

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 326**

5 (By Senators Plymale, Prezioso, Laird, Miller, Unger, Wells,
6 Boley, Beach and Tucker)

7 _____
8 [Originating in the Committee on Education;
9 reported March 6, 2013.]
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12
13 A BILL to amend and reenact §18B-1A-5 of the Code of West Virginia,
14 1931, as amended; and to amend and reenact §18B-2A-3 of said
15 code, all relating to institutional operating budgets; the
16 West Virginia Network of Educational Telecomputing; requiring
17 the Higher Education Policy Commission and Council for
18 Community and Technical College Education to propose
19 procedural rules by certain date; specifying prior approval by
20 Legislative Oversight Commission on Education Accountability;
21 setting forth goals and objectives for state institutions of
22 higher education and specifying procedures for measuring
23 attainment; designating a pilot year and requiring certain
24 reports; specifying percentages of operating budgets to be

1 applied to outcomes-based funding annually and designating
2 total percentages; requiring establishment of legislative
3 committee to advise in developing procedural rules;
4 collecting, synthesizing and disseminating data from state
5 institutions of higher education; directing institutional
6 boards of governors to cooperate in certain data-related
7 operations; and providing certain privacy protections.

8 *Be it enacted by the Legislature of West Virginia:*

9 That §18B-1A-5 of the Code of West Virginia, 1931, as amended,
10 be amended and reenacted; and that §18B-2A-3 of said code be
11 amended and reenacted, all to read as follows:

12 **ARTICLE 1A. COMPACT WITH HIGHER EDUCATION FOR THE FUTURE OF WEST**
13 **VIRGINIA.**

14 **§18B-1A-5. Financing; institutional operating budgets; additional**
15 **funding.**

16 (a) The commission and council each has the responsibility to
17 develop a budget for the state system of higher education under its
18 respective jurisdiction. The commission submits the budget request
19 for higher education, including the budget request as developed by
20 the council, to the Governor before September 1, annually. The
21 budget requests of the commission and the council specifically
22 shall include the amount of the institutional operating budgets, as
23 defined in section two, article one of this chapter, required for
24 all state institutions of higher education under their respective

1 jurisdictions. The budget appropriation for the state systems of
2 higher education under this chapter and other provisions of the law
3 consists of separate control accounts or institutional control
4 accounts, or some combination of these accounts, for appropriation
5 of institutional operating budgets and other funds. The commission
6 and council each is responsible for allocating state appropriations
7 to supplement institutional operating budgets in accordance with
8 this section. In addition to the institutional operating budget
9 and incentive funding, however, the commission and council each is
10 responsible for allocating funds that are appropriated to it for
11 other purposes.

12 (b) By July 1, 2013, the commission and council each shall
13 promulgate a procedural rule pursuant to the provisions of article
14 three-a, chapter twenty-nine-a of this code setting out a procedure
15 to govern appropriation requests pursuant to this section.

16 (1) The procedural rules may not be implemented without prior
17 approval of the Legislative Oversight Commission on Education
18 Accountability.

19 (2) Any change the commission or council proposes to the rules
20 required by this subsection after the initial approval and
21 adoption, including amendment or repeal, requires prior approval by
22 the Legislative Oversight Commission on Education Accountability.

23 (c) In developing the rules, the commission and council shall
24 incorporate the recommendations contained in the *Final Report to*

1 *the West Virginia Select Committee on Outcomes-Based Funding Models*
2 *in Higher Education* (February 11, 2013) presented and approved
3 pursuant to section one, article fourteen of this chapter.

4 (d) The procedural rules shall establish formulae that take
5 into consideration different institutional missions and measure
6 each institution's success in accomplishing certain goals,
7 including, but not limited to, the following:

8 (1) Student success as represented by certificate or degree
9 completion;

10 (2) Student progression and persistence towards certificate or
11 degree completion;

12 (3) Affordability and productivity represented by on-time
13 certificate or degree completion;

14 (4) Institution differentiation as represented by a mission
15 focus on research, job placement, workforce training, etc.;

16 (5) Educating priority populations of adult and low-income
17 students; and

18 (6) Increasing certificates or degrees in high-need fields.

19 (e) The procedural rules shall establish appropriate weights,
20 based on student numbers, to be assigned to each of the goals set
21 forth in subsection (c) of this section. The appropriate weights
22 shall be established to accomplish best the goal of an additional
23 20,000 certificates or degrees earned in the state system of higher
24 education by July 1, 2018.

1 (f) The formulae established by the procedural rules shall be
2 used in a pilot project for the fiscal year beginning on July 1,
3 2013, to determine what changes in request for appropriations from
4 general revenue to each institution would have been made for that
5 fiscal year.

6 (1) For the pilot year the formulae shall assume that a total
7 of five percent of the appropriations from general revenue for the
8 previous fiscal year would be reallocated among the institutions in
9 the state system of higher education based on the objectives
10 achieved by each institution within the broad goals set out in this
11 section.

12 (2) The results of this application of the formulae for the
13 pilot year shall be reported to each institution and to the
14 Legislative Oversight Commission on Education Accountability.

15 (g) For the fiscal year beginning on July 1, 2015, the
16 formulae shall be used by the commission and council in their
17 respective appropriation requests to reallocate among the
18 institutions of higher education under their jurisdiction five
19 percent of the appropriations from general revenue in the prior
20 fiscal year. In each successive fiscal year the appropriation
21 request shall reallocate an additional five percent of general
22 revenue based on the appropriate formula until a total of
23 twenty-five percent of reallocation is included in the
24 appropriation request for each succeeding fiscal year.

1 (h) The President of the Senate and the Speaker of the House
2 of Delegates jointly shall appoint a select committee for
3 outcomes-based formulae rules finalization which shall advise the
4 commission and council on promulgation of the procedural rules
5 required by this section. The select committee periodically shall
6 advise the commission and council on amendments to the formulae and
7 procedural rules considered necessary to advance the goals set out
8 in this section.

9 (i) The commission and council may not request an increase in
10 appropriations under this section for any institution without an
11 approved compact pursuant to section seven, article one-d of this
12 chapter.

13 **ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.**

14 **§18B-2A-3. Supervision of governing boards; promulgation of rules;**
15 **data collection and dissemination.**

16 (a) The governing boards are subject to the supervision of the
17 commission or the council, as appropriate, except in those
18 instances where specific statutory exceptions are granted by law to
19 the governing boards of Marshall University and West Virginia
20 University.

21 (b) The governing boards of all state institutions of higher
22 education are subject to the provisions of law that relate to the
23 administration of personnel matters including, specifically,
24 articles seven, eight, nine and nine-a of this chapter and to rules

1 promulgated and adopted in accordance with these provisions.

2 (c) The Chancellor for Higher Education and the Chancellor for
3 Community and Technical College Education, under the supervision of
4 their respective boards, are responsible for the coordination of
5 policies, purposes and rules of the governing boards and shall
6 provide for and facilitate sufficient interaction among the
7 governing boards and between the governing boards and the State
8 Board of Education to meet the goals and objectives provided in the
9 compacts and in section one-a, article one and article one-d of
10 this chapter.

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

15 (1) Each governing board shall cooperate with the West
16 Virginia Network for Educational Telecomputing (WVNET) in designing
17 appropriate interfaces with the databases of institutions under its
18 jurisdiction and shall grant WVNET direct access to these
19 databases.

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

24 (3) All data accessed or received from an institution shall be

1 treated in a manner consistent with the privacy protections
2 outlined in section ten, article one-d of this chapter.