on plans, accomplishments and
34 recommendations to implement the goals and objectives contained in the institutional and state
35 compacts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

57 (3) The commission and council shall review each compact from the institutions under

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

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

65 (5) As far as practicable, the commission and council each shall establish uniform
66 processes and forms for the development and submission of the institutional compacts by the
67 institutions under their respective jurisdictions, taking into consideration the differences in
68 institutional missions and objectives. As a part of this function, the commission and council each
69 shall organize the statements of legislative goals and objectives contained in this article and
70 section one-a, article one of this chapter in a manner that facilitates the purposes therein.

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

72 (1) The commission shall assign geographic areas of responsibility to the state institutions
73 of higher education under its jurisdiction, except for the ~~state institutions of higher education~~
74 ~~known as West Virginia School of Osteopathic Medicine, Marshall University and West Virginia~~
75 ~~University.~~ For institutions other than the ~~state institutions of higher education known as West~~
76 ~~Virginia School of Osteopathic Medicine, Marshall University and West Virginia University,~~
77 exempted schools. The geographic areas of responsibility are made a part of their institutional
78 compacts to ensure that all areas of the state are provided necessary programs and services to
79 achieve state goals and objectives. The commission and the council each shall develop data-
80 based measures to determine the extent to which institutions, with the exception of the exempted
81 schools, under their respective jurisdictions are providing higher education services aligned with
82 state goals and objectives and institutional missions within their geographic areas of

83 responsibility. This information shall be reported in the statewide report card established pursuant
84 to section eight of this article.

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

90 (3) The geographic areas of responsibility for the state institutions of higher education
91 known as West Virginia School of Osteopathic Medicine, Marshall University and West Virginia
92 University are assigned by the Legislature.

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

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

99 (1) They shall be objective;

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

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

102 and

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

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

108 commission and the council, respectively.

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

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

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

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

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

121 (D) Sufficient detail within the benchmarks and indicators to provide the following
122 information:

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

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

129 Provided, That the commission has no authority regarding the objections and benchmarks for
130 exempted schools; and

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

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

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

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

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

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

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

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

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

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

4 the commission relating to the exempted schools is limited to the specific authorities granted
5 under this chapter.

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

10 (e)(b)The Chancellor for Higher Education and the Chancellor for Community and
11 Technical College Education, under the supervision of their respective boards, are responsible
12 for the coordination of policies, purposes and rules of the governing boards of state colleges and
13 universities and community and technical colleges and shall provide for and facilitate sufficient
14 interaction among the governing boards and between the governing boards and the State Board
15 of Education to meet the goals and objectives provided in the compacts and in section one-a,
16 article one and article one-d of this chapter.

17 (d)(c) The governing boards and the State Board of Education shall provide all information
18 requested by the commission and the council, whether the request is made separately or jointly,
19 in an appropriate format and in a timely manner.

20 ~~(1) Each governing board shall cooperate with the West Virginia Network for Educational~~
21 ~~Telecomputing (WVNET) in designing appropriate interfaces with the databases of institutions~~
22 ~~under its jurisdiction and shall grant WVNET direct access to these databases.~~

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

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

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

1 Each governing board separately has the following powers and duties:

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

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

5 (1) The ultimate responsibility for developing and updating each master plan at the
6 institution resides with the governing board, but the ultimate responsibility for approving the final
7 version of each master plan, including periodic updates, resides with the commission or council,
8 as appropriate: Provided, That commission approval is not required for master plans of exempted
9 schools.

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

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

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

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

20 (3) The plan shall be established for periods of not fewer than three nor more than five
21 years and shall be revised periodically as necessary, including adding or deleting bachelor's,
22 master's and doctoral degree programs for all governing boards as approved by the commission
23 or council, respectively, except for the governing boards of ~~Marshall University and West Virginia~~
24 ~~University~~ the exempted schools only, the commission may review, but may not approve or
25 disapprove, additions or deletions of degree programs.

26 (c) Develop a ten-year campus development plan in accordance with article nineteen of

27 this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96 (u) Unless changed by the commission or the council, as appropriate, continue to abide
97 by existing rules setting forth standards for accepting advanced placement credit for the institution
98 under its jurisdiction. Individual departments at a state institution of higher education, with
99 approval of the faculty senate, may require higher scores on the advanced placement test than
100 scores designated by the governing board when the credit is to be used toward meeting a
101 requirement of the core curriculum for a major in that department;

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

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

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

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

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

126 (y) Transfer funds from appropriated special revenue accounts for capital improvements

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

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

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

ARTICLE 3. ADDITIONAL POWERS AND DUTIES OF RESEARCH DOCTORAL-GRANTING PUBLIC UNIVERSITIES.

§18B-3-1. Legislative findings, purpose; intent; definition.

1 (a) The Legislature finds that an effective and efficient system of doctoral-level education
 2 is vital to providing for the economic well-being of the citizens of West Virginia and for
 3 accomplishing established state goals and objectives. As the ~~only~~ institutions that focus on one
 4 or more of the following activities: research, ~~and~~ masters-degree granting, doctoral-granting,
 5 medical doctoral-granting, or doctor of osteopathy doctor-granting; doctoral-granting medical
 6 doctoral-granting, or doctor of osteopathy doctor-granting public universities in the state, Marshall
 7 University, ~~and~~ West Virginia University and the School of Osteopathy are major assets to the
 8 citizens of West Virginia and must be an integral part of any plan to strengthen and expand the
 9 economy and improve health outcomes for the citizenry.

10 (b) The Legislature further finds that these ~~two~~ three institutions must compete in both a

11 national and global environment that is rapidly changing, while they continue to provide high
12 quality education that is both affordable and accessible and remain accountable to the people of
13 West Virginia for the most efficient and effective use of scarce resources.

14 (c) The Legislature further finds that ~~Marshall University and West Virginia University~~
15 exempted schools, under the direction of their respective governing boards, may manage
16 operational governance of their institutions in an efficient and accountable manner and may best
17 fulfill their public missions when their governing boards are given flexibility and autonomy
18 sufficient to meet state goals, objectives and priorities established in this article, and in section
19 one-a, article one and article one-d of this chapter.

20 (d) Therefore, the purposes of this article include, but are not limited to, the following:

21 (1) Enhancing the competitive position of ~~Marshall University and West Virginia University~~
22 the exempted schools in the current environment for research and medical professional
23 development;

24 (2) Providing the governing boards of these institutions with operational flexibility and
25 autonomy in certain areas, including tools to promote economic development and healthcare in
26 West Virginia;

27 (3) Encouraging the development of research and medical expertise in areas directly
28 beneficial to the state;

29 (4) Focusing the attention and resources of the governing boards on state goals,
30 objectives and priorities to enhance the competitive position of the state and the economic, social,
31 health, and cultural well-being of its citizens; and

32 (5) Providing additional autonomy and operational flexibility and assigning certain
33 additional responsibilities to governing boards of other state institutions of higher education.

34 (e) The governing boards of ~~Marshall University and West Virginia University~~ the
35 exempted schools each have the power and the obligation to perform functions, tasks and duties

36 as prescribed by law. ~~and to exercise their authority and carry out their responsibilities in a manner~~
 37 ~~that is consistent with and not in conflict with the powers and duties assigned by law to the council~~
 38 ~~and the commission.~~

39 (f) While the governing boards may choose to delegate powers and duties to their
 40 respective presidents pursuant to subsection (s), section four, article two-a of this chapter,
 41 ultimately, it is they who are accountable to the Legislature, the Governor and the citizens of West
 42 Virginia for meeting the established state goals, objectives and priorities set forth in this article,
 43 and in section one-a, article one and article one-d of this chapter. Therefore, grants of operational
 44 flexibility and autonomy are made directly to the governing boards and are not grants of
 45 operational flexibility and autonomy to the president of an institution: Provided, That the governing
 46 boards may, as appropriate, delegate authority to its president.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-7. Accreditation of institutions of higher education; standards for degrees.

1 (a) The council shall make rules for the accreditation of community and technical colleges
 2 in this state and shall determine the minimum standards for conferring degrees. The commission
 3 shall make rules for the accreditation of state colleges and universities in this state ~~except and~~
 4 ~~the governing boards of Marshall University and West Virginia University~~ the exempted schools
 5 shall make rules for their respective institutions, and each shall determine the minimum standards
 6 for conferring degrees. The governing boards of ~~Marshall University and West Virginia University~~
 7 the exempted schools shall promulgate rules pursuant to the provisions of section six, article one
 8 of this chapter for the accreditation of their respective institutions.

9 (b) An institution of higher education may not confer a degree on any basis of work or
 10 merit below the minimum standards prescribed by the council or commission.

11 (c) With the approval of the commission and subject to subsections (e), (f) and (g) of this

12 section, governing boards of institutions which currently offer substantial undergraduate course
13 offerings and a master's degree in a discipline are authorized to grant baccalaureate degrees in
14 that discipline.

15 (d) Except as otherwise provided in this section, a charter or other instrument containing
16 the right to confer degrees of higher education status may not be granted by the State of West
17 Virginia to an institution, association or organization within the state, nor may a degree be
18 awarded, until the condition of conferring the degree first has been approved in writing by the
19 council or commission, as appropriate, or by the institution's governing board in the case of
20 ~~Marshall University or West Virginia University~~ the exempted schools.

21 (e) To retain the authority to confer degrees pursuant to this section, each institution shall
22 provide annually to the commission or council, as requested, all information the commission or
23 council considers necessary to assess the performance of the institution and to determine
24 whether the institution continues to meet the minimum standards for conferring degrees. This
25 information includes, but is not limited to, the following data:

26 (1) All information current and future federal or state laws and regulations require the
27 institution to report to the public, to students, to employees or to federal or state agencies;

28 (2) Other consumer information the commission or council considers necessary, including,
29 but not limited to, graduation and retention rates, transfers, post-graduation placements, loan
30 defaults and numbers and types of student complaints;

31 (3) A detailed explanation of financial operations including, but not limited to, policies,
32 formulas and procedures related to calculation, payment and refund for all tuition and fees; and

33 (4) An assessment of the adequacy of the institution's curriculum, personnel, facilities,
34 materials and equipment to meet the minimum standards for conferring degrees.

35 (f) The commission and council may conduct on-site reviews to evaluate an institution's
36 academic standards, may conduct financial audits, or may require the institution to perform these

37 audits and provide detailed data to the commission or council.

38 (g) The commission or council shall revoke an institution's authority to confer degrees
39 when the institution's governing body, chief executive officer, or both, have done any one or more
40 of the following:

41 (1) Failed to maintain the minimum standards for conferring degrees; or

42 ~~(2) Refused or willfully failed to provide information to the commission or council pursuant~~
43 ~~to this subsection in a manner and within a reasonable time frame as established by the~~
44 ~~commission or council, as appropriate; or~~

45 ~~(3) (2)~~ Willfully provided false, misleading or incomplete information to the commission or
46 council.

47 (h) The commission and council each shall compile the information collected pursuant to
48 subdivisions (e), (f) and (g) of this section and submit a report on the information to the Legislative
49 Oversight Commission on Education Accountability annually beginning December 1, 2012. The
50 commission and council each shall make the information and report available to the public in a
51 form and manner that is accessible to the general public, including, but not limited to, posting on
52 its website.

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

§18B-5-4. Purchase or acquisition of materials, supplies, equipment, services and printing.

1 (a) The council, commission and each governing board shall purchase or acquire all
2 materials, supplies, equipment, services and printing required for that governing board or the
3 council or commission, as appropriate, and the state institutions of higher education under their
4 jurisdiction, except the governing boards of Marshall University and West Virginia University,
5 respectively, are subject to subsection (d) of this section.

6 (b) The commission and council jointly shall adopt rules governing and controlling

7 acquisitions and purchases in accordance with this section: Provided, That these rules do not
8 apply to the exempted schools. However, the governing boards of the exempted schools shall
9 adopt their own rules consistent with this section. The rules shall ensure that the following
10 procedures are followed:

11 (1) No person is precluded from participating and making sales thereof to the council,
12 commission or governing board except as otherwise provided in section five of this article.
13 Providing consulting services such as strategic planning services does not preclude or inhibit the
14 governing boards, council or commission from considering a qualified bid or response for delivery
15 of a product or a commodity from the individual providing the services;

16 (2) Specifications are established and prescribed for materials, supplies, equipment,
17 services and printing to be purchased;

18 (3) Purchase order, requisition or other forms as may be required are adopted and
19 prescribed;

20 (4) Purchases and acquisitions in such quantities, at such times and under contract, are
21 negotiated for and made in the open market or through other accepted methods of governmental
22 purchasing as may be practicable in accordance with general law;

23 (5) Bids are advertised on all purchases exceeding \$50,000 and made by means of sealed
24 or electronically submitted bids and competitive bidding or advantageous purchases effected
25 through other accepted governmental methods and practices. Competitive bids are not required
26 for purchases of \$50,000 or less.

27 (6) Notices for acquisitions and purchases for which competitive bids are being solicited
28 are posted either in the purchasing office of the specified institution involved in the purchase or
29 by electronic means available to the public at least five days prior to making the purchases. The
30 rules shall ensure that the notice is available to the public during business hours;

31 (7) Purchases are made in the open market;

32 (8) Vendors are notified of bid solicitation and emergency purchasing; and

33 (9) No fewer than three bids are obtained when bidding is required, except if fewer than
34 three bids are submitted, an award may be made from among those received.

35 (c) When a state institution of higher education submits a contract, agreement or other
36 document to the Attorney General for approval as to form as required by this chapter, the following
37 conditions apply:

38 (1) "Form" means compliance with the Constitution and statutes of the State of West
39 Virginia;

40 (2) The Attorney General does not have the authority to reject a contract, agreement or
41 other document based on the substantive provisions in the contract, agreement or document or
42 any extrinsic matter as long as it complies with the Constitution and statutes of this state;

43 (3) Within fifteen days of receipt, the Attorney General shall notify the appropriate state
44 institution of higher education in writing that the contract, agreement or other document is
45 approved or disapproved as to form. If the contract, agreement or other document is disapproved
46 as to form, the notice of disapproval shall identify each defect that supports the disapproval; and

47 (4) If the state institution elects to challenge the disapproval by filing a writ of mandamus
48 or other action and prevails, then the Attorney General shall pay reasonable attorney fees and
49 costs incurred.

50 (d) Pursuant to this subsection, the governing boards of ~~Marshall University and West~~
51 ~~Virginia University~~ the exempted schools, respectively, may carry out the following actions:

52 (1) Purchase or acquire all materials, supplies, equipment, services and printing required
53 for the governing board without approval from the commission or the Vice Chancellor for
54 Administration and may issue checks in advance to cover postage as provided in subsection (f)
55 of this section;

56 (2) Purchase from cooperative buying groups, consortia, the federal government or from

57 federal government contracts if the materials, supplies, services, equipment or printing to be
58 purchased is available from these groups and if this would be the most financially advantageous
59 manner of making the purchase;

60 (3) Select and acquire by contract or lease all grounds, buildings, office space or other
61 space, and capital improvements, including equipment, if the rental is necessarily required by the
62 governing board; and

63 (4) Use purchase cards. ~~under terms approved for the commission, the council and~~
64 ~~governing boards of state institutions of higher education and participate in any expanded~~
65 ~~program of use as provided in subsection (u) of this section~~

66 (e) The governing boards shall adopt sufficient accounting and auditing procedures and
67 promulgate and adopt appropriate rules subject to section six, article one of this chapter to govern
68 and control acquisitions, purchases, leases and other instruments for grounds, buildings, office
69 or other space, and capital improvements, including equipment, or lease-purchase agreements.

70 (f) The council, commission or each governing board may issue a check in advance to a
71 company supplying postage meters for postage used by that board, the council or commission
72 and by the state institutions of higher education under their jurisdiction.

73 (g) When a purchase is to be made by bid, any or all bids may be rejected. However, all
74 purchases based on advertised bid requests shall be awarded to the lowest responsible bidder
75 taking into consideration the qualities of the articles to be supplied, their conformity with
76 specifications, their suitability to the requirements of the governing boards, council or commission
77 and delivery terms. The preference for resident vendors as provided in section thirty-seven, article
78 three, chapter five-a of this code applies to the competitive bids made pursuant to this section.

79 (h) The council, commission or each governing board may issue a check in advance to a
80 company with which it has agreed to prepayment terms.

81 ~~(i)~~ (i) The governing boards, council and commission shall maintain a purchase file, which

82 shall be a public record and open for public inspection.

83 (1) After the award of the order or contract, the governing boards, council and commission
84 shall indicate upon the successful bid the following information:

85 (A) Designation as the successful bid;

86 (B) The reason any bids were rejected; and

87 (C) The reason for rejection, if the mathematical low vendor was not awarded the order or
88 contract.

89 (2) A record in the purchase file may not be destroyed without the written consent of the
90 Legislative Auditor. Those files in which the original documentation has been held for at least one
91 year and in which the original documents have been reproduced and archived on microfilm or
92 other equivalent method of duplication may be destroyed without the written consent of the
93 Legislative Auditor.

94 (3) All files, no matter the storage method, shall be open for inspection by the Legislative
95 Auditor upon request.

96 (†) (j) The commission and council, also jointly, shall promulgate rules to prescribe
97 qualifications to be met by any person who is to be employed as a buyer at a state college and
98 university or community and technical college pursuant to this section. These rules shall require
99 that a person may not be employed as a buyer unless that person, at the time of employment,
100 has one of the following qualifications:

101 (1) Is a graduate of an accredited college or university; or

102 (2) Has at least four years' experience in purchasing for any unit of government or for any
103 business, commercial or industrial enterprise.

104 (†) (k) Any person making purchases and acquisitions pursuant to this section shall
105 execute a bond in the penalty of \$50,000, payable to the State of West Virginia, with a corporate
106 bonding or surety company authorized to do business in this state as surety thereon, in form

107 prescribed by the Attorney General and conditioned upon the faithful performance of all duties in
108 accordance with this section and sections five through eight, inclusive, of this article and the rules
109 of the governing board and the council and commission. In lieu of separate bonds for these
110 buyers, a blanket surety bond may be obtained. The bond shall be filed with the Secretary of State
111 and the cost of the bond shall be paid from funds appropriated to the applicable governing board
112 or the council or commission.

113 ~~(k)~~ (l) All purchases and acquisitions shall be made in consideration and within limits of
114 available appropriations and funds and in accordance with applicable provisions of article two,
115 chapter five-a of this code relating to expenditure schedules and quarterly allotments of funds.
116 Notwithstanding any other provision of this code to the contrary, only those purchases exceeding
117 the dollar amount for competitive sealed bids in this section are required to be encumbered. Such
118 purchases may be entered into the state's centralized accounting system by the staff of the
119 commission, council or governing boards to satisfy the requirements of article two, chapter five-a
120 of this code to determine whether the amount of the purchase is within the quarterly allotment of
121 the commission, council or governing board, is in accordance with the approved expenditure
122 schedule and otherwise conforms to the article: *Provided*, That, notwithstanding the foregoing
123 provisions of this subsection or any other provision of this code to the contrary, purchases by
124 ~~Marshall University or West Virginia University~~ exempted schools are not required to be
125 encumbered.

126 ~~(j)~~ (m) The governing boards, council ~~and~~ or commission may make requisitions upon the
127 State Auditor for a sum to be known as an advance allowance account, not to exceed five percent
128 of the total of the appropriations for the governing board, council or commission, and the State
129 Auditor shall draw a warrant upon the Treasurer for those accounts. All advance allowance
130 accounts shall be accounted for by the applicable governing board or the council or commission
131 once every thirty days or more often if required by the State Auditor.

132 ~~(m)~~ (n) Contracts entered into pursuant to this section shall be signed by the applicable
133 governing board or the council or commission in the name of the state and shall be approved as
134 to form by the Attorney General. A contract which requires approval as to form by the Attorney
135 General is considered approved if the Attorney General has not responded within fifteen days of
136 presentation of the contract. A contract or a change order for that contract and notwithstanding
137 any other provision of this code to the contrary, associated documents such as performance and
138 labor/material payments, bonds and certificates of insurance which use terms and conditions or
139 standardized forms previously approved by the Attorney General and do not make substantive
140 changes in the terms and conditions of the contract do not require approval as to form by the
141 Attorney General. The Attorney General shall make a list of those changes which he or she
142 considers to be substantive and the list, and any changes to the list, shall be published in the
143 State Register. A contract that exceeds the dollar amount requiring competitive sealed bids in this
144 section shall be filed with the State Auditor. If requested to do so, the governing boards, council
145 or commission shall make all contracts available for inspection by the State Auditor. The
146 governing board, council or commission, as appropriate, shall prescribe the amount of deposit or
147 bond to be submitted with a bid or contract, if any, and the amount of deposit or bond to be given
148 for the faithful performance of a contract.

149 ~~(n)~~ (o) If the governing board, council or commission purchases or contracts for materials,
150 supplies, equipment, services and printing contrary to sections four through seven, inclusive, of
151 this article or the rules pursuant to this article, the purchase or contract is void and of no effect.

152 ~~(o)~~ (p) A governing board or the council or commission, as appropriate, may request the
153 director of purchasing to make available the facilities and services of that department to the
154 governing boards, council or commission in the purchase and acquisition of materials, supplies,
155 equipment, services and printing. The director of purchasing shall cooperate with that governing
156 board, council or commission, as appropriate, in all such purchases and acquisitions upon that

157 request.

158 (†) (g) Each governing board or the council or commission, as appropriate, may permit
159 affiliated organizations, state institutions of higher education, or private institutions of higher
160 education to join as purchasers on purchase contracts for materials, supplies, services and
161 equipment entered into by that governing board or the council or commission. a An affiliated
162 organization, state institution of higher education or private institution desiring to join as purchaser
163 on purchase contracts shall file with that governing board or the council or commission, as
164 appropriate, an affidavit signed by the president or designee of the affiliated organization, state
165 institution of higher education, or private institution requesting that it be authorized to join as
166 purchaser on purchase contracts of that governing board or the council or commission, as
167 appropriate. The affiliated organization, state institution of higher education or private institution
168 shall agree that it is bound by such terms and conditions as that governing board or the council
169 or commission may prescribe and that it will be responsible for payment directly to the vendor
170 under each purchase contract.

171 (†) (r) Notwithstanding any other provision of this code to the contrary, the governing
172 boards, council and commission, as appropriate, may make purchases from cooperative buying
173 groups, consortia, the federal government or from federal government contracts if the materials,
174 supplies, services, equipment or printing to be purchased is available from that source, and
175 purchasing from that source would be the most financially advantageous manner of making the
176 purchase.

177 (†) (s) An independent performance audit of all purchasing functions and duties which are
178 performed at any state institution of higher education shall be performed at least once in each
179 three-year period. The Joint Committee on Government and Finance shall ~~conduct the~~ require a
180 performance audit and the governing boards, council and commission, as appropriate, are
181 responsible for paying the cost of the audit from funds appropriated to the governing boards,

182 council or commission.

183 (1) The governing board shall provide for independent performance audits of all
184 purchasing functions and duties on its campus at least once in each three-year period.

185 (2) Each audit shall be inclusive of the entire time period that has elapsed since the date
186 of the preceding audit.

187 (3) Copies of all appropriate documents relating to any audit performed by a governing
188 board shall be furnished to the Joint Committee on Government and Finance and the Legislative
189 Oversight Commission on Education Accountability within thirty days of the date the audit report
190 is completed.

191 ~~(s)~~ (t) The governing boards shall require each institution under their respective
192 jurisdictions to notify and inform every vendor doing business with that institution of section fifty-
193 four, article three, chapter five-a of this code, also known as the Prompt Pay Act of 1990.

194 ~~(t)~~ (u) Consultant services, such as strategic planning services, do not preclude or inhibit
195 the governing boards, council or commission from considering any qualified bid or response for
196 delivery of a product or a commodity because of the rendering of those consultant services.

197 ~~(u)~~ (v) Purchasing card use may be expanded by the council, commission and state
198 institutions of higher education pursuant to this subsection.

199 (1) The council and commission jointly shall establish procedures to be implemented by
200 the council, commission and any ~~institution under their respective jurisdictions~~ state college and
201 university or community and technical college using purchasing cards. The governing boards of
202 the exempted schools shall establish procedures to be implemented by their respective
203 institutions. The procedures shall ensure that each meets the following conditions:

204 (A) Appropriate use of the purchasing card system;

205 (B) Full compliance with article three, chapter twelve of this code relating to the purchasing
206 card program; and

207 (C) Sufficient accounting and auditing procedures for all purchasing card transactions.

208 (2) Notwithstanding any other provision of this code to the contrary, the council,
209 commission and any institution authorized pursuant to subdivision (3) of this subsection may use
210 purchasing cards for the following purposes:

211 (A) Payment of travel expenses directly related to the job duties of the traveling employee,
212 including, but not limited to, fuel and food; and

213 (B) Payment of any routine, regularly scheduled payment, including, but not limited to,
214 utility payments and real property rental fees.

215 (3) The commission and council each shall evaluate the capacity of each ~~institution~~ state
216 college and university and community and technical college under its jurisdiction for complying
217 with the procedures established pursuant to subdivision (2) of this subsection. The commission
218 and council each shall authorize expanded use of purchasing cards pursuant to that subdivision
219 for any ~~institution~~ state college and university and community and technical college it determines
220 has the capacity to comply.

§18B-5-9. Higher education fiscal responsibility.

1 (a) The governing boards shall ensure the fiscal integrity of their operations using best
2 business and management practices.

3 (1) The practices include at least the following:

4 (A) Complying with Generally Accepted Accounting Principles of the Governmental
5 Accounting Standards Board (GAAP); and the Generally Accepted Government Auditing
6 Standards of the Government Accountability Office (GAGAS);

7 (B) Operating without material weakness in internal controls as defined by GAAP, GAGAS
8 and, where applicable, the ~~Office of Management and Budget (OMB) Circular A-133~~ Uniform
9 Guidance Audit requirements;

10 (C) Maintaining annual audited financial statements with an unqualified opinion;

11 (D) Preparing annual audited financial statements as coordinated and directed by the
12 commission and council, respectively, and as the commission requires to complete the higher
13 education fund audit;

14 (E) Maintaining quarterly financial statements certified by the chief financial officer of the
15 institution; and

16 (F) Implementing best practices from Sarbanes-Oxley, or adopting the applicable tenets
17 of Sarbanes-Oxley as best practices.

18 (2) Each governing board and any affiliated research corporation shall comply with the
19 ~~OMB Circular A-133 annual grant award audit requirements~~ Uniform Guidance Audit
20 requirements and are exempt from section fourteen, article four, chapter twelve of this code.

21 (3) Within thirty days of the completion of the financial audit report, the governing boards
22 shall furnish to the commission or council, respectively, copies of the annual audited financial
23 statements.

24 (b) The commission and council, each, shall ensure the fiscal integrity of any electronic
25 process conducted at its offices and by the governing boards under its respective jurisdiction by
26 applying best business and management practices.

27 (c) To the maximum extent practicable, each higher education organization shall provide
28 for its employees to receive their wages via electronic transfer or direct deposit.

29 (d) Notwithstanding any other provision of this code to the contrary, a purchasing card
30 may be used by the council, the commission or a governing board of a state institution of higher
31 education to make any payment authorized by the Auditor, including regular routine payments
32 and travel and emergency payments. Payments are set at an amount to be determined by the
33 Auditor.

34 (1) Subject to approval of the Auditor, an emergency payment and a routine, regularly
35 scheduled payment, including, but not limited to, utility payments, contracts and real property

36 rental fees, may exceed this limit by an amount to be determined by the Auditor.

37 (2) The council, commission and a governing board of a state institution of higher
38 education may use a purchasing card for travel expenses directly related to the job duties of the
39 traveling employee. Where approved by the Auditor, the expenses may exceed \$5,000 by an
40 amount to be determined by the Auditor. Traveling expenses may include registration fees and
41 airline and other transportation reservations, if approved by the president of the institution.
42 Traveling expenses may include purchases of fuel and food.

43 (3) The commission, council, and governing boards each shall maintain one purchasing
44 card for use only in a situation declared an emergency by the appropriate chancellor or the
45 institution's president. Emergencies may include, but are not limited to, partial or total destruction
46 of a facility; loss of a critical component of utility infrastructure; heating, ventilation or air condition
47 failure in an essential academic building; loss of campus road, parking lot or campus entrance; a
48 technology breach; or a local, regional, or national emergency situation that has a direct impact
49 on the campus.

50 (e) Notwithstanding section ten-f, article three, chapter twelve of this code, or any other
51 provision of this code or law to the contrary, the Auditor shall accept any receiving report submitted
52 in a format utilizing electronic media. The Auditor shall conduct any audit or investigation of the
53 council, commission or governing board at its own expense and at no cost to the council,
54 commission or governing board.

55 (f) The council and the commission each shall maintain a rule in accordance with article
56 three-a, chapter twenty-nine-a of this code. The rule shall provide for governing boards
57 individually or cooperatively to maximize their use of any of the following purchasing practices
58 that are determined to provide a financial advantage:

59 (1) Bulk purchasing;

60 (2) Reverse bidding;

61 (3) Electronic marketplaces; and

62 (4) Electronic remitting.

63 (g) Each governing board may establish a consortium with at least one other governing
64 board, in the most cost-efficient manner feasible, to consolidate the following operations and
65 student services:

66 (1) Payroll operations;

67 (2) Human resources operations;

68 (3) Warehousing operations;

69 (4) Financial transactions;

70 (5) Student financial aid application, processing and disbursement;

71 (6) Standard and bulk purchasing; and

72 (7) Any other operation or service appropriate for consolidation as determined by the
73 council or commission.

74 (h) A governing board may charge a fee to the governing board of each institution for
75 which it provides a service or performs an operation. The fee rate shall be in the best interest of
76 both the institution being served and the governing board providing the service.

77 (i) A governing board may provide the services authorized by this section for the benefit
78 of any governmental body or public or private institution.

79 (j) Each governing board shall strive to minimize its number of low-enrollment sections of
80 introductory courses. To the maximum extent practicable, governing boards shall use distance
81 learning to consolidate the course sections. The council and commission shall report the progress
82 of reductions as requested by the Legislative Oversight Commission on Education Accountability.

83 (k) A governing board shall use its natural resources and alternative fuel resources to the
84 maximum extent feasible. The governing board:

85 (1) May supply the resources for its own use and for use by the governing board of any

86 other institution;

87 (2) May supply the resources to the general public at fair market value;

88 (3) Shall maximize all federal or grant funds available for research regarding alternative
89 energy sources; and

90 (4) May develop research parks to further the purpose of this section and to expand the
91 economic development opportunities in the state.

92 (l) Any cost-savings realized or fee procured or retained by a governing board pursuant to
93 this section is retained by the governing board.

94 (m) Each governing board is authorized, but not required, to implement subsections (f),
95 (g) and (h) of this section.

96 If a governing board elects to implement subsection (g) of this section, the following
97 conditions apply:

98 (1) The governing board makes the determination regarding any additional operation or
99 service which is appropriate for consolidation without input from the council or commission;

100 (2) The governing board sets the fee charged to the governing board of the institution for
101 which it provides a service or performs an operation. The fee rate shall be in the best interest of
102 both the institution being served and the governing board providing the service and is not subject
103 to approval by the council or commission; and

104 (3) The governing board may not implement this subdivision in a manner which
105 ~~supercedes~~ supersedes the requirements established in section twelve, article three-c of this
106 chapter.

107 (n) The governing boards of ~~Marshall University and West Virginia University~~ the
108 exempted schools, respectively, each shall promulgate a rule on purchasing procedures in
109 accordance with section six, article one of this chapter.

ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF

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

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

5 (1) Tuition and required educational and general fees;

6 (2) Auxiliary and auxiliary capital fees; and

7 (3) Required educational and general capital fees.

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

10 (1) All tuition and required educational and general fees collected;

11 (2) All auxiliary and auxiliary capital fees collected; and

12 (3) All required educational and general capital fees collected to support existing
13 systemwide and institutional debt service and future systemwide and institutional debt service,
14 capital projects and campus renewal for educational and general facilities.

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

19 (c) The purposes for which tuition and fees may be expended include, but are not limited
20 to, health services, student activities, recreational, athletic and extracurricular activities.
21 Additionally, tuition and fees may be used to finance a student's attorney to perform legal services
22 for students in civil matters at the institutions. The legal services are limited to those types of

23 cases, programs or services approved by the president of the institution where the legal services
24 are to be performed.

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

29 (e) The schedule of all tuition and fees, and any changes in the schedule, shall be entered
30 in the minutes of the meeting of the appropriate governing board and the board shall file with the
31 commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of the
32 schedule and changes.

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

35 (1) Undergraduate students taking fewer than twelve credit hours in a regular term shall
36 have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and
37 graduate students taking fewer than nine credit hours in a regular term shall have their fees
38 reduced pro rata based upon one ninth of the full-time rate per credit hour.

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

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

44 (1) The governing boards shall permit fee payments to be made in installments over the
45 course of the academic term. All fees shall be paid prior to awarding course credit at the end of
46 the academic ~~term~~ year.

47 (2) The governing boards also shall authorize the acceptance of credit cards or other

48 payment methods which may be generally available to students for the payment of fees. The
49 governing boards may charge the students for the reasonable and customary charges incurred in
50 accepting credit cards and other methods of payment.

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

55 (4) The commission and council jointly shall propose a rule for state colleges and
56 universities and community and technical colleges in accordance with article three-a, chapter
57 twenty-nine-a of this code defining conditions under which a governing board of a state college
58 and university or community and technical college may offer tuition and fee deferred payment
59 plans itself or through third parties. The governing boards of the exempted schools each may
60 propose a rule in accordance with article three-a, chapter twenty-nine-a of this code defining
61 conditions under which its governing board may offer tuition and fee deferred payment plans itself
62 or through third parties.

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

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

70 (i) Governing boards shall retain tuition and fee revenues not pledged for bonded
71 indebtedness or other purposes in accordance with the tuition rules proposed by the commission
72 and council pursuant to this section. The tuition rules shall address the following areas:

- 73 (1) Providing a basis for establishing nonresident tuition and fees;
- 74 (2) Allowing governing boards to charge different tuition and fees for different programs;
- 75 (3) Authorizing a governing board or state colleges and universities and college and
76 technical colleges to propose to the commission, council or both, as appropriate, a mandatory
77 auxiliary fee under the following conditions: Provided That, the governing boards for the exempted
78 schools may authorize a mandatory auxiliary fee without seeking approval of the commission:
- 79 (A) The fee shall be approved by the commission, council or both, as appropriate, and
80 either the students below the senior level at the institution or the Legislature before becoming
81 effective;
- 82 (B) Increases may not exceed previous state subsidies by more than ten percent;
- 83 (C) The fee may be used only to replace existing state funds subsidizing auxiliary services
84 such as athletics or bookstores;
- 85 (D) If the fee is approved, the amount of the state subsidy shall be reduced annually by
86 the amount of money generated for the institution by the fees. All state subsidies for the auxiliary
87 services shall cease five years from the date the mandatory auxiliary fee is implemented;
- 88 (4) Establishing methodology, where applicable, to ensure that, within the appropriate time
89 period under the compact, community and technical college tuition rates for students in all
90 community and technical colleges will be commensurate with the tuition and fees charged by their
91 peer institutions.
- 92 (j) A penalty may not be imposed by the commission or council upon any governing board
93 based upon the number of nonresidents who attend the institution unless the commission or
94 council determines that admission of nonresidents to any institution or program of study within
95 the institution is impeding unreasonably the ability of resident students to attend the institution or
96 participate in the programs of the institution. The governing boards shall report annually to the
97 commission or council on the numbers of nonresidents and any other enrollment information the

98 commission or council may request.

99 (k) Tuition and fee increases of the governing boards, including the governing boards of
100 Marshall University and West Virginia University, are subject to rules adopted by the commission
101 and council pursuant to this section and in accordance with article three-a, chapter twenty-nine-a
102 of this code. The commission or council, as appropriate, shall examine individually each request
103 from a governing board for an increase and make its determinations as follows:

104 (1) A tuition and fee increase that results in a three-year average increase greater than
105 ~~five~~ seven percent for resident students proposed by a governing board requires the approval of
106 the commission or council, as appropriate.

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

111 (3) In determining whether to approve or deny a governing board's request for a tuition
112 and/or fee increase for resident students greater than the increases granted pursuant to
113 subdivision (1) of this subsection, the commission or council shall determine the progress the
114 governing board has made toward meeting the conditions outlined in this subsection and shall
115 make this determination the predominate factor in its decision. The commission or council shall
116 consider the degree to which each governing board has met the following conditions:

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

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

121 ~~(C)~~(B) Continuously pursues the statewide goals for post-secondary education; ~~and the~~
122 ~~statewide compact established in this chapter;~~

123 (~~D~~)(C) Demonstrates to the satisfaction of the commission or council that an increase will
124 be used to maintain high-quality programs at the institution;

125 (~~E~~)(D) Demonstrates to the satisfaction of the commission or council that the governing
126 board is making adequate progress toward achieving the goals for education established by the
127 Southern Regional Education Board;

128 (~~F~~)(E) Demonstrates to the satisfaction of the commission or council that the governing
129 board has considered the average per capita income of West Virginia families and their ability to
130 pay for any increases; and

131 (~~G~~)(F) Demonstrates to the satisfaction of the commission or council that base
132 appropriation increases have not kept pace with recognized nation-wide inflationary benchmarks.

133 (4) This section does not require equal increases among governing boards nor does it
134 require any level of increase by a governing board.

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

§18B-10-1c. Definitions.

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

3 (a) "Auxiliary capital fees" means charges levied on students to support debt service,
4 capital projects and campus maintenance and renewal for the auxiliary facilities of the institutions;

5 (b) "Auxiliary fees" means charges levied on all students to support auxiliary enterprises
6 or optional charges levied only on students using the auxiliary service. Auxiliary fees include sales
7 and service revenue from entities that exist predominately to furnish goods or services to
8 students, faculty or staff such as residence halls, faculty and staff housing, food services,
9 intercollegiate athletics, student unions, bookstores, parking and other service centers;

10 (c) "Full-time graduate student" means a graduate student who is enrolled for nine or more
11 credit hours in a regular term;

12 (d) "Full-time undergraduate student" means an undergraduate student who is enrolled
13 for twelve or more credit hours in a regular term;

14 (e) "Required educational and general capital fees" means:

15 (1) Charges levied on all students to support debt service of systemwide bond issues; and

16 (2) Charges levied on all students to support debt service, capital projects and campus
17 maintenance and renewal for an institution's educational and general educational facilities; and

18 (f) "Tuition and required educational and general fees" means:

19 (1) Charges levied on all students of that class or category to support educational and
20 general program services; and

21 (2) Optional charges levied for education and general services collected only from
22 students using the service or from students for whom the services are made available.

23 ~~Educational and general expenditures are categorized as instruction, research, academic~~
24 ~~support, student services, institutional support, operation and maintenance of plant and~~
25 ~~scholarships and fellowships. Education and general expenditures do not include expenditures~~
26 ~~for auxiliary enterprises, hospitals or independent operations~~

**§18B-10-8. Collection; disposition and use of capital and auxiliary capital fees; creation of
special capital and auxiliary capital improvements funds; revenue bonds.**

1 (a) This section and any rules adopted by the commission, council or both, in accordance
2 with this section and article three-a, chapter twenty-nine-a of this code, govern the collection,
3 disposition and use of the capital and auxiliary capital fees authorized by section one of this article.
4 The statutory provisions governing collection and disposition of capital funds in place prior to the
5 enactment of this section remain in effect.

6 (b) *Fees for full-time students.* -- The governing boards shall fix capital and auxiliary capital

7 fees for full-time students at each state institution of higher education per semester. For
8 institutions under its jurisdiction, a governing board may fix the fees at higher rates for students
9 who are not residents of this state.

10 (c) *Fees for part-time students.* -- For all part-time students and for all summer school
11 students, the governing boards shall impose and collect the fees in proportion to, but not
12 exceeding, the fees paid by full-time students. Refunds of the fees may be made in the same
13 manner as any other fee collected at state institutions of higher education.

14 (d) There is continued in the State Treasury a special capital improvements fund and
15 special auxiliary capital improvements fund for each state institution of higher education and the
16 commission into which shall be paid all proceeds, respectively, of the following:

17 (1) The capital and auxiliary capital fees collected from students at all state institutions of
18 higher education pursuant to this section; and

19 (2) The fees collected from the students pursuant to section one of this article. The fees
20 shall be expended by the commission and governing boards for the payment of the principal of or
21 interest on any revenue bonds issued by the board of regents or the succeeding governing boards
22 for which the fees were pledged prior to the enactment of this section.

23 (e) The governing boards may make expenditures from any of the special capital
24 improvements funds or special auxiliary capital improvement funds established in this section to
25 finance or fund on a cash basis, in whole or in part, in combination with any federal, state or other
26 grants or contributions, for any one or more of the following projects:

27 (1) The acquisition of land or any rights or interest in land;

28 (2) The construction or acquisition of new buildings;

29 (3) The renovation or construction of additions to existing buildings;

30 (4) The acquisition of furnishings and equipment for the buildings; and

31 (5) The construction or acquisition of any other capital improvements or capital education

32 facilities at the state institutions of higher education, including any roads, utilities or other
33 properties, real or personal, or for other purposes necessary, appurtenant or incidental to the
34 construction, acquisition, financing and placing in operation of the buildings, capital improvements
35 or capital education facilities, including student unions, dormitories, housing facilities, food service
36 facilities, motor vehicle parking facilities and athletic facilities.

37 (f) The commission, when singly or jointly requested by the council or governing boards,
38 periodically may issue revenue bonds of the state as provided in this section to finance all or part
39 of the purposes and pledge all or any part of the moneys in the special funds for the payment of
40 the principal of and interest on the revenue bonds, and for reserves for the revenue bonds. Any
41 pledge of the special funds for the revenue bonds shall be a prior and superior charge on the
42 special funds over the use of any of the moneys in the funds to pay for the cost of any of the
43 purposes on a cash basis. Any expenditures from the special funds, other than for the retirement
44 of revenue bonds, may be made by the commission or governing boards only to meet the cost of
45 a predetermined capital improvements program for one or more of the state institutions of higher
46 education, in the order of priority agreed upon by the governing board or boards and the
47 commission and for which the aggregate revenue collections projected are presented to the
48 Governor for inclusion in the annual budget bill, and are approved by the Legislature for
49 expenditure. Any expenditure made pursuant to subsection (e) of this section shall be part of the
50 ten-year campus development plan approved by the governing board pursuant to section three,
51 article nineteen of this chapter.

52 (g) The revenue bonds periodically may be authorized and issued by the commission or
53 governing boards to finance, in whole or in part, the purposes provided in this section in an
54 aggregate principal amount not exceeding the amount which the commission determines can be
55 paid as to both principal and interest and reasonable margins for a reserve therefor from the
56 moneys in the special funds.

57 (h) The issuance of the revenue bonds by state colleges and universities and the
58 community and technical colleges shall be authorized by a resolution adopted by the governing
59 board receiving the proceeds and the commission, and the revenue bonds shall bear the date or
60 dates; mature at such time or times not exceeding forty years from their respective dates; be in
61 such form either coupon or registered, with such exchangeability and interchangeability privileges;
62 be payable in such medium of payment and at such place or places, within or without the state;
63 be subject to such terms of prior redemption at such prices not exceeding one hundred five per
64 centum of the principal amount thereof; and have the other terms and provisions determined by
65 the governing board receiving the proceeds and by the commission. The revenue bonds issued
66 by state colleges and universities and community and technical colleges shall be signed by the
67 Governor and by the chancellor of the commission or the chair of the governing boards authorizing
68 the issuance of the revenue bonds, under the Great Seal of the state, attested by the Secretary
69 of State, and the coupons attached to the revenue bonds shall bear the facsimile signature of the
70 chancellor of the commission or the chair of the appropriate governing boards. The revenue bonds
71 shall be sold in the manner the commission or governing board determines is in the best interests
72 of the state.

73 (i) The issuance of the revenue bonds by exempted schools shall be authorized by a
74 resolution adopted by the governing board receiving the proceeds, and the revenue bonds shall
75 bear the date or dates; mature at such time or times not exceeding one hundred years from their
76 respective dates; be in such form either coupon or registered, with such exchangeability and
77 interchangeability privileges; be payable in such medium of payment and at such place or places,
78 within or without the state; be subject to such terms of prior redemption at such prices not
79 exceeding one hundred five per centum of the principal amount thereof; and have the other terms
80 and provisions determined by the governing board receiving the proceeds. The revenue bonds
81 shall be signed by the Governor and the chair of the governing boards authorizing the issuance

82 of the revenue bonds, under the Great Seal of the state, attested by the Secretary of State, and
83 the coupons attached to the revenue bonds shall bear the facsimile signature of the chair of the
84 appropriate governing boards. The revenue bonds shall be sold in the manner the governing
85 board determines is in the best interests of the state.

86 (†) (j) The commission or governing boards may enter into trust agreements with banks or
87 trust companies, within or without the state, and in the trust agreements or the resolutions
88 authorizing the issuance of the bonds may enter into valid and legally binding covenants with the
89 holders of the revenue bonds as to the custody, safeguarding and disposition of the proceeds of
90 the revenue bonds, the moneys in the special funds, sinking funds, reserve funds or any other
91 moneys or funds; as to the rank and priority, if any, of different issues of revenue bonds by the
92 commission or governing boards under this section; as to the maintenance or revision of the
93 amounts of the fees; as to the extent to which swap agreements, as defined in subsection (h),
94 section two, article two-g, chapter thirteen of this code shall be used in connection with the
95 revenue bonds, including such provisions as payment, term, security, default and remedy
96 provisions as the commission considers necessary or desirable, if any, under which the fees may
97 be reduced; and as to any other matters or provisions which are considered necessary and
98 advisable by the commission or governing boards in the best interests of the state and to enhance
99 the marketability of the revenue bonds.

100 (†) (k) After the issuance of any revenue bonds, the fees at the state institutions of higher
101 education pledged to the payment of the revenue bonds may not be reduced as long as any of
102 the revenue bonds are outstanding and unpaid except under the terms, provisions and conditions
103 contained in the resolution, trust agreement or other proceedings under which the revenue bonds
104 were issued. The revenue bonds are and constitute negotiable instruments under the Uniform
105 Commercial Code of this state; together with the interest thereon, be exempt from all taxation by
106 the State of West Virginia, or by any county, school district, municipality or political subdivision

107 thereof; and the revenue bonds may not be considered to be obligations or debts of the state and
108 the credit or taxing power of the state may not be pledged therefor, but the revenue bonds shall
109 be payable only from the revenue pledged therefor as provided in this section.

110 ~~(k)~~ (l) Additional revenue bonds may be issued by the commission or governing boards
111 pursuant to this section and financed by additional revenues or funds dedicated from other
112 sources. The special revenue fund in the State Treasury known as the Community and Technical
113 College Capital Improvement Fund into which shall be deposited the amounts specified in
114 subsection (j), section eighteen, article twenty-two, chapter twenty-nine of this code is continued.
115 All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and
116 redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by the
117 commission for community and technical college capital improvements or used by the council on
118 a cash basis as provided under subdivision (4), subsection (j), section eighteen, article twenty-
119 two, chapter twenty-nine of this code for community and technical college capital improvements
120 or capital projects.

121 ~~(l)~~ (m) Funding of systemwide and campus-specific revenue bonds under any other
122 section of this code is continued and authorized pursuant to the terms of this section. Revenues
123 of any state institution of higher education pledged to the repayment of any revenue bonds issued
124 pursuant to this code shall remain pledged.

125 ~~(m)~~ (n) Any revenue bonds for state colleges and universities and community and
126 technical colleges ~~state institutions of higher education~~ proposed to be issued under this section
127 or other sections of this code first must be approved by the commission. Any revenue bonds for
128 an exempted school must be approved by the institution's governing board and the Governor.

129 ~~(n)~~ (o) Revenue bonds issued pursuant to this code may be issued by the commission or
130 governing boards, either singly or jointly.

131 ~~(o)~~ (p) Fees pledged for repayment of revenue bonds issued under this section or article

132 twelve-b, chapter eighteen prior to or after the effective date of this section shall be transferred to
133 the commission in a manner prescribed by the commission. The commission may transfer funds
134 from the accounts of institutions pledged for the repayment of revenue bonds issued prior to the
135 effective date of this section or issued subsequently by the commission upon the request of
136 institutions, if an institution fails to transfer the pledged revenues to the commission in a timely
137 manner.

138 ~~(p)~~ (q) Effective July 1, 2004, the capital and auxiliary capital fees authorized by this
139 section and section one of this article are in lieu of any other fees set out in this code for capital
140 and auxiliary capital projects to benefit public higher education institutions. Notwithstanding any
141 other provisions of this code to the contrary, in the event any capital, tuition, registration or
142 auxiliary fees are pledged to the payment of any revenue bonds issued pursuant to any general
143 bond resolutions of the commission, any of its predecessors or any institution, adopted prior to
144 the effective date of this section, the fees shall remain in effect in amounts not less than the
145 amounts in effect as of that date, until the revenue bonds payable from any of the fees have been
146 paid or the pledge of the fees is otherwise legally discharged.

§18B-10-16. Disposition of funds in State Treasury.

1 Except as may be provided for in any bond resolution in effect, funds in the State Treasury
2 heretofore collected from any of the sources defined in the foregoing sections shall remain in the
3 State Treasury for use by the institution where collected. Any interest revenue generated by a
4 special student fee account shall only be expended at or for the institution where such fee was
5 collected. Exempted schools may deposit all fees and funds collected under this article into a
6 single special revenue account.

ARTICLE 19. CAPITAL PROJECTS AND FACILITIES NEEDS.

§18B-19-4. Campus development plans.

1 (a) Each governing board shall update its current campus development plan and submit
2 the updated plan to the commission or council, as appropriate, for approval by June 30, 2013. A
3 campus development plan shall be ~~developed~~ adopted by each governing board for a ten-year
4 period and shall align with criteria specified in the following sources:

- 5 (1) The system capital development plan;
- 6 (2) The institution's approved master plan and compact; and
- 7 (3) The current campus development plan objectives.

8 (b) Campus development plans are intended to be aspirational; however, an institution's
9 plan shall be appropriate to its size, mission, and enrollment and to the fiscal constraints within
10 which the institution operates. At a minimum the campus development plan shall include the
11 following:

- 12 (1) The governing board's development strategy;
- 13 (2) An assessment of the general condition and suitability of buildings and facilities,
14 including deferred maintenance, life-safety and building code issues, ADA requirements and
15 energy efficiency;
- 16 (3) An assessment of the impact of projected enrollment and demographic changes on
17 building and facility needs;
- 18 (4) A comprehensive list of deferred maintenance projects that need to be addressed for
19 each campus by building or facility including an estimated cost for each;
- 20 (5) A list of existing buildings and facilities in need of renovations, additions, demolition or
21 any combination thereof;
- 22 (6) A list of major site improvements that are needed, including vehicular and pedestrian
23 circulation, parking and landscaping;
- 24 (7) A list of telecommunications, utilities and other infrastructure improvements that are
25 needed;
- 26 (8) A delineation of clear property acquisition boundaries that are reasonably appropriate

27 for campus expansion;

28 (9) A list of proposed new facilities and building sites;

29 (10) A list of capital projects in priority order;

30 (11) Estimates of the timing, phasing and projected costs associated with individual
31 projects;

32 (12) If an institution has multiple campuses in close proximity, a delineation of how the
33 campuses should interact and support each other to minimize duplication of facilities, improve
34 efficiency and be aesthetically compatible;

35 (13) A statement of the impact of the plan upon the local community and the input afforded
36 local and regional government entities and the public with respect to its implementation; and

37 (14) Any other requirement established by the commission and council in the rules
38 required by section seventeen of this article.

39 (c) Campus development plans shall incorporate all current and proposed facilities,
40 including educational and general and auxiliary facilities.

41 (d) At the next regularly scheduled meeting of the commission or council, as applicable,
42 following the fifth anniversary date after ~~the commission or council approves the development~~
43 ~~plan of a governing board~~ adopts a campus development plan, the governing board shall report
44 on the progress made in the first five years to implement the campus development plan for each
45 campus under its jurisdiction. In addition, the governing board shall report on its plans to
46 implement the remaining five-year period of its campus development plan.

47 (e) Each governing board shall update its campus development plan at least once during
48 each ten-year period and any update made by a state institution of higher education other than
49 by the exempted schools, is subject to the approval of the commission or council, as appropriate.

50 (f) A With the exclusion of the governing boards of the exempted schools, a governing
51 board may not implement a campus development plan or plan update that has not been approved

52 by the commission or council, as appropriate.

§18B-19-5. Capital appropriation requests.

1 (a) The commission and council each shall submit a prioritized capital appropriation
2 request annually to the state budget office as required by article two, chapter eleven-b of this code
3 consisting of major capital projects and maintenance projects.

4 (b) The commission and council each shall develop a process for governing boards to
5 follow in submitting a list of major educational and general capital projects so that a prioritized
6 major capital project list, ~~approved~~ prepared by the commission or council, as appropriate, may
7 be submitted to the state budget office by the applicable deadline.

8 (1) The governing board's major capital project list shall include the following items:

9 (A) Projects identified in the governing board's approved campus development plan or
10 plans. A project may not be included which is not contained in the approved plan, except when
11 extraordinary circumstances otherwise warrant;

12 (B) A current estimate of each project's estimated cost accounting for inflation since
13 completion of the campus development plan. The size and scope of the project may not change
14 unless the campus development plan has been updated and approved as provided in section
15 three of this article; and

16 (C) Any additional information required to be provided by the commission, council or state
17 budget office.

18 (2) The commission and council each shall rank the major capital projects submitted by
19 the governing boards according to priority consistent with the criteria outlined in the system capital
20 development plan. The council and commission may not submit to the state budget office a
21 request for an institution which the commission or council determines reasonably could not secure
22 funding through the appropriation process during the following fiscal year.

23 (c) The commission and council each shall develop a process for governing boards to

24 follow in submitting a list of maintenance projects so that a prioritized maintenance project list,
25 ~~approved~~ prepared by the commission or council, as appropriate, may be submitted to the state
26 budget office by the applicable deadline.

27 (1) No later than April 1, 2011, and annually thereafter, the commission and council, as
28 appropriate, shall provide each governing board a building renewal calculation that identifies the
29 funds that should be collected and invested in its buildings and facilities during the next fiscal year
30 to maintain them and minimize deferred maintenance.

31 (2) As soon as it receives the building renewal calculation, each governing board shall
32 make realistic revenue estimates of the funds available for maintenance projects from educational
33 and general capital fees, from auxiliary and auxiliary capital fees and from any other revenue that
34 may be used for maintenance projects, as well as any anticipated reserves. The governing boards
35 then shall identify and submit proposed maintenance projects, consistent with its campus
36 development plan or plans, to be funded from these revenues.

37 (3) The commission and council each shall report to the Legislative Oversight Commission
38 on Education Accountability on the revenue available to governing boards for educational and
39 general and auxiliary maintenance projects, as well as any shortfalls based on building renewal
40 formula calculation, and major maintenance projects that institutions propose to undertake during
41 the upcoming fiscal year.

42 (4) The commission shall work with institutions under its jurisdiction to ensure that
43 adequate funds are generated to fund maintenance and build adequate reserves from educational
44 and general and auxiliary capital fees and other revenue consistent with the building renewal
45 formula. The Legislature recognizes that it may take several years for this to be accomplished
46 fully.

47 (5) The council shall work with the Legislature and institutions under its jurisdiction to
48 ensure that a combination of appropriated and nonappropriated revenue is available to fund

49 maintenance and build adequate reserves at community and technical colleges consistent with
50 the building renewal formula.

§18B-19-6. Capital project financing.

1 (a) The commission and governing boards, jointly or singly, may issue revenue bonds for
2 capital project financing in accordance with section eight, article ten of this chapter.

3 (b) A governing board may seek funding for and initiate construction or renovation work
4 only for projects contained in an approved campus development plan: Provided, That this
5 subsection (b) shall not apply to the governing boards of the exempted schools.

6 (c) A governing board may fund capital improvements on a cash basis, through bonding
7 or through another financing method. ~~that is approved by the commission and by the council, if~~
8 ~~appropriate.~~

9 (1) If the cost of an improvement project for any institution, except ~~Marshall University or~~
10 ~~West Virginia University~~ the exempted schools, exceeds \$1 million, the governing board first shall
11 obtain the approval of the commission or council, as appropriate. ~~If the cost of an improvement~~
12 ~~project for Marshall University or West Virginia University exceeds \$15 million, the governing~~
13 ~~board first shall obtain the approval of the commission.~~

14 (2) Prior to approving bonding or any alternative financing method, the commission, and
15 council if appropriate, shall evaluate the following issues:

16 (A) The institution's debt capacity and ability to meet the debt service payments for the full
17 term of the financing;

18 (B) The institution's capacity to generate revenue sufficient to complete the project;

19 (C) The institution's ability to fund ongoing operations and maintenance;

20 (D) The impact of the financing arrangement on students; and

21 (E) Any other factor considered appropriate.

22 (d) A governing board shall notify the Joint Committee on Government and Finance at

23 least thirty days before beginning construction or renovation work on any capital project in excess
24 of \$1 million.

25 (e) The commission may pledge all or part of the fees of any or all state institutions of
26 higher education as part of a system bond issue.

27 (f) Any fee or revenue source pledged prior to the effective date of this section for payment
28 of any outstanding debt remains in effect until the debt is fully repaid or refunded.

§18B-19-7. Capital project management.

1 (a) The commission, council and governing boards shall ensure that capital funds are
2 spent appropriately and that capital projects are managed effectively. Project management shall
3 be conducted in all respects according to sound business practices and applicable laws, and
4 rules.

5 (b) The commission shall employ a sufficient number of competent facilities staff
6 experienced in capital project development and management that is suitable for the number, size
7 and complexity of the capital projects being managed. By December 31, 2011, and continuing
8 thereafter, at least one employee shall be Leadership in Energy and Environmental Design
9 (LEED) certified.

10 (c) An institution that has entered into construction contracts averaging more than \$50
11 million over the most recent rolling five-year period is responsible for capital project management
12 at that institution if it meets the following additional conditions:

13 (1) The governing board shall employ a facilities staff experienced in capital project
14 development and management that is suitable for the number, size and complexity of the capital
15 projects being managed and, by December 31, 2011, and continuing thereafter, at least one of
16 these employees shall be Leadership in Energy and Environmental Design (LEED) certified;

17 (2) The governing board shall promulgate and adopt a capital project management rule in
18 accordance with section six, article one of this chapter. ~~which is consistent with the capital~~

19 ~~management rules of the commission and council.~~ The capital project management rule shall
20 include at least the following items:

21 (A) Delineation of the governing board's responsibilities with respect to capital project
22 management and the responsibilities delegated to the institution's president;

23 (B) A requirement for the use of ~~the state's~~ standard contract documents for architectural,
24 engineering, construction, construction management and design-build services as appropriate to
25 a particular project;

26 (C) The governing board's requirements for the following procedures:

27 (i) Monitoring and approving project designs to ensure conformance with the state and
28 system goals, objectives and priorities and the governing board's master plan, compact and
29 campus development plan;

30 (ii) Approving project budgets, including a reasonable contingency reserve for unknown
31 or unexpected expenses and for bidding;

32 (iii) Approving architectural, engineering and construction contracts exceeding an amount
33 to be determined by the governing board;

34 (iv) Approving contract modifications and construction change orders; and

35 (v) Providing a method for project closeout and final acceptance of the project by the
36 governing board.

37 (3) The institutional capital project management rule shall be filed with the commission no
38 later than one hundred eighty days following the effective date of the rule required of the
39 commission and council in section seventeen of this article.

40 (4) The commission may review or audit projects greater than \$5 million periodically to
41 ascertain that appropriate capital project management practices are being employed.

42 (d) For institutions that have entered into construction contracts averaging at least \$20
43 million, but not more than \$50 million, over the most recent rolling five-year period:

44 (1) The governing board, with assistance as requested from the commission, shall
45 manage all capital projects if the governing board meets the following conditions:

46 (A) Employs at least one individual experienced in capital project development and
47 management; and

48 (B) Promulgates and adopts a capital project management rule in accordance with section
49 six, article one of this chapter that is approved by the commission. The capital project
50 management rule may be amended at the discretion of the governing board, but amendments
51 shall be submitted to the commission for review and approval before becoming effective.

52 (2) The capital project management rule of the governing board shall include at least the
53 following items:

54 (A) Delineation of the governing board's responsibilities with respect to capital project
55 management and the responsibilities delegated to the institution's president;

56 (B) A requirement for the use of the state's standard contract documents for architectural,
57 engineering, construction, construction management and design-build services as appropriate to
58 a particular project; and

59 (C) The governing board's requirements for the following procedures:

60 (i) Monitoring and approving project designs to ensure conformance with the state and
61 system goals, objectives and priorities and the governing board's master plan, compact and
62 campus development plan;

63 (ii) Approving project budgets, including a reasonable contingency reserve for unknown
64 or unexpected expenses and for bidding;

65 (iii) Approving architectural, engineering, construction and other capital contracts
66 exceeding an amount to be determined by the governing board;

67 (iv) Approving contract modifications and construction change orders; and

68 (v) Providing a method for project closeout and final acceptance of the project by the

69 governing board.

70 (3) If an institution does not meet the provisions of this subsection, the commission shall
71 manage all capital projects exceeding \$1 million.

72 (4) The commission staff shall review and audit periodically all projects greater than \$1
73 million to ascertain that appropriate project management practices are being employed. If serious
74 deficiencies are identified and not addressed sufficiently within ninety days, commission staff may
75 assume management of all projects.

76 (e) For institutions that have entered into construction contracts averaging less than \$20
77 million over the most recent rolling five-year period and for all community and technical colleges,
78 the commission and council shall manage capital projects exceeding \$1 million. In the rule
79 required by section seventeen of this article, the commission and council, as appropriate, shall
80 adopt procedures to afford participation by the governing boards and staff in the planning,
81 development and execution of capital projects.

§18B-19-10. Authorization to sell and transfer property; use of proceeds.

1 (a) Notwithstanding any other provision of law or this code to the contrary, the commission,
2 council and governing boards each may sell, ~~lease~~, convey or otherwise dispose of all or part of
3 any real property that it owns, either by contract or at public auction, and retain the proceeds of
4 the transaction.

5 The commission, council and governing boards may not sell, lease, convey or otherwise
6 dispose of any real property without first performing the following steps:

7 (1) Providing for property appraisal by two independent licensed appraisers. The property
8 may not be sold for less than the average of the two appraisals;

9 (2) Providing notice to the public in the county in which the real property is located by a
10 Class II legal advertisement pursuant to section two, article three, chapter fifty-nine of this code;

11 (3) Holding a public hearing on the issue in the county in which the real property is located;

12 and

13 (4) In the case of the commission, notifying the Joint Committee on Government and
14 Finance.

15 (b) The commission, council or a governing board shall deposit the net proceeds from the
16 sale, lease, conveyance or other disposal of real property into a special revenue account in the
17 State Treasury to be appropriated by the Legislature in the annual budget bill for the benefit of
18 ~~purchase of additional real property, equipment or technology, or for capital improvements or~~
19 ~~maintenance~~ at the institution that sold the ~~surplus~~ real property.

§18B-19-13. Real property contracts and agreements.

1 (a) Except as provided elsewhere in this article, any purchase of real estate, any lease-
2 purchase agreement and any construction of new buildings or other acquisition of buildings, office
3 space or grounds resulting from these transactions, shall be approved by the commission or
4 council, as appropriate, and provided to the Joint Committee on Government and Finance for
5 prior review, if the transaction exceeds \$1 million: Provided, That the exempted schools shall not
6 be required to obtain such approval of the commission.

7 (b) The commission, council and each governing board shall provide the following to the
8 Joint Committee on Government and Finance:

9 (1) A copy of any contract or agreement to which it is a party for real property if the contract
10 or agreement exceeds \$1 million; and

11 (2) A report setting forth a detailed summary of the terms of the contract or agreement,
12 including the name of the property owner and the agent involved in the sale.

13 (c) The copy and report required by subsection (b) of this section shall be provided at least
14 thirty days before any sale, exchange, transfer, purchase, lease-purchase, lease or rental of real
15 property, refundings of lease-purchases, leases or rental agreements, construction of new
16 buildings, and any other acquisition or lease of buildings, office space or grounds.

17 (d) A contract or agreement that is for the lease purchase, lease or rental of real property,
18 where the costs of real property acquisition and improvements are to be financed, in whole or in
19 part, with bond proceeds, may contain a preliminary schedule of rents and leases for purposes of
20 review by the committee.

21 (e) For renewals of contracts or agreements required by this section to be reported, the
22 commission, council or governing board shall provide a report setting forth a detailed summary of
23 the terms of the contract or agreement, including the name of the property owner.

24 (f) The Joint Committee on Government and Finance shall meet and review any contract,
25 agreement or report within thirty days of receipt.

26 (g) Each governing board shall provide to the commission or council, as appropriate, a
27 copy of any contract or agreement submitted to the Joint Committee on Government and Finance
28 pursuant to this section.

§18B-19-14. Authorization for sale lease-back.

1 (a) Notwithstanding any other provision of this code to the contrary, a governing board
2 may sell any building that is on unencumbered real property to which the board holds title and
3 may lease back the same building if the governing board obtains approval of the commission or
4 council, as appropriate, before incurring any obligation: Provided, That the exempted schools
5 shall not be required to obtain such approval of the commission. The board shall deposit the net
6 proceeds of the transaction into a special revenue account in the State Treasury to be
7 appropriated by the Legislature for the use of the institution at which the real property is located.
8 Prior to such action, the board shall take the following steps:

9 (1) Provide for the property to be appraised by two licensed appraisers. The board may
10 not sell the property for less than the average of the two appraisals; and

11 (2) Retain independent financial and legal services to examine fully all aspects of the
12 transaction.

13 (b) The sale may be made only to a special purpose entity that exists primarily for the
14 purpose of supporting the institution at which the building is located.

**§18B-19-19. Conveyance of property to real estate foundations; additional powers of
certain governing boards.**

1 (a) Property defined. -- For purposes of this section, "property" means an interest in land,
2 including, but not limited to, any interest in natural resources on or under the surface of the land,
3 and any improvements thereon.

4 (b) Real estate foundation defined. – For purposes of this section, "real estate foundation"
5 means a corporation created, organized and located in West Virginia that meets the following
6 conditions:

7 (1) Is organized and operated for educational purposes in support of one or more state
8 institutions of higher education;

9 (2) Is designated by the board of Governors of one of the exempted schools to receive
10 charitable contributions for educational purposes on behalf of the institution or institutions;

11 (3) Does not have any part of its earnings inuring to the benefit of a private shareholder or
12 individual;

13 (4) Is not disqualified from tax exemption under 26 U. S. C. § 501(c)(3) for any reason;
14 and

15 (5) Does not participate or intervene in, on behalf of or in opposition to any political
16 campaigns for public office;

17 (c) Designation of a real estate foundation. –

18 (1) A real estate foundation shall be operated solely in connection with and exclusively for
19 the benefit of an exempted school, respectively, and the affiliated organizations of the institution.

20 (2) Not less than fifty-one percent of the board of directors of the real estate foundation
21 shall be appointees made from recommendations provided by the exempted school.

22 (3) Notwithstanding any other provision of this code to the contrary, officers and
23 employees of the affected institution may hold appointments to offices of the real estate
24 foundation and be directors, officers or employees of other entities contracting with the real estate
25 foundation.

26 (d) Conveyance of property to and by a real estate foundation. –

27 (1) The governing board of an exempted school may authorize the conveyance of any
28 interest in property or improvements thereon held by the institution or any constituent unit thereof,
29 or by the state or any agency of the state on behalf of the institution, to a real estate foundation if
30 that institution's governing board determines that the property was acquired with private funds or
31 by gift, grant, bequest or devise to or for the use of the institution.

32 (2) The governing board may not convey any interest in property or improvements thereon
33 to a real estate foundation if any state funds were used to acquire title to or interest in the property
34 unless the governing board makes the following findings:

35 (A) That such conveyance is in the best interest of the institution; and

36 (B) That the benefits of the proposed use of the property following such conveyance
37 outweigh the benefits of the use of the property as currently utilized at the time of the proposed
38 conveyance.

39 (e) Conditions for conveying property. –

40 (1) Notwithstanding any provisions of this code to the contrary, any approved conveyance
41 of property to a real estate foundation is exempt from laws concerning conveyance, transfer or
42 sale of property, including section ten of this article. Conveyances of any interest in the property
43 or any improvements thereon by the real estate foundation also are exempt from compliance with
44 any statute concerning disposition of state property.

45 (2) Any income or proceeds from the conveyance of any interest in the property are
46 considered to be private funds of the real estate foundation and may be used by the foundation

47 for any foundation purpose pursuant to subsection (f) of this section.

48 (3) If the real estate foundation is terminated, all of its net assets revert to the institution of
49 higher education for which the foundation was designated.

50 (f) Purposes of the real estate foundation. --

51 The purposes of the real estate foundation include, but are not limited to, the following:

52 (1) Holding title to, accepting, managing and disposing of real property and any
53 improvements thereon or interest therein acquired by the institution by gift, grant, bequest or
54 devise, or purchased by the institution using private or public funds, and any income derived from
55 the property or proceeds from the sale or transfer of the property; and

56 (2) Using the proceeds from the management of its real property assets to provide regular
57 direct and indirect financial support for the institution for which it was established. This financial
58 support may be in the form of endowed scholarships, professorships and internship opportunities
59 or other similar assistance.

60 (g) Miscellaneous. --

61 (1) Nothing contained in this section shall be deemed or construed to waive or abrogate
62 in any way the sovereign immunity of the state or to deprive a governing board of a state institution
63 of higher education, a state institution of higher education or any officer or employee thereof of
64 sovereign immunity.

65 (2) Obligations of a real estate foundation created under this section shall not constitute
66 debts or obligations of a state institution of higher education, the governing board thereof or the
67 state.

§18B-19-20. Applicability to certain institutions.

1 The governing boards of the exempted schools each may, without obtaining approval of
2 the commission, take any action described or set forth in this article that otherwise would require
3 the approval of the commission. The respective governing board shall provide notice of the action

- 4 to the commission. If the commission requests additional information relevant to the action from
 5 the respective governing board, the governing board shall provide information regarding the
 6 action to the commission.

NOTE: The purpose of this bill is to alter public education higher education governance, including defining terms. The bill changes the powers of Higher Education Policy Commission, Council for Community and Technical College Education and certain institutions of higher education. The bill provides for rule-making procedures including shorter time periods for review and comment. The bill provides for composition and amends responsibility of commission. The bill amends authority of certain governing boards over appointment of president of certain higher education institutions. The bill changes the responsibility of the commission. The bill eliminates application of certain data-based measures on certain institutions of higher education. The bill eliminates authority of chancellor over coordination of policies, purposes and rules of governing boards of certain institutions of higher education. The bill alters the responsibility of West Virginia Network for Educational Telecomputing. The bill updates powers of governing boards. The bill provides that rules of commission and council related to administering a system for the management of personnel matters do not apply to certain institutions of higher education. The bill clarifies authority of certain governing boards. The bill changes the authority of certain governing boards. The bill updating power of Joint Committee over performance audits of purchasing. The bill authorizes additional situation where emergency purchase card use is permitted. The bill updates time frame for payment of fees by students. The bill updates applicability of rule by commission and council for tuition and deferred payment plans. The bill updates conditions commission or council are required to consider in determining whether to approve a tuition or fee increase. The bill revises requirements and parameters for certain revenue bonds issued by certain governing boards. The bill updates approvals required for issuance of certain revenue bonds by state institutions of higher education. The bill provides for deposit of certain fees by certain governing boards into single special revenue account. The bill requires each governing board to adopt a campus development plan. The bill eliminates certain commission and council approvals related to capital improvements. The bill expands permitted uses of proceeds from sale, lease, conveyance or other disposal of real property received by commission, council or a governing board. The bill eliminates requirement of commission approval for certain real estate and construction transactions. The bill changes the transference procedures of real property or any interest therein from governing board to a real estate foundation. The bill clarifies that obligations of real estate foundation do not constitute debts or obligations of institution of higher education;

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