

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2519

BY DELEGATES BUTLER, MAYNARD, CADLE, FOSTER,

HANNA, ESPINOSA, HIGGINBOTHAM, MCGEEHAN,

HOUSEHOLDER, SWARTZMILLER AND HARDY

[Originating in the Committee on Finance, February

21, 2019.]

1 A BILL to amend and reenact §18B-1-3 and §18B-1-6 of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-
3 2A-4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code
4 by adding thereto a new section, designated §18B-4-5b, all relating to regulation or
5 restriction of the carrying of a concealed pistol or revolver by a person who holds a current
6 license to carry a concealed deadly weapon; authorizing regulation or restriction on the
7 carrying of concealed pistols or revolvers in certain circumstances or areas of an institution
8 of higher education; eliminating authority of the Higher Education Policy Commission, the
9 Council for Community and Technical College Education and the institutional boards of
10 governors to restrict or regulate the carrying of concealed pistols or revolvers in certain
11 circumstances or areas of an institution of higher education; and designating these
12 amendments as "The Campus Self Defense Act".

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GOVERNANCE.

§18B-1-3. Transfer of powers, duties, property, obligations, etc.

1 (a) All powers, duties and authorities transferred to the Board of Regents pursuant to
2 former provisions of chapter 18 of this code and transferred to the Board of Trustees and Board
3 of Directors which were created as the governing boards pursuant to the former provisions of this
4 chapter and all powers, duties and authorities of the Board of Trustees and Board of Directors, to
5 the extent they are in effect on June 17, 2000, are hereby transferred to the Interim Governing
6 Board created in §18B-1C-1 *et seq.* of this code and shall be exercised and performed by the
7 Interim Governing Board until July 1, 2001, as such powers, duties and authorities may apply to
8 the institutions under its jurisdiction.

9 (b) Title to all property previously transferred to or vested in the Board of Trustees and the
10 Board of Directors and property vested in either of the boards separately, formerly existing under

11 the provisions of this chapter, are hereby transferred to the Interim Governing Board created in
12 §18B-1C-1 *et seq.* of this code until July 1, 2001. Property transferred to or vested in the Board
13 of Trustees and Board of Directors shall include:

14 (1) All property vested in the Board of Governors of West Virginia University and
15 transferred to and vested in the West Virginia Board of Regents;

16 (2) All property acquired in the name of the state Board of Control or the West Virginia
17 Board of Education and used by or for the state colleges and universities and transferred to and
18 vested in the West Virginia Board of Regents;

19 (3) All property acquired in the name of the state Commission on Higher Education and
20 transferred to and vested in the West Virginia Board of Regents; and

21 (4) All property acquired in the name of the Board of Regents and transferred to and vested
22 in the respective Board of Trustees and Board of Directors.

23 (c) Each valid agreement and obligation previously transferred to or vested in the Board
24 of Trustees and Board of Directors formerly existing under the provisions of this chapter is hereby
25 transferred to the Interim Governing Board until July 1, 2001, as those agreements and obligations
26 may apply to the institutions under its jurisdiction. Valid agreements and obligations transferred
27 to the Board of Trustees and Board of Directors shall include:

28 (1) Each valid agreement and obligation of the board of Governors of West Virginia
29 University transferred to and deemed the agreement and obligation of the West Virginia Board of
30 Regents;

31 (2) Each valid agreement and obligation of the state Board of Education with respect to
32 the state colleges and universities transferred to and deemed the agreement and obligation of the
33 West Virginia Board of Regents;

34 (3) Each valid agreement and obligation of the state Commission on Higher Education
35 transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;
36 and

37 (4) Each valid agreement and obligation of the Board of Regents transferred to and
38 deemed the agreement and obligation of the respective Board of Trustees and Board of Directors.

39 (d) All orders, resolutions and rules adopted or promulgated by the respective Board of
40 Trustees and Board of Directors and in effect immediately prior to July 1, 2000, are hereby
41 transferred to the Interim Governing Board until July 1, 2001, and shall continue in effect and ~~shall~~
42 ~~be deemed~~ are the orders, resolutions and rules of the Interim Governing Board until rescinded,
43 revised, altered or amended by the commission or the governing boards in the manner and to the
44 extent authorized and permitted by law. ~~Such~~ The orders, resolutions and rules shall include:

45 (1) Those adopted or promulgated by the Board of Governors of West Virginia University
46 and in effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or
47 amended by the Board of Regents in the manner and to the extent authorized and permitted by
48 law;

49 (2) Those respecting state colleges and universities adopted or promulgated by the West
50 Virginia Board of Education and in effect immediately prior to July 1, 1969, unless and until
51 rescinded, revised, altered or amended by the Board of Regents in the manner and to the extent
52 authorized and permitted by law;

53 (3) Those adopted or promulgated by the state Commission on Higher Education and in
54 effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or amended
55 by the Board of Regents in the manner and to the extent authorized and permitted by law; and

56 (4) Those adopted or promulgated by the Board of Regents prior to July 1, 1989, unless
57 and until rescinded, revised, altered or amended by the respective Board of Trustees or Board of
58 Directors in the manner and to the extent authorized and permitted by law.

59 (e) Title to all real property transferred to or vested in the Interim Governing Board
60 pursuant to this section of the code is hereby transferred to the commission effective July 1, 2001.
61 The board of Governors for each institution may request that the commission transfer title to the
62 board of Governors of any real property specifically identifiable with that institution or the

63 commission may initiate the transfer. Any such request must be made within two years of the
64 effective date of this section and be accompanied by an adequate legal description of the property.
65 In the case of real property that is specifically identifiable with Marshall University or West Virginia
66 University, the commission shall transfer title to all real property, except real property that is used
67 jointly by institutions or for statewide programs under the jurisdiction of the commission or the
68 council, to the Board of Governors of Marshall University or West Virginia University, as
69 appropriate, upon receipt of a request from the appropriate governing board accompanied by an
70 adequate legal description of the property.

71 The title to any real property that is jointly utilized by institutions or for statewide programs
72 under the jurisdiction of the commission or the council shall be retained by the commission.

73 (f) Ownership of or title to any other property, materials, equipment or supplies obtained
74 or purchased by the Interim Governing Board or the previous governing boards on behalf of an
75 institution is hereby transferred to the Board of Governors of that institution effective July 1, 2001.

76 (g) Each valid agreement and obligation previously transferred or vested in the Interim
77 Governing Board and which was undertaken or agreed to on behalf of an institution or institutions
78 is hereby transferred to the board of Governors of the institution or institutions for whose benefit
79 the agreement was entered into or the obligation undertaken effective July 1, 2001.

80 (1) The obligations contained in revenue bonds issued by the previous governing boards
81 under the provisions of §18B-10-8 and §18-12B-1 *et seq.* of this code are hereby transferred to
82 the commission and each institution shall transfer to the commission those funds the commission
83 determines are necessary to pay that institution's share of bonded indebtedness.

84 (2) The obligations contained in revenue bonds issued on behalf of a state institution of
85 higher education pursuant to any other section of this code is hereby transferred to the Board of
86 Governors of the institution on whose behalf the bonds were issued.

87 (h) All orders, resolutions, policies and rules:

88 (1) Adopted or promulgated by the respective Board of Trustees, Board of Directors or
89 Interim Governing Board and in effect immediately prior to July 1, 2001, are hereby transferred to
90 the commission effective July 1, 2001, and continue in effect until rescinded, revised, altered,
91 amended or transferred to the governing boards by the commission as provided in this section
92 and in §18B-1-6 of this code.

93 (2) Adopted or promulgated by the commission relating solely to community and technical
94 colleges or community and technical college education, or rules which the council finds necessary
95 for the exercise of its lawful powers and duties pursuant to the provisions of this chapter, may be
96 adopted by the council and continue in effect until rescinded, revised, altered, amended or
97 transferred to the governing boards under the jurisdiction of the council pursuant to §18B-1-6 of
98 this code. Nothing in this section requires the initial rules of the commission that are adopted by
99 the council to be promulgated again under the procedure set forth in §29A-3A-1 *et seq.* of this
100 code unless ~~such~~ the rules are rescinded, revised, altered or amended.

101 (3) Adopted or promulgated by the commission relating to multiple types of public
102 institutions of higher education or community and technical college education as well as
103 baccalaureate and post-baccalaureate education are transferred to the council in part as follows:

104 (A) That portion of the rule relating solely to community and technical colleges or
105 community and technical college education is transferred to the council and continues in effect
106 until rescinded, revised, altered, amended or transferred to the governing boards by the council
107 as provided in this section and in §18B-1-6 of this code;

108 (B) That portion of the rule relating to institutions or education other than community and
109 technical colleges is retained by the commission and continues in effect until rescinded, revised,
110 altered, amended or transferred to the governing boards by the commission as provided in this
111 section and in §18B-1-6 of this code.

112 (i) The commission may, in its sole discretion, transfer any rule, other than a legislative
113 rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may

114 rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the
115 commission pursuant to §18B-1-6 of this code.

116 The council may, in its sole discretion, transfer any rule, other than a legislative rule, to
117 the jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind,
118 revise, alter or amend any rule so transferred pursuant to rules adopted by the council pursuant
119 to §18B-1-6 of this code.

120 (j) As to any title, agreement, obligation, order, resolution, rule or any other matter about
121 which there is some uncertainty, misunderstanding or question, the matter shall be summarized
122 in writing and sent to the commission which shall ~~make a determination regarding~~ determine such
123 matter within 30 days of receipt thereof.

124 (k) Rules or provisions of law which refer to other provisions of law which were repealed,
125 rendered inoperative or superseded by the provisions of this section shall remain in full force and
126 effect to such extent as may still be applicable to higher education and may be so interpreted.
127 Such references include, but are not limited to, references to sections and prior enactments of
128 §18-26-1 *et seq.* of this code and code provisions relating to retirement, health insurance,
129 grievance procedures, purchasing, student loans and savings plans. Any determination which
130 needs to be made regarding applicability of any provision of law shall first be made by the
131 commission.

132 (l) On or after July 1, 2020, nothing in this section provides the authority to restrict or
133 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid
134 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this
135 code.

§18B-1-6. Rulemaking.

1 (a) The commission ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal
2 rules, in accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This

3 grant of rule-making authority does not limit, overrule, restrict, supplant or supersede the rule-
4 making authority provided to the exempted schools.

5 (b) The council ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal rules in
6 accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This grant of
7 rule-making power extends only to those areas over which the council has been granted specific
8 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 shall promulgate a rule to guide the development of rules made by
22 the governing boards, including a process for comment by the commission as appropriate, except
23 the exempted schools, who shall each promulgate their own such rules. The council shall
24 promulgate a rule to guide the development and approval of rules made by the governing boards.
25 The commission and council shall provide technical assistance in rulemaking as requested. The
26 rules promulgated by the exempted schools, the commission and council shall include, but are
27 not limited to, the following provisions which shall be included in the rule on rules adopted by each
28 governing board of a state institution of higher education:

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

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

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

36 (D) Except for the exempted schools, a procedure for the governing board to follow in
37 submitting its rules for review and comment by the commission and approval by the council, as
38 appropriate:

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

40 (ii) The commission shall return to the governing board its comments and suggestions
41 within 15 business days of receiving the rule.

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

46 (d) Nothing in this section requires that any rule reclassified or transferred by the
47 commission or the council under this section be promulgated again under the procedures set out
48 in §29A-3A-1 *et seq.* of this code unless the rule is amended or modified.

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

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

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

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

60 (g) Within 15 business days of the adoption of a rule, including repeal or amendment of
61 an existing rule, and before the change is implemented, a governing board shall furnish a copy of
62 each rule which it has adopted to the commission or the council, respectively, for review.

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.

70 (i) Any rule of the commission or council in effect at the time of the re-enactment of this
71 section or approved by the Legislature during its 2017 Regular Session shall remain in effect and
72 applicable to an institution of higher education under the jurisdiction of the commission or council
73 until ~~such time as~~ an institution exercises its authority to adopt a rule pursuant to this chapter.

74 (j) On or after July 1, 2020, no rule adopted pursuant to the provisions of this section may
75 restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current
76 and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-
77 5b of this code.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

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

1 (a) The primary responsibility of the commission is to provide shared services in a cost-
2 effective manner upon request to the state colleges and universities, the council, and the
3 community and technical colleges; undertake certain statewide and regional initiatives as
4 specifically designated in this chapter, including those related to the administration of grants and
5 scholarships and including those in conjunction with the council; to review, confirm or approve
6 certain actions undertaken by governing boards, as delineated in this chapter; and assist in the
7 development of policy that will achieve the goals, objectives and priorities found in §18B-1-1a and
8 §18B-1D-1 *et seq.* of this code. The commission shall exercise its authority and carry out its
9 responsibilities in a manner that is consistent and not in conflict with the powers and duties
10 assigned by law to the West Virginia Council for Community and Technical College Education
11 and the powers and duties assigned to the governing boards. To that end, the commission has
12 the following powers and duties relating to the governing boards under its jurisdiction:

13 (1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this
14 code to address major challenges facing the state, including, but not limited to, the following:

15 (A) The goals, objectives and priorities established in this chapter including specifically
16 those goals, objectives and priorities pertaining to the compacts created pursuant to §18B-1D-7
17 of this code; and

18 (B) Development of the master plan described in §18B-1D-5 of this code for the purpose
19 of accomplishing the mandates of this section;

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

23 (A) Provide for an adequate level of educational and general funding for institutions
24 pursuant to §18B-1A-5 of this code;

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

27 (C) Invest and provide incentives for achieving the priority goals in the public policy
28 agenda, including, but not limited to, those found in §18B-1-1a and §18B-1D-1 *et seq.* of this
29 code;

30 (3) In collaboration with the council and the governing boards:

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

38 (B) Assisting governing boards to carry out their duty effectively to govern the individual
39 institutions of higher education;

40 (4) Except the exempted schools, review and comment on each compact for the governing
41 boards under its jurisdiction, and final confirmation of each compact;

42 (5) Review and confirm the bi-annual updates of the institutional compacts, except the
43 exempted schools;

44 (6) Serve as a point of contact to state policymakers:

45 (A) The Governor for the public policy agenda; and

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

48 (7) Upon request, provide shared services to a state institution of higher education;

49 (8) Administer scholarship and grant programs as provided for in this code;

50 (9) Establish and implement the benchmarks and performance indicators for state colleges
51 and universities necessary to measure institutional progress in achieving state policy priorities
52 and institutional missions pursuant to §18B-1D-7 of this code;

53 (10) Establish a formal process for recommending capital investment needs and for
54 determining priorities for state colleges and universities for these investments for consideration
55 by the Governor and the Legislature as part of the appropriation request process pursuant to
56 §18B-19-1 *et seq.* of this code;

57 (11) Except the exempted schools, develop standards and evaluate governing board
58 requests for capital project financing in accordance with §18B-19-1 *et seq.* of this code;

59 (12) Except the exempted schools, ensure that governing boards manage capital projects
60 and facilities needs effectively, including review and approval of capital projects, in accordance
61 with §18B-19-1 *et seq.* of this code;

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

68 (14) Employ a Chancellor for Higher Education pursuant to §18B-1B-5 of this code;

69 (15) Employ other staff as necessary and appropriate to carry out the duties and
70 responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this
71 code;

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

74 (17) Advise and confirm in the appointment of the presidents of the institutions of higher
75 education under its jurisdiction pursuant to §18B-1B-6 of this code, except the exempted schools.
76 The role of the commission in confirming an institutional president is to assure through personal
77 interview that the person selected understands and is committed to achieving the goals,
78 objectives and priorities set forth in the compact, in §18B-1-1a and §18B-1D-1 *et seq.* of this code;

79 (18) Approve the total compensation package from all sources for presidents of institutions
80 under its jurisdiction, except the exempted schools, as proposed by the governing boards. The
81 governing boards, except the exempted schools, must obtain approval from the commission of
82 the total compensation package both when institutional presidents are employed initially and
83 afterward when any change is made in the amount of the total compensation package: *Provided*,
84 That the commission will receive notice, but need not approve or confirm, an increase in the
85 compensation of an institutional president that is exactly in the ratio of compensation increases
86 allocated to all institutional employees and approved by the governing board to expressly include
87 the president;

88 (19) Assist and facilitate the work of the institutions to implement the policy of the state to
89 assure that parents and students have sufficient information at the earliest possible age on which
90 to base academic decisions about what is required for students to be successful in college, other
91 post-secondary education and careers related, as far as possible, to results from current
92 assessment tools in use in West Virginia;

93 (20) Approve and implement a uniform standard jointly with the council to determine which
94 students shall be placed in remedial or developmental courses. The standard shall be aligned
95 with college admission tests and assessment tools used in West Virginia and shall be applied
96 uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of
97 the standard which they shall communicate to the State Board of Education and the State
98 Superintendent of Schools;

99 (21) Jointly with the council, develop and implement an oversight plan to manage
100 systemwide technology except the exempted schools, including, but not limited to, the following:

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

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

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

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

113 (23) Establish and implement policies and procedures to ensure that a student may
114 transfer and apply toward the requirements for any degree the maximum number of credits earned
115 at any regionally accredited in-state or out-of-state higher education institution with as few
116 requirements to repeat courses or to incur additional costs as are consistent with sound academic
117 policy;

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

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

130 (26) Seek out and attend regional, national and international meetings and forums on
131 education and workforce development-related topics as, in the commission's discretion, are
132 critical for the performance of their duties as members, for the purpose of keeping abreast of
133 education trends and policies to aid it in developing the policies for this state to meet the
134 established education goals, objectives and priorities pursuant to §18B-1-1a and §18B-1D-1 *et*
135 *seq.* of this code;

136 (27) Promulgate and implement a rule for higher education governing boards and
137 institutions, except the exempted schools, to follow when considering capital projects pursuant to
138 §18B-19-1 *et seq.* of this code, which rule shall provide for appropriate deference to the value
139 judgments of governing boards under the jurisdiction of the commission;

140 (28) Submit to the appropriate agencies of the executive and legislative branches of state
141 government an appropriation request that reflects recommended appropriations for the
142 commission and the governing boards under its jurisdiction. The commission shall submit as part
143 of its appropriation request the separate recommended appropriation request it received from the
144 council, both for the council and for the governing boards under the council's jurisdiction, including
145 the exempted schools. The commission annually shall submit the proposed allocations based on
146 each institution's progress toward meeting the goals of its compact;

147 (29) The commission may assess institutions under its jurisdiction, including the exempted
148 schools, for the payment of expenses of the commission or for the funding of statewide higher
149 education services, obligations or initiatives related to the goals set forth for the provision of public
150 higher education in the state: *Provided*, That the commission may not assess institutions pursuant
151 to this subdivision on or after July 1, 2018;

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

155 (31) Pursuant to §29A-3A-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary
156 or expedient to fulfill the purposes of this chapter;

157 (32) Determine when a joint rule among the governing boards under its jurisdiction is
158 necessary or required by law and, in those instances, in consultation with the governing boards
159 under its jurisdiction, promulgate the joint rule;

160 (33) Promulgate and implement a rule jointly with the council whereby course credit
161 earned at a community and technical college transfers for program credit at any other state
162 institution of higher education and is not limited to fulfilling a general education requirement;

163 (34) By October 1, 2011, promulgate a rule pursuant to §18B-10-1 of this code,
164 establishing tuition and fee policy for all governing boards under the jurisdiction of the
165 commission, except the exempted schools. The rule shall include, but is not limited to, the
166 following:

167 (A) Differences among institutional missions;

168 (B) Strategies for promoting student access;

169 (C) Consideration of charges to out-of-state students; and

170 (D) Such other policies as the commission and council consider appropriate;

171 (35) Assist governing boards in actions to implement general disease awareness
172 initiatives to educate parents and students, particularly dormitory residents, about meningococcal
173 meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and
174 activities that can increase risks; measures that can be taken to prevent contact or infection; and
175 potential benefits of vaccination. The commission shall encourage governing boards that provide
176 medical care to students to provide access to the vaccine for those who wish to receive it; and

177 (36) Notwithstanding any other provision of this code to the contrary sell, lease, convey or
178 otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-1 *et*
179 *seq.* of this code.

180 (37) Policy analysis and research focused on issues affecting institutions of higher
181 education generally or a geographical region thereof;

182 (38) Development and approval of institutional mission definitions except the exempted
183 schools, including use of incentive funds to influence institutional behavior in ways that are
184 consistent with public priorities;

185 (39) Academic program review and approval for governing boards under its jurisdiction.
186 The review and approval includes use of institutional missions as a template to judge the
187 appropriateness of both new and existing programs and the authority to implement needed
188 changes.

189 (A) The commission's authority to review and approve academic programs for the
190 exempted schools is limited to programs that are proposed to be offered at a new location not
191 presently served by that institution: *Provided*, That West Virginia University and the West Virginia
192 University Institute of Technology are subject to the commission's authority as provided in §18B-
193 1C-2 of this code;

194 (B) In reviewing and approving academic programs, the commission shall focus on the
195 following policy concerns:

196 (1) New programs should not be implemented which change the institutional mission,
197 unless the institution also receives approval for expanding the institutional mission;

198 (2) New programs which will require significant additional expense investments for
199 implementation should not be implemented unless the institution demonstrates that:

200 (i) The expenses will be addressed by effective reallocations of existing institutional
201 resources; or

202 (ii) The expenses can be legitimately spread out over future years and will be covered by
203 reasonably anticipated additional net revenues from new enrollments;

204 (3) A new undergraduate program which is significantly similar to an existing program
205 already in the geographic service area should not be implemented unless the institution

206 requesting the new program demonstrates a compelling need in the service area that is not being
207 met by the existing program: *Provided*, That the academic programs of the exempted schools are
208 not to be taken into consideration except as it relates to academic programs offered at West
209 Virginia University in Beckley and West Virginia University Institute of Technology in Beckley.

210 (C) The commission shall approve or disapprove proposed academic degree programs in
211 those instances where approval is required as soon as practicable. The commission shall
212 maintain by rule a format model by which a new program approval shall be requested by an
213 institution. When a request for approval of a new program is submitted to the commission, the
214 chancellor shall provide notice within two weeks as to whether the submission meets the required
215 format, and if it does not the chancellor shall identify each specific deficiency and return the
216 request to the institution. The institution may re-file the request for approval with the commission
217 to address any identified deficiencies. Within 30 days after the chancellor's confirmation that the
218 request meets the required format, the commission shall either approve or disapprove the request
219 for the new program. The commission may not withhold approval unreasonably.

220 (40) Distribution of funds appropriated to the commission, including incentive and
221 performance-based funds;

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

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

227 (43) Developing and distributing information, assessment, accountability and personnel
228 systems for state colleges and universities, including maintaining statewide data systems that
229 facilitate long-term planning and accurate measurement of strategic outcomes and performance
230 indicators;

231 (44) Jointly with the council, promulgating and implementing rules for licensing and
232 oversight for both public and private degree-granting and nondegree-granting institutions that
233 provide post-secondary education courses or programs in the state. The council has authority
234 and responsibility for approval of all post-secondary courses or programs providing community
235 and technical college education as defined in §18B-1-2 of this code;

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

240 (46) (A) For all governing boards under its jurisdiction, except for the exempted schools,
241 the commission shall review institutional operating budgets, review and approve capital budgets,
242 and distribute incentive and performance-based funds;

243 (B) For the governing boards of, the exempted schools, the commission shall distribute
244 incentive and performance-based funds and may review and comment upon the institutional
245 operating budgets and capital budgets. The commission's comments, if any, shall be made part
246 of the governing board's minute record and shall be filed with the Legislative Oversight
247 Commission on Education Accountability;

248 (47) May provide information, research, and recommendations to state colleges and
249 universities relating to programs and vocations with employment rates greater than ninety percent
250 within six months post-graduation; and

251 (48) May provide information, research and recommendations to state colleges and
252 universities on coordinating with the West Virginia State Board of Education about complimentary
253 programs.

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

257 this article: *Provided*, That the provisions of this subsection ~~shall do not be construed to shift~~
258 management authority from the governing boards to the commission.

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

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

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

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

270 (d) The Higher Education Policy Commission shall examine the question of general
271 revenue appropriations to individual higher education institutions per student, and per credit hour,
272 and by other relevant measures at all higher education institutions, including four-year
273 baccalaureate institutions and the community and technical colleges, and on or before January
274 1, 2018, the commission shall deliver its report to the Joint Committee on Government and
275 Finance and the Legislative Oversight Commission on Education Accountability. This report shall
276 include a recommendation to the Legislature on a formula for the allocation of general revenue to
277 be appropriated to such institutions that provides for ratable funding across all four-year
278 institutions and community and technical colleges on a ratable basis, by enrolled student, by credit
279 hour or by other relevant measures. On such basis, the commission shall make a
280 recommendation to the Legislature as to the amounts that each such institution should have
281 appropriated to it in the general revenue budget for fiscal year 2019, based upon the total general

282 revenue appropriations that such institutions receive in aggregate in the enacted budget for fiscal
283 year 2018.

284 (e) On or after July 1, 2020, nothing in this section authorizes the commission to restrict
285 or regulate the carrying of a concealed pistol or revolver by a person who holds a current and
286 valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of
287 this code.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§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 programs. The
22 commission may review and comment upon the master plan of an exempted school. The
23 commission may review, but may not approve or disapprove, additions or deletions of degree
24 programs, except as expressly provided for in §18B-1B-4(a)(39) of this code.

25 (4) For the exempted schools, the master plan shall be updated at least bi-annually and
26 include the steps taken to meet the legislatively established policies contained in §18B-1D-1 *et*
27 *seq.* of this code and reports on each of the data elements identified in §18B-1D-1 *et seq.* of this
28 code, including progress that the exempted schools are making relating to retention and
29 graduation rates for resident students by organization and each college within the organization.
30 The exempted schools shall provide copies of their respective master plan to the Legislative
31 Oversight Commission on Education Accountability and the commission.

32 (c) Develop a 10-year campus development plan in accordance with §18B-19-1 *et seq.* of
33 this code;

34 (d) Prescribe for the institution, under its jurisdiction, in accordance with its master plan
35 and compact, specific functions and responsibilities to achieve the goals, objectives and priorities
36 established in §18B-1-1 *et seq.* and §18B-1D-1 *et seq.* of this code to meet the higher education
37 needs of its area of responsibility and to avoid unnecessary duplication;

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

41 (f) Consider, revise and submit for review and approval to the commission or council, as
42 appropriate, an appropriation request on behalf of the institution under its jurisdiction, including
43 the exempted schools;

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

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

59 (i) Subject to §18B-1B-1 *et seq.* of this code, approve the teacher education programs
60 offered in the institution under its control. In order to permit graduates of teacher education
61 programs to receive a degree from a nationally accredited program and in order to prevent
62 expensive duplication of program accreditation, the commission may select and use one
63 nationally recognized teacher education program accreditation standard as the appropriate
64 standard for program evaluation;

65 (j) Involve faculty, students and classified employees in institution-level planning and
66 decision making when those groups are affected;

67 (k) Subject to federal law and pursuant to §18B-7-1 *et seq.*, §18B-8-1 *et seq.*, §18B-9-1 *et*
68 *seq.*, and §18B-9A-1 *et seq.* of this code and to rules adopted by the commission and the council,
69 administer a system for the management of personnel matters, including, but not limited to,
70 discipline for employees at the institution under its jurisdiction: *Provided*, That any rules adopted
71 by the commission and the council do not apply to exempted schools;

72 (l) Administer a system for hearing employee grievances and appeals. Notwithstanding
73 any other provision of this code to the contrary, the procedure established in §6C-2-1 *et seq.* of
74 this code is the exclusive mechanism for hearing prospective employee grievances and appeals;

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

77 (n) Appoint a president for the institution under its jurisdiction, subject to §18B-1B-6 of this
78 code;

79 (o) Conduct written performance evaluations of the president, pursuant to §18B-1B-6 of
80 this code;

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

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

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

90 (s) Provide and transfer funds and property to certain corporations pursuant to §18B-12-
91 10 of this code;

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

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

108 (v) Consult, cooperate and coordinate with the State Treasurer and the State Auditor to
109 update as necessary and maintain an efficient and cost-effective system for the financial
110 management and expenditure of appropriated and nonappropriated revenue at the institution
111 under its jurisdiction. The system shall ensure that properly submitted requests for payment are
112 paid on or before the due date but, in any event, within 15 days of receipt in the State Auditor's
113 Office;

114 (w) In consultation with the appropriate chancellor and the Secretary of the Department of
115 Administration, develop, update as necessary and maintain a plan to administer a consistent
116 method of conducting personnel transactions, including, but not limited to, hiring, dismissal,
117 promotions, changes in salary or compensation and transfers at the institution under its

118 jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized
119 system or forms, as appropriate, which shall be submitted to the respective governing board and
120 the Department of Administration:

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

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

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

132 (y) Transfer funds from appropriated special revenue accounts for capital improvements
133 under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction
134 as long as the transferred funds are used for the purposes appropriated in accordance with §18B-
135 19-1 *et seq.* of this code;

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

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

144 (bb) A governing board under the jurisdiction of the commission may contract and pay for
145 any supplemental employee benefit, at the governing board's discretion: *Provided*, That if such
146 supplemental benefit program incurs institutional expense, then the board may not delegate the
147 approval of such supplemental employee benefit program.

148 (cc) On or after July 1, 2020, nothing in this section authorizes a governing board to restrict
149 or regulate the carrying of a concealed pistol or revolver by a person who holds a current and
150 valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of
151 this code.

**ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL
COLLEGE EDUCATION.**

§18B-2B-6. Powers and duties of the council.

1 (a) The council is the sole agency responsible for administration of vocational-technical-
2 occupational education and community and technical college education in the state. The council
3 has jurisdiction and authority over the community and technical colleges and the statewide
4 network of independently accredited community and technical colleges as a whole, including
5 community and technical college education programs as defined in §18B-1-2 of this code.

6 (b) The council shall propose rules pursuant to §18B-1-6 of this code and §29A-3A-1 *et*
7 *seq.* of this code to implement the provisions of this section and applicable provisions of §18B-
8 1D-1 *et seq.* of this code;

9 (1) To implement the provisions of §18B-1D-1 *et seq.* of this code relevant to community
10 and technical colleges, the council may propose rules jointly with the commission, or separately,
11 and may choose to address all components of the accountability system in a single rule or may
12 propose additional rules to cover specific components;

13 (2) The rules pertaining to financing policy and benchmarks and indicators required by this
14 section shall be filed with the Legislative Oversight Commission on Education Accountability by

15 October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated
16 again under the procedure set forth in §29A-3A-1 *et seq.* of this code unless such rules are
17 rescinded, revised, altered or amended; and

18 (3) The Legislature finds that an emergency exists and, therefore, the council shall
19 propose an emergency rule or rules to implement the provisions of this section relating to the
20 financing policy and benchmarks and indicators in accordance with §18B-1-6 and §29A-3A-1 *et*
21 *seq.* of this code by October 1, 2008. The emergency rule or rules may not be implemented
22 without prior approval of the Legislative Oversight Commission on Education Accountability.

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

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

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

30 (B) Addressing the goals and objectives contained in the institutional compacts created
31 pursuant to §18B-1D-7 of this code; and

32 (C) Developing and implementing the master plan described in §18B-1D-5 of this code;

33 (2) Propose a legislative rule pursuant to subsection (b) of this section and §29A-3A-1 *et*
34 *seq.* of this code to develop and implement a financing policy for community and technical college
35 education in West Virginia. The rule shall meet the following criteria:

36 (A) Provide an adequate level of education and general funding for institutions pursuant
37 to §18B-1A-5 of this code;

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

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

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

44 (i) Achieving the objectives and priorities established in §18B-1D-1 *et seq.* of this code;

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

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

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

49 and

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

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

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

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

63 (C) Holding each community and technical college and the statewide network of
64 independently accredited community and technical colleges as a whole accountable for

65 accomplishing their missions and achieving the goals and objectives established in §18B-1-1 *et*
66 *seq.*, §18B-1D-1 *et seq.*, and §18B-3C-1 *et seq.* of this code;

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

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

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

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

78 (8) Propose a legislative rule pursuant to subsection (b) of this section and §29A-3A-1 *et*
79 *seq.* of this code to establish benchmarks and indicators in accordance with the provisions of this
80 subsection;

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

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

85 (B) In carrying out institutional missions; and

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

87 (10) Establish a formal process for identifying needs for capital investments and for
88 determining priorities for these investments for consideration by the Governor and the Legislature
89 as part of the appropriation request process. Notwithstanding the language in §18B-1B-4(a)(11)
90 of this code, the commission is not a part of the process for identifying needs for capital

91 investments for the statewide network of independently accredited community and technical
92 colleges;

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

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

102 (13) Employ a chancellor for community and technical college education pursuant to §18B-
103 2B-3 of this code;

104 (14) Employ other staff as necessary and appropriate to carry out the duties and
105 responsibilities of the council consistent with the provisions of §18B-4-2 of this code;

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

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

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

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

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

128 (20) Seek out and attend regional and national meetings and forums on education and
129 workforce development-related topics, as council members consider critical for the performance
130 of their duties. The council shall keep abreast of national and regional community and technical
131 college education trends and policies to aid members in developing the policies for this state that
132 meet the education goals and objectives established in §18B-1-1 *et seq.* and §18B-1D-1 *et seq.*
133 of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

172 (A) Defining faculty roles and personnel policies;

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

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

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

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

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

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

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

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

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

191 (38) Coordinate with the commission in informing public school students, their parents and
192 teachers of the academic preparation that students need in order to be prepared adequately to

193 succeed in their selected fields of study and career plans, including presentation of academic
194 career fairs;

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

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

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

208 (42) Review and approve all institutional master plans for the community and technical
209 colleges pursuant to §18B-2A-4 of this code;

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

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

217 (45) Develop for inclusion in the higher education report card, as defined in §18B-1D-8 of
218 this code, a separate section on community and technical colleges. This section shall include, but

219 is not limited to, evaluation of the institutions based upon the benchmarks and indicators
220 developed in subdivision (9) of this subsection;

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

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

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

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

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

233 (49) Distribute federal vocational education funding provided under the Carl D. Perkins
234 Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing
235 financial assistance among secondary and post-secondary vocational-technical-occupational and
236 adult basic education programs to help meet the public policy agenda.

237 In distributing funds the council shall use the following guidelines:

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

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

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

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

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

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

259 (54) Promote public participation in the provision of vocational-technical-occupational
260 education, adult basic education and community and technical education at the local level,
261 emphasizing programs which involve the participation of local employers and labor organizations;

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

267 (56) Meet annually between the months of October and December with the Advisory
268 Committee of Community and Technical College Presidents created pursuant to §18B-2B-8 of

269 this code to discuss those matters relating to community and technical college education in which
270 advisory committee members or the council may have an interest;

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

273 (58) Assume the powers set out in §18B-2B-9 of this code. The rules previously
274 promulgated by the State College System Board of Directors pursuant to that section and
275 transferred to the commission are hereby transferred to the council and shall continue in effect
276 until rescinded, revised, altered or amended by the council;

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

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

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

286 (A) Comparisons with peer institutions;

287 (B) Differences among institutional missions;

288 (C) Strategies for promoting student access;

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

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

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

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

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

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

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

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

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

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

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

319 (7) Development, establishment and implementation of information, assessment and
320 internal accountability systems, including maintenance of statewide data systems that facilitate

321 long-term planning and accurate measurement of strategic outcomes and performance indicators
322 for community and technical colleges;

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

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

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

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

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

338 (2) The council has received information, substantiated by independent audit, of significant
339 mismanagement or failure to carry out the powers and duties of the Board of Governors according
340 to state law; or

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

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

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

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

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

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

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

358 (h) On or after July 1, 2020, nothing in this section provides the authority to restrict or
359 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid
360 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this
361 code.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5b. Concealed carry on higher education campuses; exceptions.

1 (a) A person who holds a current and valid license to carry a concealed deadly weapon is
2 permitted to carry a concealed pistol or revolver on the campus and in the buildings of a state
3 institution of higher education. This subsection only applies to areas of the campus and buildings
4 of a state institution of higher education under the custodial possession of the state institution of
5 higher education and does not include areas rented, leased, or under an exclusive agreement for
6 the full-time occupancy and use of a private entity.

7 (b) The provisions of subsection (a) of this section does not limit the authority of a state
8 institution of higher education to regulate possession of concealed pistols or revolvers by a person

9 who holds a current and valid license to carry a concealed deadly weapon in the following
10 locations consistent with §61-7-14 of this code:

11 (1) At an organized event taking place at a stadium or arena with a capacity of more than
12 1,000 spectators;

13 (2) At a daycare facility located on the property of the state institution of higher education;

14 (3) In the secure area of any building used by a law-enforcement agency on the property
15 of the state institution for higher education;

16 (4) In an area of the property of the state institution of higher education that has adequate
17 security measures in place to ensure that pistols or revolvers are not carried by the public into the
18 area. "Adequate security measures" means the use of electronic equipment and armed personnel
19 at public entrances to detect and restrict the carrying of any pistols or revolvers into the area,
20 including, but not limited to, metal detectors, metal detector wands or any other equipment used
21 for similar purposes to ensure that pistols or revolvers are not carried in those areas by members
22 of the public;

23 (5) At the specific location of a formal disciplinary or grievance hearing for a student or an
24 employee of a state institution of higher education taking place on the campus and in the buildings
25 of the state institution of higher education;

26 (6) In sole occupancy offices on the campus and in the buildings of the state institution of
27 higher education. "Sole occupancy office" means a room with at least one door and walls that
28 extend to the ceiling that is assigned to a single person as his or her workspace. This subdivision
29 does not provide authority to a state institution of higher education to prohibit, regulate, or restrict
30 faculty or staff who holds a current and valid license to carry a concealed deadly weapon from
31 carrying a concealed pistol or revolver in their assigned office;

32 (7) At a primary or secondary education school-sponsored function that is taking place in
33 a specific area on the property of the state institution of higher education that is rented, leased,
34 or under the exclusive use of the West Virginia Department of Education, the West Virginia

35 Secondary Schools Activities Commission, a county school board, or local public school for the
36 actual period of time the function is occurring;

37 (8) At a private function that is taking place in a specific area on the property of the state
38 institution of higher education that is rented, leased, or under the exclusive use of an entity that
39 is not affiliated with the state institution of higher education for the actual period of time the function
40 is occurring;

41 (9) In an area on the property of the state institution of higher education where possession
42 of a firearm is prohibited by state or federal law;

43 (10) In specifically designated areas in which patient-care or mental health counseling is
44 being provided;

45 (11) In high hazardous and animal laboratories, defined as laboratories with:

46 (A) Greater than 55 gallons of Class I flammable liquids and/or significant quantities of
47 acids, bases, organics, pyrophorics, peroxides, bio-hazardous materials, extremely toxic
48 materials or pyrophoric or toxic gases classified NFPA 704 Category 3 or higher;

49 (B) Hazardous gases with K-size or larger cylinders containing corrosive, reactive,
50 flammable, toxic, and/or oxidizer gases classified NFPA 704 Category 2 or higher;

51 (C) MRI and/or NMR equipment capable of generating significant magnetic fields with field
52 strength of at least 5 gauss is measured outside the equipment or 5 gauss line typically at least 3
53 feet and as much as 20 feet from equipment;

54 (D) Large cylinders of acetylene; or,

55 (E) Animal research laboratory spaces in locations not accessible to the public or generally
56 accessible to students and staff, or

57 (12) In on-campus residence halls, except common areas such as lounges, dining areas,
58 and study areas.

59 (c) Employees whose employment responsibilities require them to be in an on-campus
60 residence hall and hold a current and valid license to carry a concealed deadly weapon are

61 permitted to carry a concealed revolver or pistol on or about their person while present in on-
62 campus residence halls for business purposes.

63 (d) Institutions of higher education shall provide either: (1) a secure location for the storage
64 of a pistol or revolver in at least one of the institution's on-campus residence halls; or (2) make
65 available an appropriate safe that may be installed in a resident's room in any of the institution's
66 on-campus residence halls. If an institution chooses to make a storage room available to on-
67 campus residents at an on-campus residence hall, the institution shall develop a policy that
68 reserves an appropriate amount of rooms in the on-campus residence hall where the storage
69 room is located for on-campus residents with a current and valid license to carry a concealed
70 deadly weapon and who intend to use such storage. The institution shall make the storage room
71 available during all times during which the on-campus residence hall is open and fully operational
72 for use by its residents. If West Virginia University chooses to provide secure locations instead
73 of making safes available to students, it shall provide a secure location in at least two on-campus
74 residence halls at its Morgantown campus and one at each of its Beckley and Keyser campuses.

75 (e) An institution of higher education may charge a reasonable fee for the use of secure
76 storage or a safe.

77 (f) The provisions of subsection (a) of this section do not limit the authority of a state
78 institution of higher education from taking disciplinary action against a student or employee with
79 a valid license to carry a concealed deadly weapon who is convicted of a violation of §61-7-14 of
80 this code related to carrying a firearm in a location listed in subsection (b) of this section.

81 (g) Notwithstanding any provision of subsection (a) of this section to the contrary, while on
82 the campus or in the buildings of a state institution of higher education, a holder of a license to
83 carry a concealed deadly weapon may not carry a pistol or revolver which is partially or wholly
84 visible and intentionally or knowingly display the firearm in plain view of another person in a way
85 or manner to cause, or threaten, a breach of the peace regardless of whether the firearm is
86 holstered or on or about the license holder's person. A holder of a license to carry a concealed

87 deadly weapon who violates this subsection may be, in addition to any applicable criminal
88 charges, subject to administrative punishment which the state institution of higher education
89 considers appropriate.

90 (h) It is the intent of the Legislature to establish, by this Act, conditions under which
91 persons with a current and valid license to carry a concealed deadly weapon may carry a
92 concealed pistol or revolver at a state institution of higher education at the discretion of the person
93 who holds a current and valid license to carry a concealed deadly weapon. When a person
94 exercises the rights granted by this section, neither the carrying of a concealed pistol or revolver
95 nor any other conduct of such person involving a concealed pistol or revolver shall be construed
96 to be an act of the state institution of higher education nor of the state, and no liability for any such
97 actions of such person shall be imputed to the institution of higher education, unless the state
98 institution of higher education has expressly requested or directed such person to carry a
99 concealed pistol or revolver.

100 (i) For the purposes of this section, a “license to carry a concealed deadly weapon” refers
101 to a current and valid license, lawfully issued by the State of West Virginia pursuant to §61-7-4 or
102 §61-7-4a of this code or a current and valid license or permit recognized under §61-7-6a of this
103 code.

104 (j) No later than December 15th of each calendar year, the state institutions of higher
105 learning shall report on any issues related to implementation of “The Campus Self Defense Act”
106 to the Joint Committee on Government and Finance, including all financial effects and costs, any
107 effect on enrollment, any effect on retention or recruitment of faculty and staff, any incidents on
108 campus related to concealed carry of a pistol or revolver, or any other issue which the state
109 institution of higher learning identifies as relevant information for the Joint Committee on
110 Government and Finance to assess and evaluate the effect of “The Campus Self Defense Act”
111 on higher education in the State of West Virginia.

112 (k) This act may be cited as “The Campus Self Defense Act”.

113 (l) The provisions of this section apply on or after July 1, 2020.