

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 326**

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

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

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

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

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

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

13 **§18B-1A-5. Financing; institutional operating budgets; additional**  
14 **funding.**

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

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

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

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

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

22 (c) In developing the rules, the commission and council shall  
23 incorporate the recommendations contained in the *Final Report to*  
24 *the West Virginia Select Committee on Outcomes-Based Funding Models*

1 *in Higher Education* (February 11, 2013) presented and approved  
2 pursuant to section one, article fourteen of this chapter.

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

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

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

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

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

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

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

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

24 (f) The formulae established by the procedural rules shall be

1 used in a pilot project for the fiscal year beginning on July 1,  
2 2013, to determine what changes in request for appropriations from  
3 general revenue to each institution would have been made for that  
4 fiscal year.

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

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

14 (g) For the fiscal year beginning on July 1, 2014, the  
15 formulae shall be used by the commission and council in their  
16 respective appropriation requests to reallocate among the  
17 institutions of higher education under their jurisdiction five  
18 percent of the appropriations from general revenue in the prior  
19 fiscal year. In each successive fiscal year the appropriation  
20 request shall reallocate an additional five percent of general  
21 revenue based on the appropriate formula until a total of  
22 twenty-five percent of reallocation is included in the  
23 appropriation request for each succeeding fiscal year.

24 (h) The President of the Senate and the Speaker of the House

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

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

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

13 **§18B-2A-3. Supervision of governing boards; promulgation of rules;**  
14 **data collection and dissemination.**

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

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

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

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

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

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

23 (3) All data accessed or received from an institution shall be  
24 treated in a manner consistent with the privacy protections

1 outlined in section ten, article one-d of this chapter.