

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 552

BY SENATOR WELD

[Introduced February 15, 2018; Referred
to the Committee on Education]

1 A BILL to amend and reenact §18B-1-2 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §18B-1B-6 of said code; to amend and reenact §18B-2A-1 and §18B-2A-7a
3 of said code; and to amend and reenact §18B-3C-13 of said code, all relating to making
4 Pierpont Community and Technical College a division of Fairmont State University;
5 providing that the administrative head of Pierpont Community and Technical College is
6 the provost; requiring appointment of board of advisors; requiring Fairmont State
7 University ensure that all essential conditions for the delivery of community and technical
8 college education are met; requiring Fairmont State University adhere to all provisions set
9 forth in code and Council for Community and Technical College Education rules for the
10 delivery of community and technical college education and programs; providing exception;
11 allowing Pierpont Community and Technical College to maintain independent
12 accreditation status; requiring Fairmont State University to ensure that the programs
13 offered at Pierpont Community and Technical College are accredited; requiring Fairmont
14 State University to continue to provide certain services to the Pierpont Community and
15 Technical College; providing that the operating budget of Pierpont Community and
16 Technical College is integrated under the authority and jurisdiction of the Fairmont State
17 University Board of Governors; transferring all financial assets from the authority of
18 Pierpont Community and Technical College Board of Governors to the authority of the
19 Fairmont State University Board of Governors; continuing any capital debt service
20 payment of Pierpont Community and Technical College and making it the responsibility of
21 the Fairmont State University Board of Governors; transferring titles to all real property,
22 facilities, and equipment of, as well as each valid agreement and obligation undertaken
23 by Pierpont Community and Technical College to the Fairmont State University Board of
24 Governors; vesting title of all property purchased for the use of Pierpont Community and
25 Technical College in the Fairmont State University Board of Governors; making faculty,
26 classified employees, and nonclassified employees of Pierpont Community and Technical

27 College employees of Fairmont State University; updating state institution of higher
28 education names; and deleting obsolete language.

Be it enacted by the Legislature of West Virginia:

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) "Approve" or "approval", when used in reference to action by the Commission or the
12 Council, means action in which the governance rationale of a governing board under its
13 jurisdiction is given due consideration, and the action of the Commission is to additionally
14 establish whether the proposed institutional action is consistent with law and established policy
15 and is an appropriate advancement of the public interest;

16 (4) "Board of visitors" means the advisory board previously appointed for the West Virginia
17 Graduate College and the advisory board previously appointed for West Virginia University
18 Institute of Technology, which provide guidance to the Marshall University Graduate College and
19 West Virginia University Institute of Technology, respectively;

20 (5) "Broker" or "brokering" means serving as an agent on behalf of students, employers,
21 communities, or responsibility areas to obtain education services not offered at that institution.

22 These services include courses, degree programs, or other services contracted through an
23 agreement with a provider of education services either in-state or out-of-state;

24 (6) "Chancellor" means the Chancellor for Higher Education where the context refers to a
25 function of the Higher Education Policy Commission. "Chancellor" means the Chancellor for
26 Community and Technical College Education where the context refers to a function of the West
27 Virginia Council for Community and Technical College Education;

28 (7) "Chancellor for Community and Technical College Education" means the chief
29 executive officer of the West Virginia Council for Community and Technical College Education
30 employed pursuant to §18B-2B-3 of this code;

31 (8) "Chancellor for Higher Education" means the chief executive officer of the Higher
32 Education Policy Commission employed pursuant to §18B-1B-5 of this code;

33 (9) "Collaboration" means entering into an agreement with one or more providers of
34 education services in order to enhance the scope, quality, or efficiency of education services;

35 (10) "Community and technical college", in the singular or plural, means the free-standing
36 community and technical colleges and other state institutions of higher education which deliver
37 community and technical college education. This definition includes Blue Ridge Community and
38 Technical College, ~~Bridgmont~~ BridgeValley Community and Technical College, Eastern West
39 Virginia Community and Technical College, ~~Kanawha Valley Community and Technical College~~
40 Mountwest Community and Technical College, New River Community and Technical College,
41 Pierpont Community and Technical College as a division of Fairmont State University, Southern
42 West Virginia Community and Technical College, West Virginia Northern Community and
43 Technical College, and West Virginia University at Parkersburg;

44 (11) "Community and technical college education" means the programs, faculty,
45 administration, and funding associated with the delivery of community and technical college
46 education programs;

47 (12) "Community and technical college education program" means any college-level

48 course or program beyond the high school level provided through a public institution of higher
49 education resulting in or which may result in a two-year associate degree award including an
50 associate of arts, an associate of science and an associate of applied science; certificate
51 programs and skill sets; developmental education; continuing education; collegiate credit and
52 noncredit workforce development programs; and transfer and baccalaureate parallel programs.
53 All programs are under the jurisdiction of the council. Any reference to “post-secondary vocational
54 education programs” means community and technical college education programs as defined in
55 this subsection;

56 (13) “Confirm” or “confirmation”, when used in reference to action by the Commission,
57 means action in which substantial deference is allocated to the governing authority of a governing
58 board under its jurisdiction and the action of the Commission is to review whether the proposed
59 institutional action is consistent with law and established policy;

60 (14) “Council” means the West Virginia Council for Community and Technical College
61 Education created by §18B-2B-1 *et seq.* of this code;

62 (15) “Dual credit course” or “dual enrollment course” means a credit-bearing college-level
63 course offered in a high school by a state institution of higher education for high school students
64 in which the students are concurrently enrolled and receiving credit at the secondary level.

65 (16) “Essential conditions” means those conditions which shall be met by community and
66 technical colleges as provided in §18B-3C-3 of this code;

67 (17) “Exempted schools” means West Virginia University, including West Virginia
68 University Potomac State College and West Virginia University Institute of Technology; Marshall
69 University; and the West Virginia School of Osteopathic Medicine;

70 (18) “Free-standing community and technical colleges” means Southern West Virginia
71 Community and Technical College, West Virginia Northern Community and Technical College,
72 and Eastern West Virginia Community and Technical College, which may not be operated as
73 branches or off-campus locations of any other state institution of higher education;

74 (19) "Governing boards" or "boards" means the institutional boards of Governors created
75 by §18B-2A-1 of this code;

76 (20) "Higher Education Policy Commission", "Policy Commission", or "Commission"
77 means the commission created by §18B-2B-1 of this code;

78 (21) "Independent community and technical college" means a state institution of higher
79 education under the jurisdiction of the council which is independently accredited, is governed by
80 its own independent governing board, and may not be operated as a branch or off-campus
81 location of any other state institution of higher education. This definition includes Blue Ridge
82 Community and Technical College, ~~Bridgmont~~ BridgeValley Community and Technical College,
83 Eastern West Virginia Community and Technical College, ~~Kanawha Valley Community and~~
84 ~~Technical College~~ Mountwest Community and Technical College, New River Community and
85 Technical College, ~~Pierpont Community and Technical College~~ Southern West Virginia
86 Community and Technical College, West Virginia Northern Community and Technical College,
87 and West Virginia University at Parkersburg;

88 (22) "Institutional compact" means the compact developed by a state institution of higher
89 education, consistent with the public policy agenda for higher education;

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

95 (24) "Rule" or "rules" means a regulation, standard, policy, or interpretation of general
96 application and future effect;

97 ~~(25) "Sponsoring institution" means a state institution of higher education that maintained~~
98 ~~an administrative link to a community and technical college providing essential services prior to~~
99 ~~July 1, 2008. This definition includes institutions whose governing boards had under their~~

100 ~~jurisdiction a community and technical college, regional campus or a division delivering~~
 101 ~~community and technical college education and programs~~

102 ~~(26)~~ (25) "State college and university" means Bluefield State College, Concord University,
 103 Fairmont State University, Glenville State College, Shepherd University, West Liberty University,
 104 or West Virginia State University;

105 ~~(27)~~ (26) "State institution of higher education" means any university, college, or
 106 community and technical college under the jurisdiction of a governing board as that term is defined
 107 in this section;

108 ~~(28)~~ (27) "Statewide network of independently accredited community and technical
 109 colleges" or "community and technical college network" means the state institutions of higher
 110 education under the jurisdiction of the West Virginia Council for Community and Technical College
 111 Education which are independently accredited, each governed by its own independent governing
 112 board, and each having a core mission of providing affordable access to and delivering high
 113 quality community and technical education in every region of the state; and

114 ~~(29)~~ (28) "Vice Chancellor for Administration" means the person employed in accordance
 115 with §18B-4-2 of this code. Any reference in this chapter or chapter eighteen-c of this code to
 116 "Senior Administrator" means Vice Chancellor for Administration.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§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 the exempted schools, shall be made as follows:

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

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

8 (3) Subject to the confirmation of the commission, the governing boards of the following
9 institutions, appoint a president: Bluefield State College, Concord University, Fairmont State
10 University, Glenville State College, Shepherd University, West Liberty University and West
11 Virginia State University. The exempted schools may appoint a president without the confirmation
12 or approval of the Commission.

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

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

24 (c) *Evaluation of presidents.* —

25 (1) The appointing governing board shall conduct written performance evaluations of the
26 institution's president. Evaluations shall be done at the end of the initial contract period and in
27 every third year of employment as president thereafter, recognizing unique characteristics of the
28 institution and using institutional personnel, boards of advisors as appropriate, staff of the
29 appropriate governing board, and persons knowledgeable in higher education matters who are
30 not otherwise employed by a governing board. A part of the evaluation shall be a determination
31 of the success of the institution in meeting the requirements of its institutional compact and in
32 achieving the goals, objectives, and priorities established in §18B-1-1 *et seq.* and §18B-1D-1 *et*
33 *seq. of this code.*

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 §18B-1-6 and §29A-3A-1 *et seq.* of this code which are in effect on January 1, 2014, continue in
 39 effect unless amended or repealed. The rules provide guidance for the governing boards, but are
 40 not applicable to the exempted schools, in filling vacancies in the office of president in accordance
 41 with this chapter and shall include, but are not limited to, clarifying the powers, duties, and roles
 42 of the governing boards, commission, council, and chancellors in the presidential appointment
 43 process.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-1. Findings; composition of boards; terms and qualifications of members; vacancies; eligibility for reappointment.

1 (a) *Findings.* –

2 The Legislature finds that the State of West Virginia is served best when the membership
 3 of each governing board includes the following:

4 (1) The academic expertise and institutional experience of faculty members and a student
 5 of the institution governed by the board;

6 (2) The technical or professional expertise and institutional experience of a classified
 7 employee of the institution governed by the board;

8 (3) An awareness and understanding of the issues facing the institution governed by the
 9 board; and

10 (4) The diverse perspectives that arise from a membership that is balanced in terms of
 11 gender and varied in terms of race and ethnic heritage.

12 (b) *Boards of governors established.* –

13 A board of governors is continued at each of the following institutions: Bluefield State

14 College, Blue Ridge Community and Technical College, ~~Bridgmont~~ BridgeValley Community and
15 Technical College, Concord University, Eastern West Virginia Community and Technical College,
16 Fairmont State University, Glenville State College, ~~Kanawha Valley Community and Technical~~
17 ~~College~~ Mountwest Community and Technical College, Marshall University, New River
18 Community and Technical College, ~~Pierpont Community and Technical College~~ Shepherd
19 University, Southern West Virginia Community and Technical College, West Liberty University,
20 West Virginia Northern Community and Technical College, the West Virginia School of
21 Osteopathic Medicine, West Virginia State University, West Virginia University and West Virginia
22 University at Parkersburg.

23 (c) *Board membership.* –

24 (1) An appointment to fill a vacancy on the board or reappointment of a member who is
25 eligible to serve an additional term is made in accordance with the provisions of this section.

26 (2) The Board of Governors for Marshall University consists of 16 persons. The Board of
27 Governors for West Virginia University consists of 17 persons. The boards of governors of the
28 other state institutions of higher education consist of twelve persons.

29 (3) Each board of governors includes the following members:

30 (A) A full-time member of the faculty with the rank of instructor or above duly elected by
31 the faculty of the respective institution;

32 (B) A member of the student body in good academic standing, enrolled for college credit
33 work and duly elected by the student body of the respective institution; and

34 (C) A member from the institutional classified employees duly elected by the classified
35 employees of the respective institution;

36 (4) For the Board of Governors at Marshall University, 13 lay members appointed by the
37 Governor, by and with the advice and consent of the Senate, pursuant to this section;

38 (5) For the Board of Governors at West Virginia University, twelve lay members appointed
39 by the Governor, by and with the advice and consent of the Senate, pursuant to this section, and

40 additionally:

41 (A) The Chairperson of the Board of Visitors of West Virginia University Institute of
42 Technology;

43 (B) A full-time faculty member representing the extension service at the institution or a full-
44 time faculty member representing the health sciences, selected by the faculty senate.

45 (6) For each board of governors of the other state institutions of higher education, nine lay
46 members appointed by the Governor, by and with the advice and consent of the Senate, pursuant
47 to this section.

48 (A) Of the nine members appointed by the Governor, no more than five may be of the
49 same political party. Of the 13 members appointed by the Governor to the governing board of
50 Marshall University, no more than eight may be of the same political party. Of the 12 members
51 appointed by the Governor to the governing board of West Virginia University, no more than seven
52 may be of the same political party.

53 (B) Of the nine members appointed by the Governor, at least five shall be residents of the
54 state. Of the 13 members appointed by the Governor to the governing board of Marshall
55 University, at least eight shall be residents of the state. Of the 12 members appointed by the
56 Governor to the governing board of West Virginia University, at least seven shall be residents of
57 the state.

58 (7) In making lay appointments, the Governor shall consider the institutional mission and
59 membership characteristics including the following:

60 (A) The need for individual skills, knowledge, and experience relevant to governing the
61 institution;

62 (B) The need for awareness and understanding of institutional problems and priorities,
63 including those related to research, teaching and outreach;

64 (C) The value of gender, racial, and ethnic diversity; and

65 (D) The value of achieving balance in gender and diversity in the racial and ethnic

66 characteristics of the lay membership of each board.

67 (d) *Board member terms.* –

68 (1) The student member serves for a term of one year. Each term begins on July 1.

69 (2) The faculty member serves for a term of two years. Each term begins on July 1. Faculty
70 members are eligible to succeed themselves for three additional terms, not to exceed a total of
71 eight consecutive years.

72 (3) The member representing classified employees serves for a term of two years. Each
73 term begins on July 1. Members representing classified employees are eligible to succeed
74 themselves for three additional terms, not to exceed a total of eight consecutive years.

75 (4) The appointed lay citizen members serve terms of four years each and are eligible to
76 succeed themselves for no more than one additional term, except that citizen members who are
77 appointed to fill unexpired terms are eligible to succeed themselves for two full terms after
78 completing an unexpired term.

79 (5) A vacancy in an unexpired term of a member shall be filled for the unexpired term
80 within 30 days of the occurrence of the vacancy in the same manner as the original appointment
81 or election. Except in the case of a vacancy, all elections are held and all appointments are made
82 no later than June 30 preceding the commencement of the term. Each board of governors shall
83 elect one of its appointed lay members to be chairperson in June of each year. A member may
84 not serve as chairperson for more than four consecutive years.

85 ~~(6) The appointed members of the boards of governors serve staggered terms of up to~~
86 ~~four years except that four of the initial appointments to the governing boards of community and~~
87 ~~technical colleges that became independent July 1, 2008, are for terms of two years and five of~~
88 ~~the initial appointments are for terms of four years~~

89 (e) *Board member eligibility, expenses.* –

90 (1) A person is ineligible for appointment to membership on a board of governors of a state
91 institution of higher education under the following conditions:

92 (A) For a baccalaureate institution or university, a person is ineligible for appointment who
93 is an officer, employee, or member of any other board of governors; an employee of any institution
94 of higher education; an officer or member of any political party executive committee; the holder of
95 any other public office or public employment under the government of this state or any of its
96 political subdivisions; an employee of any affiliated research corporation created pursuant to
97 §18B-12-1 *et seq.* of this code; an employee of any affiliated foundation organized and operated
98 in support of one or more state institutions of higher education; or a member of the council or
99 commission. This subsection does not prevent the representative from the faculty, classified
100 employees, students, or the superintendent of a county board of education from being members
101 of the governing boards.

102 (B) For a community and technical college, a person is ineligible for appointment who is
103 an officer, employee, or member of any other board of governors; a member of a board of visitors
104 of any public institution of higher education; an employee of any institution of higher education;
105 an officer or member of any political party executive committee; the holder of any other public
106 office, other than an elected county office, or public employment, other than employment by the
107 county board of education, under the government of this state or any of its political subdivisions;
108 an employee of any affiliated research corporation created pursuant to §18B-12-1 *et seq.* of this
109 code; an employee of any affiliated foundation organized and operated in support of one or more
110 state institutions of higher education; or a member of the council or commission. This subsection
111 does not prevent the representative from the faculty, classified employees, or students from being
112 members of the governing boards.

113 (2) Before exercising any authority or performing any duties as a member of a governing
114 board, each member shall qualify as such by taking and subscribing to the oath of office
115 prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof
116 shall be filed with the Secretary of State.

117 (3) A member of a governing board appointed by the Governor may not be removed from

118 office by the Governor except for official misconduct, incompetence, neglect of duty, or gross
 119 immorality and then only in the manner prescribed by law for the removal of the state elective
 120 officers by the Governor.

121 (4) The members of the board of governors serve without compensation, but are
 122 reimbursed for all reasonable and necessary expenses actually incurred in the performance of
 123 official duties under this article upon presentation of an itemized sworn statement of expenses.

124 (5) The president of the institution shall make available resources of the institution for
 125 conducting the business of its board of governors. All expenses incurred by the board of governors
 126 and the institution under this section are paid from funds allocated to the institution for that
 127 purpose.

§18B-2A-7a. Transfer of orders, resolutions, policies and rules, obligations, etc.

1 (a) ~~Effective July 1, 2008, a~~ A governing board is established for the following state
 2 institutions of higher education pursuant to §18B-2A-1 of this code:

3 (1) ~~Marshall~~ Mountwest Community and Technical College;

4 (2) ~~Pierpont Community and Technical College, formerly a division of Fairmont State~~
 5 ~~University~~

6 (3) ~~(2) The Community and Technical College at West Virginia University Institute of~~
 7 ~~Technology~~ BridgeValley Community and Technical College; and

8 (4) ~~West Virginia State Community and Technical College; and~~

9 (5) ~~(3)~~ (3) West Virginia University at Parkersburg.

10 (b) All orders, resolutions, policies, and rules adopted or promulgated by a governing
 11 board of a former administratively linked community and technical college, regional campus, or
 12 division within an accredited institution on behalf of an institution named in subsection (a) of this
 13 section relating to the community and technical college or community and technical college
 14 education, or which the newly-established board of governors finds necessary or expedient for

15 the exercise of its lawful powers and duties pursuant to the provisions of this chapter, shall
16 continue in effect until rescinded, revised, altered, or amended by the newly-established board of
17 Governors. Nothing in this section requires the initial rules or policies of a community and technical
18 college to be promulgated again under the rule adopted by the council pursuant to §18B-1-6 of
19 this code unless such rules or policies are rescinded, revised, altered, or amended.

20 (c) Each valid agreement and obligation, undertaken or agreed to by the former
21 sponsoring institution or governing board of a division, regional campus, or administratively-linked
22 community and technical college before July 1, 2008, on behalf of a community and technical
23 college named in subsection (a) of this section is hereby transferred to the board of governors of
24 that community and technical college.

25 ~~(d) Each newly established board of Governors and each appropriate institution formerly~~
26 ~~sponsoring a community and technical college shall jointly agree on a division of all assets and~~
27 ~~liabilities. If the boards of Governors are unable to reach agreement concerning a division of~~
28 ~~assets and liabilities on or before December 1, 2008, the boards of Governors shall submit a~~
29 ~~summary of issues in dispute to the commission and the council which shall jointly resolve all~~
30 ~~outstanding issues concerning the division of assets and liabilities.~~

31 ~~(e) For purposes of generating audited financial statements for inclusion in the higher~~
32 ~~education fund and state single audits, the division of all assets and liabilities shall be effective~~
33 ~~retroactively to July 1, 2008~~

34 (f) (d) Any other disputes between an independent community and technical college and
35 its former sponsoring institution, regarding their respective rights and responsibilities under this
36 chapter of the code, which cannot be resolved by the governing boards, shall be resolved as
37 follows:

38 (1) The matters in dispute shall be summarized in writing and submitted to the chancellors
39 jointly for resolution;

40 (2) If the matters in dispute cannot be resolved by the chancellors within 30 days, they

41 shall be submitted to the council and commission for resolution;

42 (3) If the commission and council jointly cannot reach a resolution following their first
43 regularly scheduled meeting or within 60 days, whichever is sooner, the chairpersons of the
44 commission and council respectively shall establish a three-person panel to hear the matters and
45 issue a decision within 30 days:

46 (A) The three-person panel is comprised of one person appointed by the chairperson of
47 the commission, one person appointed by the chairperson of the council, and one person
48 appointed jointly by the two chairpersons.

49 (B) The decision rendered by the three-person panel is binding on the governing boards,
50 commission, and council, and may not be challenged in the courts of this state.

51 ~~(g) Each former sponsoring institution and community and technical college shall enter~~
52 ~~into a comprehensive agreement to address the division of assets and liabilities and the allocation~~
53 ~~of revenues and expenditures between former sponsoring institutions and newly independent~~
54 ~~community and technical colleges~~

55 ~~(h)~~ (e) Absent manifest injustice as determined jointly by the council and commission, the
56 following general principles apply to the division of assets and liabilities and allocation of revenues
57 and expenditures between former sponsoring institutions and the newly independent community
58 and technical colleges:

59 (1) For accounting purposes, the institution that assumes responsibility for any asset also
60 shall assume responsibility for any associated liabilities.

61 (2) Although one institution may assume responsibility for an asset and associated
62 liabilities for accounting purposes, both institutions shall agree on their respective responsibilities
63 for reducing and ultimately eliminating the liability over time if the asset was originally acquired
64 and/or is being used for the benefit of both institutions.

65 (A) Any agreement to allocate system and institution educational and general and auxiliary
66 debt service payments shall be consistent with the provisions of all applicable bond covenants.

67 (B) Absent a controlling bond covenant or other agreement, debt service payments
68 associated with bonded indebtedness presumptively shall be allocated based on the relative full-
69 time equivalent student enrollment of the two institutions either as a whole or on the campus
70 where the asset is located and may be adjusted annually to reflect enrollment changes at the two
71 institutions.

72 (3) The institutions shall agree to allocate educational and general and auxiliary capital
73 fees in excess of those needed to cover bonded indebtedness to ensure that assets of both
74 institutions are maintained in proper repair and that the institutions assume responsibility for a
75 reasonable share of the total costs of maintaining the facilities.

76 (4) The institutions shall develop a plan that ensures the financial stability of auxiliary
77 enterprises, including, but not limited to, student housing, student centers, dining services,
78 parking, and athletics through fiscal year 2012.

79 (A) If community and technical college students pay a mandatory athletics fee for the
80 benefit of a former sponsoring institution, but receive no direct benefit from that fee, the community
81 and technical college may phase out that fee over a five-year period.

82 (B) If certain community and technical college students were required to live in institution
83 housing consistent with rules or policies in effect on the effective date of this section, the former
84 sponsoring institution may continue to require these students to live in institution housing for at
85 least one year.

86 ~~(f)~~ (f) If either institution proposes to reduce the services that it provides or purchases from
87 the other institution by more than 10 percent in any one year and the reduction exceeds \$200,000,
88 the institution shall obtain the approval of both the council and the commission before doing so.
89 In evaluating the proposal, the council and commission shall consider the following:

90 (1) The benefit to be obtained for the institution seeking to reduce the services it provides
91 or purchases;

92 (2) The impact of the proposed reduction on the institution currently providing the services;

93 (3) Any additional costs that might be incurred as a result of the reduction in services; and

94 (4) The adequacy of the transition plan.

95 (j) ~~(g)~~ To the extent practicable, state financial systems shall be set up for higher education
 96 institutions which participate in shared services agreements to facilitate ease of processing while
 97 ensuring that data from the two institutions are readily segregable at the state level.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

**§18B-3C-13. Legislative intent; Pierpont Community and Technical College established as
~~independent state institution of higher education~~ a division of Fairmont State
 University; governing board of advisors; institutional organization, structure,
 accreditation status.**

1 (a) The intent of the Legislature in enacting this section is to ~~provide for the most effective~~
 2 ~~education delivery system for community and technical education programs to the entire region~~
 3 ~~to be served by Pierpont Community and Technical College and to focus the institutional mission~~
 4 ~~on achieving state goals, objectives, priorities, and essential conditions as established in articles~~
 5 ~~one, one-d, and three-c of this chapter~~ terminate Pierpont Community and Technical College's
 6 independence from Fairmont State University and make Pierpont Community and Technical
 7 College a division of Fairmont State University.

8 (b) Pierpont Community and Technical College is established as ~~an independent state~~
 9 ~~institution of higher education~~ a division of Fairmont State University. Any reference in this code
 10 to Fairmont State Community and Technical College or to Pierpont Community and Technical
 11 College ~~as an independent state institution of higher education~~ a division of Fairmont State
 12 University, means the ~~independent~~ state institution of higher education known as Pierpont
 13 Community and Technical College, a division of Fairmont State University.

14 (c) Effective July 1, 2008 2018, ~~the board of advisors for Pierpont Community and~~
 15 ~~Technical College is the governing board for that institution subject to the provisions of article two-~~
 16 ~~a of this chapter~~ the administrative head of Pierpont Community and Technical College ~~on June~~

17 ~~30, 2008, is the president of the independent community and technical college subject to the~~
18 ~~provisions of section five of this article~~ shall be the provost who shall be appointed by the president
19 of Fairmont State University. The president of Fairmont State University shall appoint a board of
20 advisors. The board of advisors serves to advise the Fairmont State Board of Governors and
21 president on issues regarding the delivery of community and technical college education.

22 ~~(d) In the delivery of community and technical college education and programs, Pierpont~~
23 ~~Community and Technical College shall adhere to all provisions set forth in this code and rules~~
24 ~~promulgated by the council for the delivery of education and programs, including, but not limited~~
25 ~~to, council review and approval of academic programs, institutional compacts, master plans and~~
26 ~~tuition and fee rates, including capital fees~~

27 (d) Fairmont State University shall ensure that all essential conditions for the delivery of
28 community and technical college education are met. In the delivery of community and technical
29 college education and programs, Fairmont State University shall adhere to all provisions set forth
30 in this code and rules promulgated by the council for the delivery of such education and programs,
31 including, but not limited to, council review and approval of academic programs, institutional
32 compacts, master plans, charge-back agreements, and tuition and fee rates, including capital
33 fees. The only provision of this code that Fairmont State University is not required to adhere to
34 is the requirement related to independent accreditation of community and technical colleges.

35 ~~(d) (e) Pierpont Community and Technical College shall pursue~~ may maintain independent
36 accreditation status. ~~and the board of Governors of the community and technical college shall~~
37 ~~provide through contractual arrangement for the administration and operation of Pierpont~~
38 ~~Community and Technical College by Fairmont State University while the community and~~
39 ~~technical college seeks appropriate independent accreditation. The contractual arrangement may~~
40 ~~not be implemented until approved by the council and~~ Fairmont State University shall include
41 provisions to ensure that the programs offered at Pierpont Community and Technical College are
42 accredited. while independent accreditation is being sought Fairmont State University shall

43 continue to provide services to the community and technical college ~~which the community and~~
44 ~~technical college or the council considers~~ necessary or expedient in carrying out its the mission
45 of the community and technical college. ~~under the terms of an agreement between the two~~
46 ~~institutions pursuant to the provisions of section twelve of this article.~~

47 ~~(f) The council has the authority and the duty to take all steps necessary to assure that~~
48 ~~the institution acquires independent accreditation status as quickly as possible. If the community~~
49 ~~and technical college fails to achieve independent accreditation by July 1, 2011, the council shall~~
50 ~~sever any contractual agreement between Pierpont Community and Technical College and~~
51 ~~Fairmont State University and assign the responsibility for achieving independent accreditation to~~
52 ~~another state institution of higher education~~

53 (f) As part of the integration of Pierpont Community and Technical College into Fairmont
54 State University:

55 (1) The operating budget of Pierpont Community and Technical College is integrated
56 under the authority and jurisdiction of the Board of Governors of Fairmont State University;

57 (2) All financial assets, including fund balances, and liabilities of Pierpont Community and
58 Technical College are transferred from the authority of the Board of Governors of Pierpont
59 Community and Technical College to the authority of the Board of Governors of Fairmont State
60 University;

61 (3) Any capital debt service payment formerly the responsibility of Pierpont Community
62 and Technical College continues in the required amount and is the responsibility of the Board of
63 Governors of Fairmont State University;

64 (4) The titles to all real property, facilities, and equipment of, as well as each valid
65 agreement and obligation undertaken by, Pierpont Community and Technical College are
66 transferred to the Board of Governors of Fairmont State University, which shall exercise general
67 determination, control, supervision, and management of the financial, business, and education
68 policies and affairs of Pierpont Community and Technical College;

- 69 (5) The title to all property purchased for the use of Pierpont Community and Technical
70 College is vested in the Board of Governors of Fairmont State University; and
71 (6) The faculty, classified employees, and nonclassified employees of Pierpont
72 Community and Technical College become the faculty, classified employees, and nonclassified
73 employees of Fairmont State University.

NOTE: The purpose of this bill is to terminate Pierpont Community and Technical College's independence from Fairmont State University, and make Pierpont Community and Technical College a division of Fairmont State University.

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