

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 326**

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

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[Originating in the Committee on Education;  
reported March 6, 2013.]

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A BILL to amend and reenact §18B-1A-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-2A-3 of said code, all relating to institutional operating budgets; the West Virginia Network of Educational Telecomputing; requiring the Higher Education Policy Commission and Council for Community and Technical College Education to propose procedural rules by certain date; specifying prior approval by Legislative Oversight Commission on Education Accountability; setting forth goals and objectives for state institutions of higher education and

specifying procedures for measuring attainment; designating a pilot year and requiring certain reports; specifying percentages of operating budgets to be applied to outcomes-based funding annually and designating total percentages; requiring establishment of legislative committee to advise in developing procedural rules; collecting, synthesizing and disseminating data from state institutions of higher education; directing institutional boards of governors to cooperate in certain data-related operations; and providing certain privacy protections.

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

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

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

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

1 (a) The commission and council each has the  
2 responsibility to develop a budget for the state system of  
3 higher education under its respective jurisdiction. The  
4 commission submits the budget request for higher education,  
5 including the budget request as developed by the council, to  
6 the Governor before September 1, annually. The budget  
7 requests of the commission and the council specifically shall  
8 include the amount of the institutional operating budgets, as  
9 defined in section two, article one of this chapter, required  
10 for all state institutions of higher education under their  
11 respective jurisdictions. The budget appropriation for the  
12 state systems of higher education under this chapter and other  
13 provisions of the law consists of separate control accounts or  
14 institutional control accounts, or some combination of these  
15 accounts, for appropriation of institutional operating budgets  
16 and other funds. The commission and council each is  
17 responsible for allocating state appropriations to supplement  
18 institutional operating budgets in accordance with this  
19 section. In addition to the institutional operating budget and

20 incentive funding, however, the commission and council each  
21 is responsible for allocating funds that are appropriated to it  
22 for other purposes.

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

28 (1) The procedural rules may not be implemented without  
29 prior approval of the Legislative Oversight Commission on  
30 Education Accountability.

31 (2) Any change the commission or council proposes to  
32 the rules required by this subsection after the initial approval  
33 and adoption, including amendment or repeal, requires prior  
34 approval by the Legislative Oversight Commission on  
35 Education Accountability.

36 (c) In developing the rules, the commission and council  
37 shall incorporate the recommendations contained in the  
38 *Final Report to the West Virginia Select Committee on*

39 *Outcomes –Based Funding Models in Higher Education*

40 (February 11, 2013) presented and approved pursuant to  
41 section one, article fourteen of this chapter.

42 (d) The procedural rules shall establish formulae that take  
43 into consideration different institutional missions and  
44 measure each institution’s success in accomplishing certain  
45 goals, including, but not limited to, the following:

46 (1) Student success as represented by certificate or degree  
47 completion;

48 (2) Student progression and persistence towards  
49 certificate or degree completion;

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

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

54 (5) Educating priority populations of adult and  
55 low-income students; and

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

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

63 (f) The formulae established by the procedural rules shall  
64 be used in a pilot project for the fiscal year beginning on July  
65 1, 2013, to determine what changes in request for  
66 appropriations from general revenue to each institution would  
67 have been made for that fiscal year.

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

74 (2) The results of this application of the formulae for the  
75 pilot year shall be reported to each institution and to the

76 Legislative Oversight Commission on Education  
77 Accountability.

78 (g) For the fiscal year beginning on July 1, 2014, the  
79 formulae shall be used by the commission and council in  
80 their respective appropriation requests to reallocate among  
81 the institutions of higher education under their jurisdiction  
82 five percent of the appropriations from general revenue in the  
83 prior fiscal year. In each successive fiscal year the  
84 appropriation request shall reallocate an additional five  
85 percent of general revenue based on the appropriate formula  
86 until a total of twenty-five percent of reallocation is included  
87 in the appropriation request for each succeeding fiscal year.

88 (h) The President of the Senate and the Speaker of the  
89 House of Delegates jointly shall appoint a select committee  
90 for outcomes-based formulae rules finalization which shall  
91 advise the commission and council on promulgation of the  
92 procedural rules required by this section. The select  
93 committee periodically shall advise the commission and  
94 council on amendments to the formulae and procedural rules

95 considered necessary to advance the goals set out in this  
96 section.

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

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

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

1 (a) The governing boards are subject to the supervision  
2 of the commission or the council, as appropriate, except in  
3 those instances where specific statutory exceptions are  
4 granted by law to the governing boards of Marshall  
5 University and West Virginia University.

6 (b) The governing boards of all state institutions of higher  
7 education are subject to the provisions of law that relate to  
8 the administration of personnel matters including,  
9 specifically, articles seven, eight, nine and nine-a of this  
10 chapter and to rules promulgated and adopted in accordance  
11 with these provisions.



12 (c) The Chancellor for Higher Education and the  
13 Chancellor for Community and Technical College Education,  
14 under the supervision of their respective boards, are  
15 responsible for the coordination of policies, purposes and  
16 rules of the governing boards and shall provide for and  
17 facilitate sufficient interaction among the governing boards  
18 and between the governing boards and the State Board of  
19 Education to meet the goals and objectives provided in the  
20 compacts and in section one-a, article one and article one-d  
21 of this chapter.

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

27 (1) Each governing board shall cooperate with the West  
28 Virginia Network for Educational Telecomputing (WVNET)  
29 in designing appropriate interfaces with the databases of  
30 institutions under its jurisdiction and shall grant WVNET  
31 direct access to these databases.

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

36       (3) All data accessed or received from an institution shall  
37 be treated in a manner consistent with the privacy protections  
38 outlined in section ten, article one-d of this chapter.