

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Introduced**

## **Senate Bill 570**

BY SENATORS PHILLIPS, MARTIN, STOVER, SMITH, AND

KARNES

[Introduced March 5, 2021; referred  
to the Committee on the Judiciary]

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 denying institutions  
5 of higher education the authority to restrict or regulate the carrying of a concealed deadly  
6 weapon by a person who holds a current license to carry a concealed deadly weapon;  
7 providing exceptions as to when regulation may occur; and designating these  
8 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 article one-c of this chapter and shall be exercised and performed by the Interim  
7 Governing Board until July 1, 2001, as such powers, duties and authorities may apply to the  
8 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 article one-c of this chapter until July 1, 2001. Property transferred to or vested in the Board of  
13 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 section six of this article.

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 section six of  
98 this article. 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 section six of this article;

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 section six of this article.

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 section six of this article.

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 section six of this article.

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 such matter  
123 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) Nothing in this section provides the authority to restrict or regulate the carrying of a  
133 concealed deadly weapon by a person who holds a current license to carry a concealed deadly  
134 weapon except as expressly authorized in §18B-4-5b(b) of this 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 section three of this article.  
3 This grant of rule-making authority does not limit, overrule, restrict, supplant or supersede the  
4 rule-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 section three of this article. This grant  
7 of rule-making power extends only to those areas over which the council has been granted  
8 specific authority and jurisdiction by law.

9 (c) As it relates to the authority granted to governing boards of state institutions of higher

10 education to promulgate, adopt, amend or repeal any rule under this code:

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

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

21 (3) The commission 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 30-day  
31 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 reenactment 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) No rule adopted under this section may restrict or regulate the carrying of a concealed  
75 deadly weapon by a person who holds a current license to carry a concealed deadly weapon  
76 except as expressly authorized in §18B-4-5b(b) 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 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 goals,  
15 objectives, and priorities established in this chapter; and

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

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

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

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

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

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

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

- 36 (4) Serve as a point of contact to state policymakers:
- 37 (A) The Governor for the public policy agenda; and
- 38 (B) The Legislature by maintaining a close working relationship with the legislative  
39 leadership and the Legislative Oversight Commission on Education Accountability;
- 40 (5) Upon request, provide shared services to a state institution of higher education;
- 41 (6) Administer scholarship and grant programs as provided for in this code;
- 42 (7) Establish and implement the benchmarks and performance indicators for state colleges  
43 and universities necessary to measure institutional progress in achieving state policy priorities  
44 and institutional missions pursuant to §18B-1D-7 of this code;
- 45 (8) Establish a formal process for recommending capital investment needs and for  
46 determining priorities for state colleges and universities for these investments for consideration  
47 by the Governor and the Legislature as part of the appropriation request process pursuant to  
48 §18B-19-1 *et seq.* of this code;
- 49 (9) Except the statutorily exempted schools and the administratively exempted schools,  
50 develop standards and evaluate governing board requests for capital project financing in  
51 accordance with §18B-19-1 *et seq.* of this code;
- 52 (10) Except the statutorily exempted schools and administratively exempted schools,  
53 ensure that governing boards manage capital projects and facilities needs effectively, including  
54 review and approval of capital projects, in accordance with §18B-19-1 *et seq.* of this code;
- 55 (11) Acquire legal services as considered necessary, including representation of the  
56 commission, the governing boards, employees, and officers before any court or administrative  
57 body, notwithstanding any other provision of this code to the contrary. The counsel may be  
58 employed either on a salaried basis or on a reasonable fee basis. In addition, the commission  
59 may, but is not required to, call upon the Attorney General for legal assistance and representation  
60 as provided by law;
- 61 (12) Employ a Chancellor for Higher Education pursuant to §18B-1B-5 of this code;

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

65 (14) Provide suitable offices in Kanawha County for the chancellor, vice chancellors, and  
66 other staff;

67 (15) Approve the total compensation package from all sources for presidents of institutions  
68 under its jurisdiction, except the statutorily exempted schools, as proposed by the governing  
69 boards. The governing boards, except the governing boards of the statutorily exempted schools,  
70 must obtain approval from the commission of the total compensation package both when  
71 institutional presidents are employed initially and afterward when any change is made in the  
72 amount of the total compensation package: *Provided*, That the commission will receive notice,  
73 but need not approve or confirm, an increase in the compensation of an institutional president  
74 that is exactly in the ratio of compensation increases allocated to all institutional employees and  
75 approved by the governing board to expressly include the president;

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

81 (17) Approve and implement a uniform standard jointly with the council to determine which  
82 students shall be placed in remedial or developmental courses. The standard shall be aligned  
83 with college admission tests and assessment tools used in West Virginia and shall be applied  
84 uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of  
85 the standard which they shall communicate to the State Board of Education and the state  
86 superintendent of schools;

87 (18) Jointly with the council, develop and implement an oversight plan to manage

88 systemwide technology except for the statutorily exempted schools, including, but not limited to,  
89 the following:

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

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

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

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

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

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

112 (22) Establish and implement policies and programs, in cooperation with the council and  
113 the governing boards, through which a student who has gained knowledge and skills through

114 employment, participation in education, and training at vocational schools or other education  
115 institutions, or Internet-based education programs, may demonstrate by competency-based  
116 assessment that he or she has the necessary knowledge and skills to be granted academic credit  
117 or advanced placement standing toward the requirements of an associate's degree or a  
118 bachelor's degree at a state institution of higher education;

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

125 (24) Promulgate and implement a rule for higher education governing boards and  
126 institutions, except for the statutorily exempted schools and administratively exempted schools,  
127 to follow when considering capital projects pursuant to §18B-19-1 *et seq.* of this code, which rule  
128 shall provide for appropriate deference to the value judgments of governing boards under the  
129 jurisdiction of the commission;

130 (25) Submit to the appropriate agencies of the executive and legislative branches of state  
131 government an appropriation request that reflects recommended appropriations for the  
132 commission and the governing boards under its jurisdiction. The commission shall submit as part  
133 of its appropriation request the separate recommended appropriation request it received from the  
134 council, both for the council and for the governing boards under the council's jurisdiction. The  
135 commission annually shall submit the proposed allocations based on subsection (d) of this  
136 section;

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

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

142 (28) Determine when a joint rule among the governing boards under its jurisdiction is  
143 necessary or required by law and, in those instances, in consultation with the governing boards  
144 under its jurisdiction, promulgate the joint rule;

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

148 (30) Promulgate a rule pursuant to §18B-10-1 of this code establishing tuition and fee  
149 policy for all governing boards under the jurisdiction of the commission, except the exempted  
150 schools. The rule shall include, but is not limited to, the following:

151 (A) Differences among institutional missions;

152 (B) Strategies for promoting student access;

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

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

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

161 (32) Notwithstanding any other provision of this code to the contrary sell, lease, convey,  
162 or otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-  
163 1 *et seq.* of this code;

164 (33) Policy analysis and research focused on issues affecting institutions of higher  
165 education generally or a geographical region thereof;



166 (34) Development and approval of institutional mission definitions except the statutorily  
167 exempted schools and administratively exempted schools: *Provided*, That the commission may  
168 use funds appropriated by the Legislature for incentive funds to influence institutional behavior in  
169 ways that are consistent with public priorities, including the statutorily exempted schools and  
170 administratively exempted schools;

171 (35) Academic program review and approval for governing boards under its jurisdiction.  
172 The review and approval includes use of institutional missions as a template to judge the  
173 appropriateness of both new and existing programs and the authority to implement needed  
174 changes.

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

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

182 (i) New programs should not be implemented which change the institutional mission,  
183 unless the institution also receives approval for expanding the institutional mission;

184 (ii) New programs which will require significant additional expense investments for  
185 implementation should not be implemented unless the institution demonstrates that:

186 (I) The expenses will be addressed by effective reallocations of existing institutional  
187 resources; or

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

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

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

197 (C) The commission shall approve or disapprove proposed academic degree programs in  
198 those instances where approval is required as soon as practicable. The commission shall  
199 maintain by rule a format model by which a new program approval shall be requested by an  
200 institution. When a request for approval of a new program is submitted to the commission, the  
201 chancellor shall provide notice within two weeks as to whether the submission meets the required  
202 format, and if it does not the chancellor shall identify each specific deficiency and return the  
203 request to the institution. The institution may refile the request for approval with the commission  
204 to address any identified deficiencies. Within 30 days after the chancellor's confirmation that the  
205 request meets the required format, the commission shall either approve or disapprove the request  
206 for the new program. The commission may not withhold approval unreasonably.

207 (36) Distribution of funds appropriated to the commission, including incentive and  
208 performance-based funds;

209 (37) Administration of state and federal student aid programs under the supervision of the  
210 vice chancellor for administration, including promulgation of rules necessary to administer those  
211 programs;

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

214 (39) Developing and distributing information, assessment, accountability and personnel  
215 systems for state colleges and universities, including maintaining statewide data systems that  
216 facilitate long-term planning and accurate measurement of strategic outcomes and performance  
217 indicators;

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

223 (41) Developing, facilitating, and overseeing statewide and regional projects and initiatives  
224 related to providing post-secondary education at the baccalaureate level and above such as those  
225 using funds from federal categorical programs or those using incentive and performance-based  
226 funds from any source;

227 (42) (A) For all governing boards under its jurisdiction, except for the statutorily exempted  
228 schools, the commission shall review institutional operating budgets, review, and approve capital  
229 budgets, and distribute incentive and performance-based funds.

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

235 (43) May provide information, research, and recommendations to state colleges and  
236 universities relating to programs and vocations with employment rates greater than 90 percent  
237 within six months post-graduation; and

238 (44) May provide information, research, and recommendations to state colleges and  
239 universities on coordinating with the West Virginia State Board of Education about complimentary  
240 programs.

241 (b) In addition to the powers and duties provided in subsections (a) and (c) of this section  
242 and any other powers and duties assigned to it by law, the commission has other powers and  
243 duties necessary or expedient to accomplish the purposes of this article: *Provided*, That the

244 provisions of this subsection ~~shall do not be construed to~~ shift management authority from the  
245 governing boards to the commission.

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

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

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

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

257 (d) The Higher Education Policy Commission shall examine the question of general  
258 revenue appropriations to individual higher education institutions per student, and per credit hour,  
259 and by other relevant measures at state institutions of higher education under its jurisdiction and  
260 the council shall undertake the same analysis for the community and technical colleges, and on  
261 or before October 1 of each year the commission and council shall each deliver a report to the  
262 Joint Committee on Government and Finance and the Legislative Oversight Commission on  
263 Education Accountability. These reports shall include a recommendation to the Legislature on a  
264 formula or methodology for the allocation of general revenue to be appropriated to such  
265 institutions that provides for ratable funding across all four-year institutions and community and  
266 technical colleges on a ratable basis, by enrolled student, by credit hour or by other relevant  
267 measures. The commission and council shall take into consideration the needs of each institution  
268 relating to a base level of appropriation support and mission differentiation. On such basis, the  
269 commission and council shall each make a recommendation to the Legislature as to the amounts

270 that each such institution should have appropriated to it in the general revenue budget for the  
 271 next fiscal year, based upon the total general revenue appropriations that such institutions receive  
 272 in aggregate in the enacted budget for the current fiscal year. The commission and council shall  
 273 engage with the four-year institutions and community and technical colleges, as appropriate, to  
 274 seek to develop a consensus on the formulas and methodologies underlying any  
 275 recommendations required by this subsection. The commission and council shall provide the four-  
 276 year institutions and community and technical colleges with at least 30 days written notice to  
 277 comment on any recommendations before any report contemplated by this subsection is provided  
 278 to the Legislature.

279 (e) Nothing in this section authorizes the commission to restrict or regulate the carrying of  
 280 a concealed deadly weapon by a person who holds a current license to carry a concealed deadly  
 281 weapon except as expressly authorized in §18B-4-5b(b) of 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-9A1 *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) Nothing in this section authorizes a governing board to restrict or regulate the carrying  
 149 of a concealed deadly weapon by a person who holds a current license to carry a concealed  
 150 deadly weapon except as expressly authorized in §18B-4-5b(b) of 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 section nine of this article. 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, collaborate  
350 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) Nothing in this section provides the authority to restrict or regulate the carrying of a  
359 concealed deadly weapon by a person who holds a current license to carry a concealed deadly  
360 weapon except as expressly authorized in §18B-4-5b(b) of this 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 deadly weapon 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) Subsection (a) of this section does not limit the authority of a state institution of higher  
8 education to regulate possession of firearms in the following locations consistent with §61-7-14  
9 of this code:

10 (1) At an organized event taking place at a stadium or arena with a capacity of more than  
11 1,500 spectators;

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

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

15 (4) In an area of the property of the state institution of higher education that has adequate  
16 security measures in place to ensure that no weapons are permitted to be carried by the public

17 into the area. “Adequate security measures” means the use of electronic equipment and armed  
18 personnel at public entrances to detect and restrict the carrying of any weapons into the area,  
19 including, but not limited to, metal detectors, metal detector wands or any other equipment used  
20 for similar purposes to ensure that weapons are not permitted to be carried in those areas by  
21 members of the public;

22 (5) At the specific location of a formal disciplinary hearing for a student or an employee of  
23 a state institution of higher education taking place on the property of the state institution of higher  
24 education;

25 (6) In sole occupancy offices on the property of the state institution of higher education.  
26 “Sole occupancy office” means a room with at least one door and walls that extend to the ceiling  
27 that is assigned to a single person as his or her workspace. This subdivision does not provide  
28 authority to a state institution of higher education to prohibit, regulate, or restrict faculty or staff  
29 from carrying a concealed deadly weapon in their assigned office;

30 (7) At a primary or secondary education school-sponsored function that is taking place in  
31 a specific area on the property of the state institution of higher education that is rented, leased,  
32 or under the exclusive use of the West Virginia Department of Education, the West Virginia  
33 Secondary Schools Activities Commission, a county school Board, or local public school for the  
34 actual period of time the function is occurring;

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

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

41 (c) Subsection (a) of this section does not limit the authority of a state institution of higher  
42 education from taking disciplinary action against a student or employee with a valid license to

43 carry a concealed deadly weapon who is convicted of a violation of §61-7-14 in relation to carrying  
44 a firearm in a location listed in subsection (b) of this section.

45 (d) Notwithstanding subsection (a) of this section, a holder of a license to carry a  
46 concealed deadly weapon may not carry a partially or wholly visible firearm, regardless of whether  
47 the firearm is holstered or on or about the license holder's person and intentionally or knowingly  
48 display the firearm in plain view of another person in a way or manner to cause, or threaten, a  
49 breach of the peace while on the campus or in the buildings of a state institution of higher  
50 education. A holder of a license to carry a concealed deadly weapon who violates this subsection  
51 is subject to administrative punishment the state institution of higher education considers  
52 appropriate.

53 (e) A state institution of higher education is immune from liability if a loss or claim results  
54 from a license to carry a concealed deadly weapon holder's intentional or unintentional use of a  
55 firearm while carrying pursuant to this section.

56 (f) For the purposes of this section, a "license to carry a concealed deadly weapon" refers  
57 to a current and valid license, lawfully issued by the State of West Virginia pursuant to §61-7-4 or  
58 §61-7-4a of this code or a current and valid license or permit recognized under §61-7-6a of this  
59 code.

60 (g) This act may be cited as "The Campus Self Defense Act".

NOTE: The purpose of this bill is to allow a person who holds a current and valid license to carry a concealed deadly weapon to carry such a weapon on the campus and in the buildings of a state institution of higher education. It provides exceptions and immunity to an institution for a licensee's intentional or unintentional use of a firearm while carrying it under the act. The bill seeks to acknowledge that violence against disarmed law-abiding citizens is an increasing, but unnecessary, occurrence. The bill is an attempt by the Legislature to reaffirm a law-abiding citizen's Second Amendment Right, the right to protect themselves by allowing legally licensed and permitted employees, staff, and students of public universities the right to legally carry a concealed weapon within specified limitations.

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