

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 104

FISCAL
NOTE

By Senators Karnes, Tarr, Woodrum, and Maynard

[Introduced January 11, 2023; 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-2A-
3 4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code by
4 adding thereto a new section, designated §18B-4-5b, all relating to denying institutions of
5 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.

9 §18B-1-3. Transfer of powers, duties, property, obligations, etc.(a) All powers, duties and
10 authorities transferred to the Board of Regents pursuant to former provisions of chapter 18 of this
11 code and transferred to the Board of Trustees and Board of Directors which were created as the
12 governing boards pursuant to the former provisions of this chapter and all powers, duties and
13 authorities of the Board of Trustees and Board of Directors, to the extent they are in effect on June
14 17, 2000, are hereby transferred to the Interim Governing Board created in article one-c of this
15 chapter and shall be exercised and performed by the Interim Governing Board until July 1, 2001,
16 as such powers, duties and authorities may apply to the institutions under its jurisdiction.

17 (b) Title to all property previously transferred to or vested in the Board of Trustees and the
18 Board of Directors and property vested in either of the Boards separately, formerly existing under
19 the provisions of this chapter, are hereby transferred to the Interim Governing Board created in
20 article one-c of this chapter until July 1, 2001. Property transferred to or vested in the Board of
21 Trustees and Board of Directors shall include:

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

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

27 (3) All property acquired in the name of the State Commission on Higher Education and
28 transferred to and vested in the West Virginia Board of Regents; and

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

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

36 (1) Each valid agreement and obligation of the Board of Governors of West Virginia
37 University transferred to and deemed the agreement and obligation of the West Virginia Board of
38 Regents;

39 (2) Each valid agreement and obligation of the State Board of Education with respect to the
40 state colleges and universities transferred to and deemed the agreement and obligation of the
41 West Virginia Board of Regents;

42 (3) Each valid agreement and obligation of the State Commission on Higher Education
43 transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;
44 and

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

47 (d) All orders, resolutions and rules adopted or promulgated by the respective Board of
48 Trustees and Board of Directors and in effect immediately prior to July 1, 2000, are hereby
49 transferred to the Interim Governing Board until July 1, 2001, and shall continue in effect and shall

50 ~~be deemed~~ are the orders, resolutions and rules of the Interim Governing Board until rescinded,
51 revised, altered or amended by the commission or the governing boards in the manner and to the
52 extent authorized and permitted by law. ~~Such~~ The orders, resolutions and rules shall include:

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

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

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

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

67 (e) Title to all real property transferred to or vested in the Interim Governing Board pursuant
68 to this section of the code is hereby transferred to the commission effective July 1, 2001. The
69 Board of Governors for each institution may request that the commission transfer title to the Board
70 of Governors of any real property specifically identifiable with that institution or the commission
71 may initiate the transfer. Any such request must be made within two years of the effective date of
72 this section and be accompanied by an adequate legal description of the property. In the case of
73 real property that is specifically identifiable with Marshall University or West Virginia University, the
74 commission shall transfer title to all real property, except real property that is used jointly by
75 institutions or for statewide programs under the jurisdiction of the commission or the council, to the

76 Board of Governors of Marshall University or West Virginia University, as appropriate, upon receipt
77 of a request from the appropriate governing board accompanied by an adequate legal description
78 of the property.

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

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

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

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

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

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

96 (1) Adopted or promulgated by the respective Board of Trustees, Board of Directors or
97 Interim Governing Board and in effect immediately prior to July 1, 2001, are hereby transferred to
98 the commission effective July 1, 2001, and continue in effect until rescinded, revised, altered,
99 amended or transferred to the governing boards by the commission as provided in this section and
100 in section six of this article.

101 (2) Adopted or promulgated by the commission relating solely to community and technical

102 colleges or community and technical college education, or rules which the council finds necessary
103 for the exercise of its lawful powers and duties pursuant to the provisions of this chapter, may be
104 adopted by the council and continue in effect until rescinded, revised, altered, amended or
105 transferred to the governing boards under the jurisdiction of the council pursuant to section six of
106 this article. Nothing in this section requires the initial rules of the commission that are adopted by
107 the council to be promulgated again under the procedure set forth in §29A-3A-1 *et seq.* of this
108 code unless ~~such~~ the rules are rescinded, revised, altered or amended.

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

112 (A) That portion of the rule relating solely to community and technical colleges or
113 community and technical college education is transferred to the council and continues in effect
114 until rescinded, revised, altered, amended or transferred to the governing boards by the council as
115 provided in this section and in section six of this article;

116 (B) That portion of the rule relating to institutions or education other than community and
117 technical colleges is retained by the commission and continues in effect until rescinded, revised,
118 altered, amended or transferred to the governing boards by the commission as provided in this
119 section and in section six of this article.

120 (i) The commission may, in its sole discretion, transfer any rule, other than a legislative
121 rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may
122 rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the
123 commission pursuant to section six of this article.

124 The council may, in its sole discretion, transfer any rule, other than a legislative rule, to the
125 jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind,
126 revise, alter or amend any rule so transferred pursuant to rules adopted by the council pursuant to
127 section six of this article.

128 (j) As to any title, agreement, obligation, order, resolution, rule or any other matter about
129 which there is some uncertainty, misunderstanding or question, the matter shall be summarized in
130 writing and sent to the commission which shall make a determination regarding such matter within
131 30 days of receipt thereof.

132 (k) Rules or provisions of law which refer to other provisions of law which were repealed,
133 rendered inoperative or superseded by the provisions of this section shall remain in full force and
134 effect to such extent as may still be applicable to higher education and may be so interpreted.
135 Such references include, but are not limited to, references to sections and prior enactments of
136 §18-26-1 *et seq.* of this code and code provisions relating to retirement, health insurance,
137 grievance procedures, purchasing, student loans and savings plans. Any determination which
138 needs to be made regarding applicability of any provision of law shall first be made by the
139 commission.

140 (l) Nothing in this section provides the authority to restrict or regulate the carrying of a
141 concealed deadly weapon by a person who holds a current license to carry a concealed deadly
142 weapon except as expressly authorized in §18B-4-5b(b) of this code.

§18B-1-6. Rulemaking.

143 (a) The commission ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal
144 rules, in accordance with §29A-3A-1 *et seq.* of this code, subject to section three of this article.
145 This grant of rule-making authority does not limit, overrule, restrict, supplant or supersede the rule-
146 making authority provided to the exempted schools.

147 (b) The council ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal rules in
148 accordance with §29A-3A-1 *et seq.* of this code, subject to section three of this article. This grant
149 of rule-making power extends only to those areas over which the council has been granted specific
150 authority and jurisdiction by law.

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

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

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

163 (3) The commission shall promulgate a rule to guide the development of rules made by the
164 governing boards, including a process for comment by the commission as appropriate, except the
165 exempted schools, who shall each promulgate their own such rules. The council shall promulgate
166 a rule to guide the development and approval of rules made by the governing boards. The
167 commission and council shall provide technical assistance in rulemaking as requested. The rules
168 promulgated by the exempted schools, the commission and council shall include, but are not
169 limited to, the following provisions which shall be included in the rule on rules adopted by each
170 governing board of a state institution of higher education:

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

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

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

178 (D) Except for the exempted schools, a procedure for the governing board to follow in

179 submitting its rules for review and comment by the commission and approval by the council, as
180 appropriate:

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

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

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

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

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

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

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

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

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

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

212 (i) Any rule of the commission or council in effect at the time of the reenactment of this
213 section or approved by the Legislature during its 2017 Regular Session shall remain in effect and
214 applicable to an institution of higher education under the jurisdiction of the commission or council
215 until such time as an institution exercises its authority to adopt a rule pursuant to this chapter.

216 (j) No rule adopted under this section may restrict or regulate the carrying of a concealed
217 deadly weapon by a person who holds a current license to carry a concealed deadly weapon
218 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.

219 (a) The primary responsibility of the commission is to provide shared services in a cost-
220 effective manner upon request to the state colleges and universities, the West Virginia Council for
221 Community and Technical College Education, and the community and technical colleges;
222 undertake certain statewide and regional initiatives as specifically designated in this chapter,
223 including those related to the administration of grants and scholarships and including those in
224 conjunction with the council; to review, confirm, or approve certain actions undertaken by
225 governing boards, as delineated in this chapter; and assist in the development of policy that will
226 achieve the goals, objectives and priorities found in §18B-1-1a and §18B-1D-1 of this code. The
227 commission shall exercise its authority and carry out its responsibilities in a manner that is
228 consistent and not in conflict with the powers and duties assigned by law to the West Virginia

229 Council for Community and Technical College Education and the powers and duties assigned to
230 the governing boards. To that end, the commission has the following powers and duties relating to
231 the governing boards under its jurisdiction:

232 (1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this
233 code to address major challenges facing the state, including, but not limited to, the goals,
234 objectives, and priorities established in this chapter

235 (2) In conjunction with the council, propose emergency and legislative rules in accordance
236 with §29A-3A-1 and §18B-1-6 of this code to establish a performance-based funding formula
237 model the commission and council shall use, beginning in the fiscal year 2024 budget cycle, in
238 developing their annual budget requests to ensure the fair and equitable distribution and use of
239 public funds among the state's institutions of higher education, including the statutorily and
240 administratively exempted schools. This funding formula model shall advance the goals of the
241 state's postsecondary education system by emphasizing outcomes focused on student success
242 and institutional mission achievement. The formula shall include a range of variables that shall be
243 weighted in a manner that corresponds to each institution's mission and provides incentives for
244 productivity improvements consistent with the goal of strengthening the state's economy and
245 workforce by developing the most competitive and capable graduates in the nation. The rule shall,
246 at a minimum:

247 (A) Establish a set of objective performance metrics that reflect and support the state's
248 higher education goals and priorities and the methodology by which those metrics shall be used in
249 the allocation of state funds;

250 (B) Ensure that a portion of each institution's base appropriation is allocated based on
251 outcomes achieved over a defined period of time;

252 (C) Incentivize postsecondary program offerings that align with the state's higher
253 education and workforce development priorities; and

254 (D) Establish safeguards to ensure stability of the funding formula model including, but not

255 limited to, providing for periodic reviews of and revision to the performance metrics and funding
256 methodology in addition to accounting for inflation;

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

258 (A) Building public consensus around and sustaining attention to a long-range public policy
259 agenda. In developing the agenda, the commission and council shall seek input from the
260 Legislature, the Governor, the governing boards, and the State Board of Education and local
261 school districts to create the necessary linkages to assure smooth, effective and seamless
262 movement of students through the public education and post-secondary education systems and to
263 ensure that the needs of public school courses and programs can be fulfilled by the graduates
264 produced and the programs offered;

265 (B) Assisting governing boards in carrying out their duty effectively to govern the individual
266 institutions of higher education;

267 (4) Serve as a point of contact to state policymakers:

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

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

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

272 (6) Administer scholarship and grant programs as provided for in this code;

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

276 (8) Establish a formal process for recommending capital investment needs and for
277 determining priorities for state colleges and universities for these investments for consideration by
278 the Governor and the Legislature as part of the appropriation request process pursuant to §18B-
279 19-1 *et seq.* of this code;

280 (9) Except the statutorily and administratively exempted schools, develop standards and

281 evaluate governing board requests for capital project financing in accordance with §18B-19-1 *et*
282 *seq.* of this code;

283 (10) Except the statutorily and administratively exempted schools, ensure that governing
284 boards manage capital projects and facilities needs effectively, including review and approval of
285 capital projects, in accordance with §18B-19-1 *et seq.* of this code;

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

292 (12) Employ a chancellor, and any interim chancellor employed shall meet all criteria
293 required of the chancellor, pursuant to §18B-1B-5 of this code;

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

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

299 (15) Approve the total compensation package from all sources for presidents of institutions
300 under its jurisdiction, except the statutorily exempted schools, as proposed by the governing
301 boards. The governing boards, except the governing boards of the statutorily exempted schools,
302 must obtain approval from the commission of the total compensation package both when
303 institutional presidents are employed initially and afterward when any change is made in the
304 amount of the total compensation package: *Provided*, That the commission shall receive notice,
305 but need not approve or confirm, an increase in the compensation of an institutional president that
306 is exactly in the ratio of compensation increases allocated to all institutional employees and

307 approved by the governing board to expressly include the president;

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

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

319 (18) Jointly with the council and in conjunction with the West Virginia Network, support
320 systemwide technology needs through leveraged consortium purchasing, software, database and
321 networking support, and other services including, but not limited to, the following:

322 (A) Expanding distance learning and technology networks to enhance teaching and
323 learning, and promoting access to quality educational offerings with minimum duplication of effort;
324 and

325 (B) Increasing the delivery of instruction to nontraditional students, providing services to
326 business and industry, and increasing the management capabilities of the higher education
327 system.

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

331 (19) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to
332 ensure that, within sound academic policy, a student may transfer and apply toward the

333 requirements of any postsecondary credential the maximum number of credits earned at any
334 regionally accredited in-state or out-of-state institution of higher education in a manner that
335 minimizes the need to repeat courses or incur additional costs. This requirement applies to
336 transfer processes for all levels of postsecondary programs delivered at community and technical
337 colleges, baccalaureate-degree-granting institutions, and graduate-degree-granting institutions;

338 (20) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to
339 develop a program through which a student who has gained knowledge and skills through
340 employment, participation in education, and training at vocational schools or other education
341 institutions, or Internet-based education programs, may demonstrate by competency-based
342 assessment that he or she has the necessary knowledge and skills to be granted academic credit
343 or advanced placement standing toward the requirements of an associate's degree or a bachelor's
344 degree at a state institution of higher education;

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

351 (22) Promulgate and implement a rule for governing boards and institutions to follow when
352 considering capital projects pursuant to §18B-19-1 *et seq.* of this code, which rule shall provide for
353 appropriate deference to the value judgments of governing boards and may not apply to the
354 statutorily or administratively exempted schools;

355 (23) Submit to the appropriate agencies of the executive and legislative branches of state
356 government an appropriation request that reflects recommended appropriations for the
357 commission and the governing boards under its jurisdiction including the statutorily and
358 administratively exempted schools. The commission shall submit as part of its appropriation

359 request the separate recommended appropriation request it received from the council, both for the
360 council and for the governing boards under the council's jurisdiction. The commission annually
361 shall submit the proposed allocations based on the funding formula model required by subdivision
362 (a)(2) of this section;

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

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

368 (26) Determine when a joint rule among the governing boards under its jurisdiction is
369 necessary or required by law and, in those instances, in consultation with the governing boards
370 under its jurisdiction, promulgate the joint rule;

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

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

377 (A) Differences among institutional missions;

378 (B) Strategies for promoting student access;

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

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

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

384 (30) Policy analysis and research focused on issues affecting institutions of higher

385 education generally or a geographical region thereof;

386 (31) Development and approval of institutional mission definitions except the statutorily
387 and administratively exempted schools: *Provided*, That the commission may use funds
388 appropriated by the Legislature for incentive funds to influence institutional behavior in ways that
389 are consistent with public priorities, including the statutorily and administratively exempted
390 schools;

391 (32) Academic program review and approval for governing boards under its jurisdiction,
392 except the statutorily and administratively exempted schools. The review and approval includes
393 use of institutional missions as a template to judge the appropriateness of both new and existing
394 programs and the authority to implement needed changes.

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

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

402 (i) New programs may not be implemented which change the institutional mission, unless
403 the institution also receives approval for expanding the institutional mission;

404 (ii) New programs which require significant additional expense investments for
405 implementation may not be implemented unless the institution demonstrates that:

406 (I) The expenses shall be addressed by effective reallocations of existing institutional
407 resources; or

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

410 (iii) A new undergraduate program which is significantly similar to an existing program

411 already in the geographic service area may not be implemented unless the institution requesting
412 the new program demonstrates a compelling need in the service area that is not being met by the
413 existing program: *Provided*, That the academic programs of the statutorily and administratively
414 exempted schools are not to be taken into consideration except as it relates to academic programs
415 offered at West Virginia University in Beckley and West Virginia University Institute of Technology
416 in Beckley.

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

427 (33) Distribution of funds appropriated to the commission, including incentive and
428 performance-based funds;

429 (34) Administration of state and federal student aid programs under the supervision of the
430 vice chancellor for administration, including promulgation of rules necessary to administer those
431 programs;

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

434 (36) Developing and distributing information, assessment, accountability and personnel
435 systems for state colleges and universities, including maintaining statewide data systems that
436 facilitate long-term planning and accurate measurement of strategic outcomes and performance

437 indicators;

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

443 (38) Developing, facilitating, and overseeing statewide and regional projects and initiatives
444 related to providing post-secondary education at the baccalaureate level and above such as those
445 using funds from federal categorical programs or those using incentive and performance-based
446 funds from any source;

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

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

455 (40) May provide information, research, and recommendations to state colleges and
456 universities relating to programs and vocations with employment rates greater than 90 percent
457 within six months post-graduation; and

458 (41) May provide information, research, and recommendations to state colleges and
459 universities on coordinating with the West Virginia State Board of Education about complimentary
460 programs.

461 (b) In addition to the powers and duties provided in this section and any other powers and
462 duties assigned to it by law, the commission has other powers and duties necessary or expedient

463 to accomplish the purposes of this chapter and Chapter 18C of this code: *Provided*, That the
464 provisions of this subsection may not be construed to shift management authority from the
465 governing boards to the commission.

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

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

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

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

477 (d) The Higher Education Policy Commission shall examine the question of general
478 revenue appropriations to individual higher education institutions per student, and per credit hour,
479 and by other relevant measures at state institutions of higher education under its jurisdiction and
480 the council shall undertake the same analysis for the community and technical colleges, and on or
481 before October 1 of each year the commission and council shall each deliver a report to the Joint
482 Committee on Government and Finance and the Legislative Oversight Commission on Education
483 Accountability. These reports shall include a recommendation to the Legislature on a formula or
484 methodology for the allocation of general revenue to be appropriated to such institutions that
485 provides for ratable funding across all four-year institutions and community and technical colleges
486 on a ratable basis, by enrolled student, by credit hour or by other relevant measures. The
487 commission and council shall take into consideration the needs of each institution relating to a
488 base level of appropriation support and mission differentiation. On such basis, the commission

489 and council shall each make a recommendation to the Legislature as to the amounts that each
 490 such institution should have appropriated to it in the general revenue budget for the next fiscal
 491 year, based upon the total general revenue appropriations that such institutions receive in
 492 aggregate in the enacted budget for the current fiscal year. The commission and council shall
 493 engage with the four-year institutions and community and technical colleges, as appropriate, to
 494 seek to develop a consensus on the formulas and methodologies underlying any
 495 recommendations required by this subsection. The commission and council shall provide the four-
 496 year institutions and community and technical colleges with at least 30 days written notice to
 497 comment on any recommendations before any report contemplated by this subsection is provided
 498 to the Legislature.

499 (e) Nothing in this section authorizes the commission to restrict or regulate the carrying of a
 500 concealed deadly weapon by a person who holds a current license to carry a concealed deadly
 501 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.

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

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

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

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

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

512 (A) A detailed demonstration of how the master plan will be used to meet the goals,

513 objectives and priorities of the compact;

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

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

521 (3) The plan shall be established for periods of not fewer than three nor more than five
522 years and shall be revised periodically as necessary, including adding or deleting programs. The
523 commission may review and comment upon the master plan of an exempted school. The
524 commission may review, but may not approve or disapprove, additions or deletions of degree
525 programs, except as expressly provided for in §18B-1B-4(a)(39) of this code.

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

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

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

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

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

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

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

560 (i) Subject to §18B-1B-1 *et seq.* of this code, approve the teacher education programs
561 offered in the institution under its control. In order to permit graduates of teacher education
562 programs to receive a degree from a nationally accredited program and in order to prevent
563 expensive duplication of program accreditation, the commission may select and use one
564 nationally recognized teacher education program accreditation standard as the appropriate

565 standard for program evaluation;

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

568 (k) Subject to federal law and pursuant to §18B-7-1 *et seq.*, §18B-8-1 *et seq.*, §18B-9-1 *et*
569 *seq.*, and §18B-9A1 *et seq.* of this code and to rules adopted by the commission and the council,
570 administer a system for the management of personnel matters, including, but not limited to,
571 discipline for employees at the institution under its jurisdiction: *Provided*, That any rules adopted
572 by the commission and the council do not apply to exempted schools;

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

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

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

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

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

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

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

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

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

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

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

615 (w) In consultation with the appropriate chancellor and the Secretary of the Department of
616 Administration, develop, update as necessary and maintain a plan to administer a consistent

617 method of conducting personnel transactions, including, but not limited to, hiring, dismissal,
618 promotions, changes in salary or compensation and transfers at the institution under its
619 jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized
620 system or forms, as appropriate, which shall be submitted to the respective governing board and
621 the Department of Administration:

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

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

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

633 (y) Transfer funds from appropriated special revenue accounts for capital improvements
634 under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction as
635 long as the transferred funds are used for the purposes appropriated in accordance with §18B-19-
636 1 *et seq.* of this code;

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

642 (aa) Contract and pay for disability insurance for a class or classes of employees at a state

643 institution of higher education under its jurisdiction.

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

648 (cc) Nothing in this section authorizes a governing board to restrict or regulate the carrying
 649 of a concealed deadly weapon by a person who holds a current license to carry a concealed
 650 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.

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

656 (b) The council shall propose rules pursuant to §18B-1-6 of this code and §29A-3A-1 *et*
 657 *seq.* of this code to implement the provisions of this section and applicable provisions of §18B-1D-
 658 1 *et seq.* of this code;

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

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

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

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

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

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

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

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

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

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

686 (A) Provide an adequate level of education and general funding for institutions pursuant to
687 §18B-1A-5 of this code;

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

690 (C) Establish a plan for strategic funding to strengthen capacity for support of community

691 and technical college education; and

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

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

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

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

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

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

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

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

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

712 (C) Holding each community and technical college and the statewide network of
713 independently accredited community and technical colleges as a whole accountable for
714 accomplishing their missions and achieving the goals and objectives established in §18B-1-1 *et*
715 *seq.*, §18B-1D-1 *et seq.*, and §18B-3C-1 *et seq.* of this code;

716 (4) Develop for inclusion in the statewide public agenda, a plan for raising education

717 attainment, increasing adult literacy, promoting workforce and economic development and
718 ensuring access to advanced education for the citizens of West Virginia;

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

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

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

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

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

732 (A) In meeting state goals, objectives, and priorities established in §18B-1-1 *et seq.* and
733 §18B-1D-1 *et seq.* of this code;

734 (B) In carrying out institutional missions; and

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

736 (10) Establish a formal process for identifying needs for capital investments and for
737 determining priorities for these investments for consideration by the Governor and the Legislature
738 as part of the appropriation request process. Notwithstanding the language in §18B-1B-4(a)(11) of
739 this code, the commission is not a part of the process for identifying needs for capital investments
740 for the statewide network of independently accredited community and technical colleges;

741 (11) Draw upon the expertise available within the Governor's Workforce Investment Office
742 and the West Virginia Development Office as a resource in the area of workforce development and

743 training;

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

750 (13) Employ a chancellor for community and technical college education pursuant to §18B-
751 2B-3 of this code;

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

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

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

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

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

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

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

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

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

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

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

794 (A) Incorporates the provisions of the financing rule mandated by this section to measure

795 and provide performance funding to institutions which achieve or make significant progress toward
796 achieving established state objectives and priorities;

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

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

801 (25) Administer and distribute the independently accredited community and technical
802 college development account;

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

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

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

811 (29) Advise and consent in the appointment of the presidents of the community and
812 technical colleges pursuant to §18B-1B-6 of this code. The role of the council in approving a
813 president is to assure through personal interview that the person selected understands and is
814 committed to achieving the goals and objectives established in the institutional compact and in
815 §18B-1-1 *et seq.* §18B-1D-1 *et seq.* and §18B-3C-1 *et seq.* of this code;

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

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

820 (A) Defining faculty roles and personnel policies;

- 821 (B) Delivering high-cost technical education programs across the state;
- 822 (C) Providing one-stop service for workforce training to be delivered by multiple
823 institutions; and
- 824 (D) Providing opportunities for resource-sharing and collaborative ventures;
- 825 (32) Provide support and technical assistance to develop, coordinate, and deliver effective
826 and efficient community and technical college education programs and services in all regions of
827 the state;
- 828 (33) Assist the community and technical colleges in establishing and promoting links with
829 business, industry and labor in the geographic areas for which each community and technical
830 college is responsible;
- 831 (34) Develop alliances among the community and technical colleges for resource sharing,
832 joint development of courses and courseware, and sharing of expertise and staff development;
- 833 (35) Serve aggressively as an advocate for development of a seamless curriculum;
- 834 (36) Cooperate with all providers of education services in the state to remove barriers
835 relating to a seamless system of public and higher education and to transfer and articulate
836 between and among community and technical colleges, state colleges and universities and public
837 education, preschool through grade 12;
- 838 (37) Encourage the most efficient use of available resources;
- 839 (38) Coordinate with the commission in informing public school students, their parents and
840 teachers of the academic preparation that students need in order to be prepared adequately to
841 succeed in their selected fields of study and career plans, including presentation of academic
842 career fairs;
- 843 (39) Jointly with the commission, approve and implement a uniform standard, as
844 developed by the chancellors, to determine which students shall be placed in remedial or
845 developmental courses. The standard shall be aligned with college admission tests and
846 assessment tools used in West Virginia and shall be applied uniformly by the governing boards

847 throughout the public higher education system. The chancellors shall develop a clear, concise
848 explanation of the standard which the governing boards shall communicate to the State Board of
849 Education and the State Superintendent of Schools;

850 (40) Develop and implement strategies and curriculum for providing developmental
851 education which shall be applied by any state institution of higher education providing
852 developmental education;

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

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

858 (43) Propose rules for promulgation pursuant to subsection (b) of this section and §29A-
859 3A-1 *et seq.* of this code that are necessary or expedient for the effective and efficient performance
860 of community and technical colleges in the state;

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

865 (45) Develop for inclusion in the higher education report card, as defined in §18B-1D-8 of
866 this code, a separate section on community and technical colleges. This section shall include, but
867 is not limited to, evaluation of the institutions based upon the benchmarks and indicators
868 developed in subdivision (9) of this subsection;

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

871 (47) Initiate and facilitate creation of other regional networks of affiliated community and
872 technical colleges that the council finds to be appropriate and in the best interests of the citizens to

873 be served;

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

877 (A) Policies to strengthen vocational-technical-occupational and adult basic education;
878 and

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

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

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

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

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

892 (50) Collaborate, cooperate and interact with all secondary and post-secondary
893 vocational-technical-occupational and adult basic education programs in the state, including the
894 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of
895 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of
896 seamless curriculum and the elimination of duplicative programs;

897 (51) Coordinate the delivery of vocational-technical-occupational and adult basic
898 education in a manner designed to make the most effective use of available public funds to

899 increase accessibility for students;

900 (52) Analyze and report to the State Board of Education on the distribution of spending for
901 vocational-technical-occupational and adult basic education in the state and on the availability of
902 vocational-technical-occupational and adult basic education activities and services within the
903 state;

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

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

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

915 (56) Meet annually between the months of October and December with the Advisory
916 Committee of Community and Technical College Presidents created pursuant to §18B-2B-8 of this
917 code to discuss those matters relating to community and technical college education in which
918 advisory committee members or the council may have an interest;

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

921 (58) Assume the powers set out in section nine of this article. The rules previously
922 promulgated by the State College System Board of Directors pursuant to that section and
923 transferred to the commission are hereby transferred to the council and shall continue in effect
924 until rescinded, revised, altered or amended by the council;

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

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

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

934 (A) Comparisons with peer institutions;

935 (B) Differences among institutional missions;

936 (C) Strategies for promoting student access;

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

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

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

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

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

950 (1) Planning and policy leadership including a distinct and visible role in setting the state's

951 policy agenda for the delivery of community and technical college education and in serving as an
952 agent of change;

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

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

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

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

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

967 (7) Development, establishment and implementation of information, assessment and
968 internal accountability systems, including maintenance of statewide data systems that facilitate
969 long-term planning and accurate measurement of strategic outcomes and performance indicators
970 for community and technical colleges;

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

974 (9) Development, implementation and oversight of statewide and regionwide projects and
975 initiatives related specifically to providing community and technical college education such as
976 those using funds from federal categorical programs or those using incentive and performance-

977 based funding from any source; and

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

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

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

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

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

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

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

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

999 (1) The body acting first shall convey its decision in the matter to the other body with a
1000 request for concurrence in the action;

1001 (2) The commission or the council, as the receiving body, shall place the proposal on its
1002 agenda and shall take final action within 60 days of the date when the request for concurrence is

1003 received; and

1004 (3) If the receiving body fails to take final action within 60 days, the original proposal stands
1005 and is binding on both the commission and the council.

1006 (h) Nothing in this section provides the authority to restrict or regulate the carrying of a
1007 concealed deadly weapon by a person who holds a current license to carry a concealed deadly
1008 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.

1009 (a) A person who holds a current and valid license to carry a concealed deadly weapon is
1010 permitted to carry a concealed deadly weapon on the campus and in the buildings of a state
1011 institution of higher education. This subsection only applies to areas of the campus and buildings
1012 of a state institution of higher education under the custodial possession of the state institution of
1013 higher education and does not include areas rented, leased, or under an exclusive agreement for
1014 the full-time occupancy and use of a private entity.

1015 (b) Subsection (a) of this section does not limit the authority of a state institution of higher
1016 education to regulate possession of firearms in the following locations consistent with §61-7-14 of
1017 this code:

1018 (1) At an organized event taking place at a stadium or arena with a capacity of more than
1019 1,500 spectators;

1020 (2) At a daycare facility located on the property of the state institution of higher education;

1021 (3) In the secure area of any building used by a law-enforcement agency on the property of
1022 the state institution for higher education;

1023 (4) In an area of the property of the state institution of higher education that has adequate
1024 security measures in place to ensure that no weapons are permitted to be carried by the public into
1025 the area. "Adequate security measures" means the use of electronic equipment and armed
1026 personnel at public entrances to detect and restrict the carrying of any weapons into the area,

1027 including, but not limited to, metal detectors, metal detector wands or any other equipment used
1028 for similar purposes to ensure that weapons are not permitted to be carried in those areas by
1029 members of the public;

1030 (5) At the specific location of a formal disciplinary hearing for a student or an employee of a
1031 state institution of higher education taking place on the property of the state institution of higher
1032 education;

1033 (6) In sole occupancy offices on the property of the state institution of higher education.
1034 "Sole occupancy office" means a room with at least one door and walls that extend to the ceiling
1035 that is assigned to a single person as his or her workspace. This subdivision does not provide
1036 authority to a state institution of higher education to prohibit, regulate, or restrict faculty or staff
1037 from carrying a concealed deadly weapon in their assigned office;

1038 (7) At a primary or secondary education school-sponsored function that is taking place in a
1039 specific area on the property of the state institution of higher education that is rented, leased, or
1040 under the exclusive use of the West Virginia Department of Education, the West Virginia
1041 Secondary Schools Activities Commission, a county school board, or local public school for the
1042 actual period of time the function is occurring;

1043 (8) At a private function that is taking place in a specific area on the property of the state
1044 institution of higher education that is rented, leased, or under the exclusive use of an entity that is
1045 not affiliated with the state institution of higher education for the actual period of time the function is
1046 occurring; or

1047 (9) In an area on the property of the state institution of higher education where possession
1048 of a firearm is prohibited by state or federal law.

1049 (c) Subsection (a) of this section does not limit the authority of a state institution of higher
1050 education from taking disciplinary action against a student or employee with a valid license to carry
1051 a concealed deadly weapon who is convicted of a violation of §61-7-14 in relation to carrying a
1052 firearm in a location listed in subsection (b) of this section.

1053 (d) Notwithstanding subsection (a) of this section, a holder of a license to carry a concealed
 1054 deadly weapon may not carry a partially or wholly visible firearm, regardless of whether the firearm
 1055 is holstered or on or about the license holder's person and intentionally or knowingly display the
 1056 firearm in plain view of another person in a way or manner to cause, or threaten, a breach of the
 1057 peace while on the campus or in the buildings of a state institution of higher education. A holder of
 1058 a license to carry a concealed deadly weapon who violates this subsection is subject to
 1059 administrative punishment the state institution of higher education considers appropriate.

1060 (e) A state institution of higher education is immune from liability if a loss or claim results
 1061 from a license to carry a concealed deadly weapon holder's intentional or unintentional use of a
 1062 firearm while carrying pursuant to this section.

1063 (f) For the purposes of this section, a "license to carry a concealed deadly weapon" refers
 1064 to a current and valid license, lawfully issued by the State of West Virginia pursuant to §61-7-4 or
 1065 §61-7-4a of this code or a current and valid license or permit recognized under §61-7-6a of this
 1066 code.

1067 (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.