

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 98**

(By Senators Cann, Stollings, McCabe, Williams and Green)

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[Originating in the Committee on Education;  
reported March 27, 2013]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-11C-1 and §18B-11C-2; and to amend said code by adding thereto a new article, designated §18B-11D-1, §18B-11D-2, §18B-11D-3, §18B-11D-4, §18B-11D-5 and §18B-11D-6, all relating to higher education centers and institutes generally; setting forth legislative findings and intent; providing definitions; requiring certain reports; creating the Shale Research, Education, Policy and Economic Development Center at West Virginia University; setting forth legislative findings and purposes;

requiring certain rules; and providing certain powers and duties of West Virginia University Board of Governors, the center and the center director.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §18B-11C-1 and §18B-11C-2; and that said code be amended by adding thereto a new article, designated §18B-11D-1, §18B-11D-2, §18B-11D-3, §18B-11D-4, §18B-11D-5 and §18B-11D-6, all to read as follows:

**ARTICLE 11C. COLLEGE AND UNIVERSITY CENTERS AND INSTITUTES.**

**§18B-11C-1. Findings and purposes; legislative intent.**

1 (a) The Legislature finds that it is in the best interests of  
2 the citizens of West Virginia for state institutions of higher  
3 education to function within the bounds of the state-  
4 established accountability system pursuant to article one-d of  
5 this chapter and to focus their research efforts diligently on  
6 achieving the goals and objectives set forth therein and in  
7 their institutional compacts developed pursuant to section  
8 seven, article one-d of this chapter.

9 (b) The intent of the Legislature in enacting this article is  
10 to ensure that state institutions of higher education work  
11 toward furthering the goals of accountability, effectiveness  
12 and efficiency articulated in the public policy agenda and  
13 state accountability system, established pursuant to article  
14 one-d of this chapter; to avoid unnecessary duplication of  
15 program development and delivery; to ensure that programs  
16 and services are closely aligned with the mission and  
17 approved compact of the institution; and to address the public  
18 policy agenda.

**§18B-11C-2. Definition; creation of centers; criteria; proposal  
required.**

1 (a) For the purposes of this article and article eleven-d of  
2 this chapter, “center” means any entity created by a state  
3 institution of higher education with a distinct mission in a  
4 specific area of research and includes “research centers”,  
5 “research institutes” and “centers of excellence”. A center  
6 consists of an academic team whose stated purposes are to  
7 promote collaboration and best practices in the targeted

8 research area, to further new developments and innovative  
9 ways of working and to achieve high quality research results.

10 (b) Beginning with the effective date of this article, the  
11 governing board of a state institution of higher education may  
12 not create a college or university center as defined in  
13 subsection (a) of this section, regardless of the title by which  
14 the center is designated, until it first has submitted to the  
15 commission or council, as appropriate, a proposal to create  
16 the center. The proposal shall be submitted at least sixty days  
17 prior to the official creation of the center and shall contain  
18 the following information:

19 (1) *Center name and governance structure.* –

20 (A) The name of the proposed center and an outline  
21 showing how the center will be governed and operate;

22 (B) The name of the director or names of codirectors or,  
23 if a director has not been selected, the process by which this  
24 individual will be appointed; and

25 (C) Designation of the entity responsibility for  
26 developing rules and policies for the center.

27 (2) *Center mission and goals.* –

28 (A) The mission of the center showing how it differs in  
29 focus and scope from all other centers established at the  
30 institution;

31 (B) The need for the new center with supporting  
32 documentation drawn from the institutional compact, mission  
33 statement and public policy agenda;

34 (C) Demonstration of how the center will contribute in  
35 unique ways to expanding knowledge, generating new  
36 discoveries and providing positive societal impacts; and

37 (D) An explanation of why a new center is required to  
38 complete the planned research activities, including a  
39 description of strengths that establishing a center may bring  
40 to the institution and the State of West Virginia.

41 (3) *Staff and resources.* –

42 (A) The faculty, resources, facilities and peripherals that  
43 constitute the center and the resources that will be dedicated  
44 to support of the center and its mission;

45 (B) Existence of a critical mass in the specific or  
46 interdisciplinary area of research, including interdisciplinary

47 research activities that provide evidence of the potential for  
48 collaboration of researchers within the center;

49 (C) The researchers, academic rank, department and  
50 expected contribution to the center to be made by each  
51 member, including strengths that the researchers bring to the  
52 center and a brief academic biography of each researcher;

53 (D) A record of available funding and the potential for  
54 attracting external funding to further the goals of the center  
55 and make it self supporting;

56 (E) Resources that have been secured from external  
57 sources and a rationale for resources requested from the state;  
58 and

59 (F) Documentation showing how the center's distinct  
60 mission and organization eliminate unnecessary competition  
61 for resources, students and faculty within the state; drive  
62 economic development; generate talent; and create an  
63 energized, entrepreneurial environment that retains top  
64 quality graduates.

65 (c) The center director shall provide a report to the  
66 commission or council, as appropriate, annually on the  
67 anniversary date of the center's creation giving details of the  
68 center's activities for the past year, including funding  
69 specifics.

70 (d) The commission or council, as appropriate, shall  
71 analyze each proposal received and present a summary to the  
72 Legislative Oversight Commission on Education  
73 Accountability within sixty days after receiving the  
74 institution's proposal. The commission or council also shall  
75 summarize the center's annual report and present to the  
76 Legislative Oversight Commission on Education  
77 Accountability and the Joint Committee on Government and  
78 Finance within thirty days of receiving the report.

**ARTICLE 11D. SHALE RESEARCH, EDUCATION, POLICY  
AND ECONOMIC DEVELOPMENT  
CENTER AT WEST VIRGINIA  
UNIVERSITY.**

**§18B-11D-1. Legislative findings.**

1 (a) The Legislature finds that advancements in  
2 technology have made possible the efficient development of  
3 abundant natural gas and oil resources contained in  
4 underground shales and other geologic formations in the  
5 State of West Virginia. These resources have the potential to  
6 generate jobs, stimulate economic activity, ensure energy  
7 security, reduce carbon and other emissions and provide  
8 significant revenues to the state.

9 (b) The Legislature further finds that creation of a  
10 research, education, policy and economic development entity  
11 at West Virginia University for the purpose of pursuing  
12 independent, objective, research-driven analysis that can  
13 improve the effective and efficient development of shale  
14 resources is in furtherance of the university's land grant  
15 status. Creation of this entity will allow West Virginia to  
16 focus on the prudent development and regulation of natural  
17 gas and liquid hydrocarbon from the shale resources in the  
18 state and throughout the world.

**§18B-11D-2. Creation of the Shale Research, Education, Policy  
and Economic Development Center at West  
Virginia University; purposes.**

1 (a) In view of the findings set forth in section one of this  
2 article, there is created a research, education, policy and  
3 economic development entity known as the Shale Research,  
4 Education, Policy and Economic Development Center at  
5 West Virginia University. This center is not required to file  
6 a precreation proposal with the commission pursuant to  
7 section two, article eleven-c of this chapter.

8 (b) The purposes for which the center are established  
9 include, but are not limited to, the following:

10 (1) Providing an opportunity for West Virginia  
11 University to partner with industry and government bodies in  
12 the state, the nation and around the world to explore  
13 opportunities and engage in scientific research and  
14 development of shale resources;

15 (2) Promoting cooperative and collaborative partnerships  
16 between research universities in the state in order to facilitate

17 knowledge sharing that will benefit all areas of West  
18 Virginia;

19 (3) Generating and documenting best practices in the  
20 areas of environment, safety, business and health;

21 (3) Advancing environmental performance by garnering  
22 industry and regulatory commitment;

23 (4) Improving data and process transparency and  
24 developing effective outreach and engagement of affected  
25 communities;

26 (5) Protecting the environment of West Virginia and  
27 surrounding states by minimizing methane, carbon dioxide  
28 and any other potential emissions;

29 (6) Structuring legal frameworks and promulgating rules  
30 to promote prudent development of and access to the state's  
31 resources.

32 (7) Developing and maintaining a flexible structure to  
33 accommodate the needs of the state and of West Virginia  
34 University together with its partners in education,

35 government and industry. This flexible structure can be  
36 achieved by encouraging the following actions:

37 (A) Investment by state and federal sources in strategic  
38 research;

39 (B) Initiation of research and development programs that  
40 are focused and cofunded by West Virginia University and its  
41 government and industry partners;

42 (C) Development of applied research that is  
43 industry-funded; and

44 (D) Provision of specialized services for government and  
45 industry partners.

46 (c) West Virginia University shall use its research  
47 capabilities in support of the center, including, but not limited  
48 to, the following:

49 (1) Technologies for efficient resource assessment and  
50 efficient extraction. These include various improvements to  
51 extraction technologies, earth imaging and other technologies  
52 to map, evaluate and assess resources and to understand  
53 geoprocesses;

54 (2) Models to predict and manipulate multiphase fluid  
55 flow including gas, liquid hydrocarbons and hydraulic  
56 fracture fluids; and water life cycle analysis from source  
57 through staging, use, wastewater recycling and treatment.

58 (3) Environmental and economic impacts, such as fuel  
59 cycle analysis and construction of statewide baselines for  
60 water and air quality, control of emissions and fuel waste in  
61 all cycles of energy production and delivery;

62 (4) Policy analysis to facilitate cost effective permitting,  
63 industry management, regulation and acceptance; and  
64 improved gathering, storage, analysis, transparency and  
65 access of energy data to serve government, industry and the  
66 public.

67 (5) Human dimensions, such as workforce development,  
68 in cooperation with public education and state institutions of  
69 higher education in programs specializing in energy and  
70 environment fields; analysis of public health risks and  
71 promotion of best practices to protect public health and work  
72 place health and safety;

73 (6) Effective communication strategies to establish shared  
74 understandings of expectations and awareness of issues and  
75 facts and to assist state agencies in developing a transparent,  
76 efficient and effective environment to manage the oil and  
77 natural gas resources for the benefit of all the state's citizens.  
78 These agencies include the West Virginia Department of  
79 Environmental Protection, West Virginia State Tax Division  
80 and the West Virginia Geologic and Economic Survey. The  
81 purposes of the communication strategies are to ensure that  
82 development of these resources is tracked accurately, that  
83 appropriate revenue streams are captured by the state and that  
84 royalties to mineral lessors are protected appropriately;

85 (7) Development of best business practices to assist in  
86 creating and maintaining a robust and prudently positioned  
87 industry in the state; and

88 (8) Tracking and analyzing the economic impact and  
89 effect of the industry upon the state.

**§18B-11D-3. Funding.**

1 (a) Funding for the center is provided by legislative  
2 appropriation and through support received from private  
3 industry, federal and international sources.

4 (b) Nothing in this article requires an appropriation, nor  
5 any specific level of appropriation, by the Legislature.

**§18B-11D-4. Powers and duties of the board of governors and the  
Shale Research, Education, Policy and Economic  
Development Center at West Virginia University.**

1 (a) *West Virginia University Board of Governors.* - The  
2 board is authorized to operate the center to further the  
3 purposes set forth in this article. Powers and duties include,  
4 but are not limited to, the following:

5 (1) Acquisition by purchase, lease, gift or otherwise, of  
6 necessary lands, and the construction of necessary buildings  
7 and appropriate industrial operations equipment;

8 (2) Expansion, remodeling, altering or equipping  
9 necessary buildings;

10 (3) Making contracts with any state, county or municipal  
11 agency or private entity necessary and incidental to the  
12 performance of its powers and duties under this article;

13 (4) Providing for equipment, expenses, compensation of  
14 personnel, operation and maintenance of any facility of an  
15 agency or institution used for the purposes of this article; and

16 (5) Cooperating with other state research universities,  
17 agencies of the state, county and federal governments.

18 (b) *The Shale Research, Education, Policy and Economic*  
19 *Development Center at West Virginia University.* – Under the  
20 supervision of the director, appointed pursuant to section five  
21 of this article, and within the scope of the authority granted  
22 by this article and by rules duly proposed and adopted by the  
23 board of governors pursuant to section six, article one of this  
24 chapter, the center may take all actions necessary to fulfill the  
25 established purposes including providing the research  
26 capabilities set forth in section two of this article.

**§18B-11D-5. Powers and duties of the center director.**

1 (a) Subject to rules promulgated by the board of  
2 governors pursuant to section six of this article, the President  
3 of West Virginia University shall appoint a director of the  
4 center who will serve at the will and pleasure of the  
5 president.

6 (b) The director has the following responsibilities:

7 (1) Within thirty days of appointment, provide to the  
8 commission a proposal for operation of the center containing  
9 information as set forth in section two, article eleven-c of this  
10 chapter;

11 (2) Manage the day-to-day operations of the center;

12 (3) Coordinate the partnerships and act as the liaison  
13 between education, industry and government bodies and  
14 other entities as appropriate to address the findings set forth  
15 in section one of this article;

16 (4) Develop and advocate for an annual budget for the  
17 center;

18 (5) Report to the board of governors annually or as  
19 requested and provide an analysis of the center's activities  
20 together with any recommendations for improvement;

21 (6) Provide to the commission a report annually on the  
22 anniversary date of the center's creation giving details of the  
23 center's activities for the past year, including funding  
24 specifics; and

25 (7) Employ adequate professional, technical and other  
26 staff necessary to fulfill the purposes of this article.

**§18B-11D-6. Rules.**

1 (a) The board of governors shall propose and adopt rules  
2 pursuant to section six, article one of this chapter, for the  
3 establishment, operation, cost reimbursement, fees for  
4 services, maintenance and government control of the center  
5 established by this article.

6 (b) The board may propose and adopt rules necessary for  
7 cooperation under and compliance with any existing or future  
8 federal statutes pertaining to grants-in-aid and any other rules  
9 necessary to effectuate the purposes of this article.