

WEST VIRGINIA LEGISLATURE
2016 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 113

**FISCAL
NOTE**

BY DELEGATE LANE

[Introduced May 24, 2016; Referred
to the Committee on Education then Finance.]

1 A BILL to repeal §18B-1B-2, §18B-1B-3, §18B-1B-5, §18B-1B-10 and §18B-1B-13 of the Code
 2 of West Virginia, 1931, as amended; to repeal §18B-2B-2, §18B-2B-3, §18B-2B-4, §18B-
 3 2B-5, §18B-2B-7 and §18B-2B-8 of said code; to amend and reenact §18B-1B-1 of said
 4 code; and to amend and reenact §18B-2B-1 and §18B-2B-6 of said code, all relating to
 5 abolishing the West Virginia Higher Education Policy Commission and the West Virginia
 6 Council for Community and Technical College Education; transferring all powers and
 7 duties of the commission relating to internal governance of institutions of higher education
 8 to the board of governors of the institutions; transferring all powers and duties of the
 9 commission to secure, provide, or administer financial support for educational or research
 10 purposes to the Secretary for the Department of Education and the Arts; providing for the
 11 transfer and disposition of assets, property and records of the commission; repealing
 12 certain obsolete and redundant powers and responsibilities of the commission; and
 13 authorizing legislative and emergency rule making; transferring all powers and duties of
 14 the council to the Secretary for the Department of Education and the Arts, including rule-
 15 making authority; repealing certain obsolete and redundant powers and responsibilities of
 16 the council; and providing for the transfer and disposition of assets, property and records
 17 of the council.

Be it enacted by the Legislature of West Virginia:

1 That §18B-1B-2, §18B-1B-3, §18B-1B-5, §18B-1B-10 and §18B-1B-13 of the Code of
 2 West Virginia, 1931, as amended, be repealed; that §18B-2B-2, §18B-2B-3, §18B-2B-4, §18B-
 3 2B-5, §18B-2B-7 and §18B-2B-8 of said code be repealed; and that §18B-1B-1 of said code be
 4 amended and reenacted; and that §18B-2B-1 and 18B-2B-6 of said code be amended and
 5 reenacted, all to read as follows:

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

**§18B-1B-1. Higher Education Policy Commission established; development of public
 policy agenda.**

1 ~~There is hereby created the "Higher Education Policy Commission", hereinafter referred~~
2 ~~to as the "commission". It is the intent of the Legislature that the commission be responsible to~~
3 ~~develop, gain consensus around and oversee the public policy agenda for higher education and~~
4 ~~other statewide issues pursuant to section one-a, article one of this chapter under the following~~
5 ~~conditions:~~

6 ~~(a) It is the responsibility of the commission to work collaboratively with the council to~~
7 ~~develop and gain consensus around the public policy agenda for community and technical~~
8 ~~colleges~~ The Higher Education Policy Commission is hereby abolished, effective July 1, 2016.

9 ~~(b) It is the responsibility of the council to oversee the implementation of the public policy~~
10 ~~agenda for the institutions under its jurisdiction~~ All powers and duties of the Higher Education
11 Policy Commission related to the internal governance of institutions of higher education shall be
12 transferred to the governing boards of the institutions.

13 ~~(c) All matters of governance not specifically assigned to the commission or council by law~~
14 ~~are the duty and responsibility of the governing boards~~ All powers and duties of the Higher
15 Education Policy Commission to provide, secure, or administer financial support for educational
16 or research purposes, including, but not limited to, state or federal scholarships, grants,
17 fellowships, and loans, shall be transferred to the West Virginia Secretary for the Department of
18 Education and the Arts.

19 ~~(d) All monetary assets of the Higher Education Policy Commission shall be transferred~~
20 ~~into the State's General Revenue Fund. All other property of the Higher Education Policy~~
21 ~~Commission shall be disposed of or transferred in accordance with the requirements of section~~
22 ~~twelve, article ten, chapter four of this code.~~

23 ~~(e) The West Virginia Secretary for the Department of Education and the Arts may~~
24 ~~promulgate rules to implement the requirements of this section, including emergency rules~~
25 ~~promulgated pursuant to the provisions of article three, chapter twenty-nine-a of this code.~~

ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION.

§18B-2B-1. Legislative findings; intent; purpose West Virginia Council for Community and Technical College Education abolished.

1 (a) ~~The Legislature hereby finds that:~~

2 ~~(1) The goals, objectives and purposes contained in enrolled Senate Bill No. 653, passed~~
3 ~~during the two thousand regular legislative session, reflected the research findings available to~~
4 ~~the Legislature at the time; since then, however, additional research indicates that, while enrolled~~
5 ~~Senate Bill No. 653 moves in the appropriate direction of independent accreditation and meeting~~
6 ~~essential conditions for public community and technical colleges, the legislation does not take the~~
7 ~~final steps that are considered to be necessary by independent researchers. This position is~~
8 ~~clearly demonstrated by the recent research findings and recommendations cited below:~~

9 ~~(A) "West Virginia: A Vision Shared! Economic Development: A Plan for West Virginia's~~
10 ~~Future", hereinafter cited in this article and article two-c of this chapter as the *Market Street*~~
11 ~~*Report*, is a research document commissioned by the West Virginia council for community and~~
12 ~~economic development to assess the economic competitiveness of the state. The report makes~~
13 ~~a number of findings and recommendations important to public community and technical college~~
14 ~~education:~~

15 ~~(i) The state needs to adopt and implement a specific focus on technical education; in~~
16 ~~particular, it needs to move away from the traditionally isolated and limited vocational~~
17 ~~programming towards a systematic approach of teaching technical skills that employers need~~
18 ~~today;~~

19 ~~(ii) The state needs to establish a strong technical education system that is separate from~~
20 ~~the university system and is responsive to the needs of business throughout the state;~~

21 ~~(iii) The state needs to establish as a high-level priority the training and retraining of its~~

22 ~~working-age adults to help them acquire and maintain the competitive skills they need to succeed~~
23 ~~in today's economy; and~~

24 ~~(iv) The state needs to emphasize the role of lifelong learning as a critical piece of its~~
25 ~~overall education and training system if the state is to make the transition to the new economy.~~

26 ~~(B) The *Report to the Legislative Oversight Commission on Education Accountability*,~~
27 ~~hereinafter cited in this article and article two-c as the *McClenney Report*, is a study required by~~
28 ~~provisions of enrolled Senate Bill No. 653 and conducted by Dr. Kay McClenney. The research~~
29 ~~found that:~~

30 ~~(i) The participation rate in West Virginia community and technical college education is~~
31 ~~substantially lower than will be necessary if the state is to achieve its goals for economic~~
32 ~~development and prosperity for its citizens;~~

33 ~~(ii) The low visibility of the component community and technical colleges effectively~~
34 ~~restricts access for the West Virginians who most need encouragement to participate in post-~~
35 ~~secondary education and training;~~

36 ~~(iii) It is not clear that the parent institutions of the component community colleges actually~~
37 ~~embrace the community college mission;~~

38 ~~(iv) The community and technical college developmental education programs are~~
39 ~~underserving by far the evident needs of the population, especially as that service relates to~~
40 ~~nontraditional students;~~

41 ~~(v) Adults over age twenty-five are under represented in the community and technical~~
42 ~~college student populations;~~

43 ~~(vi) Technical education program development and enrollment are not at the levels~~
44 ~~necessary to serve the needs of the state;~~

45 ~~(vii) Independent accreditation and the essential conditions required by enrolled Senate~~
46 ~~Bill No. 653 are necessary, but not sufficient alone to provide a strong enough tool to accomplish~~
47 ~~the state's goal to strengthen community and technical college education;~~

48 ~~(viii) The community and technical college will not be able to operate optimally until they~~
49 ~~move out of the shadow of their "parent" institutions, with the flexibility and autonomy to establish~~
50 ~~a uniquely community college identity, culture, program mix, outreach capacity and approach to~~
51 ~~teaching and learning;~~

52 ~~(ix) The development of stronger support mechanisms for the community and technical~~
53 ~~colleges should be an extension of the ongoing step-by-step process for achieving the goals for~~
54 ~~post secondary education in the state;~~

55 ~~(x) Building on the foundations laid in enrolled committee substitute for Senate Bill No.~~
56 ~~547 and enrolled Senate Bill No. 653, the Legislature should now establish the further systemic~~
57 ~~and policy supports that are needed for the community and technical college to thrive, perform~~
58 ~~and meet state goals;~~

59 ~~(xi) Implementation will necessarily be incremental;~~

60 ~~(xii) The consistent focus at the state level should be on the statewide mission of raising~~
61 ~~educational attainment, increasing adult literacy, promoting workforce and economic~~
62 ~~development and ensuring access to advanced education for the citizens of West Virginia;~~

63 ~~(xiii) The solution must ensure a high degree of flexibility and autonomy at the local level,~~
64 ~~preserving the ability of community and technical colleges to respond rapidly and effectively to~~
65 ~~local needs;~~

66 ~~(xiv) At the same time, there is serious and recognized need for statewide leadership,~~
67 ~~coordination and support for the work of the community and technical colleges and the advocacy~~
68 ~~for the public priorities that these institutions are charged to address;~~

69 ~~and therefore~~

70 ~~(xv) The state needs to create a community college support capacity at the state level that~~
71 ~~will bring leadership, coordination, technical support, advocacy and critical mass to a statewide~~
72 ~~network of local community and technical college campuses.~~

73 ~~(C) The *Report and Recommendations of the Implementation Board to the West Virginia*~~

74 ~~Higher Education Policy Commission~~, hereinafter cited in this article and article two-c of this
75 chapter as the ~~Implementation Board Report~~, is a study required by enrolled Senate Bill No. 653
76 to determine the most effective and efficient method to deliver community and technical college
77 services in the former responsibility areas of Marshall university, West Virginia state college and
78 West Virginia University institute of technology. The ~~Implementation Board Report~~ states its goals
79 and vision for community and technical college education in the advantage valley region as one
80 of a dynamic, vital and vibrant community college network which offers:

81 (i) Affordable, quality training and education to students;

82 (ii) Represents a recognized path of choice to success in the knowledge economy for
83 thousands of West Virginians; and

84 (iii) Provides West Virginia businesses with the highly skilled workforce necessary to meet
85 their evolving needs in the global knowledge economy.

86 (D) In furtherance of their goals, the ~~Implementation Board Report~~ recommended
87 formation of the advantage valley community college network:

88 (i) To enhance economic development through coordinated leadership and a delivery
89 system for education and training initiatives;

90 (ii) To provide accountability through a separate compact and through independent
91 accreditation of each of the affected community and technical colleges; and

92 (iii) To enhance education opportunities for the citizens of the area and assist in
93 overcoming the barrier of accessibility in higher education.

94 (b) Based on the recent research cited above, the Legislature further finds that:

95 (1) The recommendations of the ~~Market Street Report~~ clearly point out the shortcomings
96 of the state's current approach to providing post-secondary education and programs and show
97 the consequences of failing to change appropriately;

98 (2) The research, findings, vision and goals set forth in the ~~McClenny Report~~ and the
99 ~~Implementation Board Report~~ are noteworthy and, although written, in part, to address specific

100 ~~institutions, have broad application statewide for community and technical colleges;~~

101 ~~(3) The research shows that:~~

102 ~~(A) A need exists to enhance community and technical college education in West Virginia~~
103 ~~through the delivery of services that meet the goals of this chapter and that are delivered pursuant~~
104 ~~to the process for meeting the essential conditions established in section three, article three-c of~~
105 ~~this chapter;~~

106 ~~(B) A need exists for statewide leadership, coordination and support for the work of the~~
107 ~~community and technical colleges and for advocacy for the public priorities these institutions are~~
108 ~~charged to address;~~

109 ~~(C) Community and technical colleges need to be efficient, avoiding duplication and the~~
110 ~~burden of bureaucracy while recognizing fiscal realities;~~

111 ~~(D) Community and technical colleges need a high degree of flexibility and local autonomy~~
112 ~~to preserve and expand their ability to respond rapidly and effectively to local or regional needs;~~

113 ~~(E) Community and technical colleges need state-level support and leadership that~~
114 ~~recognize differences among regions of the state and among institutions and accept the reality~~
115 ~~that institutions are at different stages in their development and have different challenges and~~
116 ~~capabilities;~~

117 ~~(F) Clear benchmarks and regular monitoring are required to assess the progress of~~
118 ~~community and technical colleges toward meeting the established goals and for meeting the~~
119 ~~essential conditions, including independent accreditation, established in this chapter;~~

120 ~~(G) Implementation will necessarily be incremental;~~

121 ~~(4) Certain acts to streamline accountability, to make maximum use of existing assets to~~
122 ~~meet new demands and target funding to initiatives designed to enhance and reorient existing~~
123 ~~capacity and to provide incentives for brokering and collaboration require that the role of the joint~~
124 ~~commission for vocational-technical-occupational education be reexamined.~~

125 ~~(c) *Legislative intent.* -- The intent of the Legislature in enacting this article is to address~~

126 ~~the research findings cited above by reconstituting the joint commission for vocational-technical-~~
127 ~~occupational education as the West Virginia council for community and technical college~~
128 ~~education in order to reorient the mission, role and responsibilities consistent with and supportive~~
129 ~~of the mission, role and responsibilities of the commission, the goals for post-secondary education~~
130 ~~and accountability for assisting the public community and technical colleges, branches, centers,~~
131 ~~regional centers and other delivery sites with a community and technical college mission in~~
132 ~~achieving the state's public policy agenda.~~

133 ~~(d) Purpose. -- The purpose of this article is to provide for the development of a leadership~~
134 ~~and support mechanism for the community and technical colleges, branches, centers, regional~~
135 ~~centers and other delivery sites with a community and technical college mission to assist them in~~
136 ~~meeting the essential conditions and in the step-by-step implementation process for achieving~~
137 ~~the goals for community and technical college education as provided for in article three-c of this~~
138 ~~chapter and to promote coordination and collaboration among secondary and post-secondary~~
139 ~~vocational-technical-occupational and adult basic education programs as provided for in this~~
140 ~~chapter and chapter eighteen of this code. The focus of this leadership and support mechanism~~
141 ~~is to encourage development of a statewide mission to raise education attainment, increase adult~~
142 ~~literacy, promote workforce and economic development and ensure access to secondary and~~
143 ~~post-secondary education for the citizens of the state while maintaining the local autonomy and~~
144 ~~flexibility necessary to the success of community and technical education.~~

145 The West Virginia Council for Community and Technical College Education is hereby
146 abolished as of July 1, 2016. All monetary assets of the council shall be transferred into the State's
147 General Revenue Fund. All other property of the West Virginia Council for Community and
148 Technical College Education shall be disposed of or transferred in accordance with the
149 requirements of section twelve, article ten, chapter four of this code.

§18B-2B-6. Powers and duties of the council Transfer of powers of the council.

1 (a) ~~The council is the sole agency responsible for administration of vocational-technical-~~

2 ~~occupational education and community and technical college education in the state. The council~~
3 ~~has jurisdiction and authority over the community and technical colleges and the statewide~~
4 ~~network of independently accredited community and technical colleges as a whole, including~~
5 ~~community and technical college education programs as defined in section two, article one of this~~
6 ~~chapter.~~

7 ~~(b)~~ (a) ~~The council shall~~ Secretary for the Department of Education and the Arts may
8 propose rules pursuant to ~~section six, article one of this chapter and~~ article three-a, chapter
9 twenty-nine-a of this code to implement the provisions of this section and applicable provisions of
10 article one-d of this chapter:

11 (1) To implement the provisions of article one-d of this chapter relevant to community and
12 technical colleges, the ~~council~~ Secretary for the Department of Education and the Arts may
13 propose rules ~~jointly with the commission, or separately,~~ and may choose to address all
14 components of the accountability system in a single rule or may propose additional rules to cover
15 specific components;

16 (2) ~~The rules pertaining to financing policy and benchmarks and indicators required by this~~
17 ~~section shall be filed with the Legislative Oversight Commission on Education Accountability by~~
18 ~~October 1, 2008~~ Nothing in this subsection requires other rules of the council to be promulgated
19 again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless
20 such rules are rescinded, revised, altered or amended; ~~and~~

21 ~~(3) The Legislature finds that an emergency exists and, therefore, the council shall~~
22 ~~propose an emergency rule or rules to implement the provisions of this section relating to the~~
23 ~~financing policy and benchmarks and indicators in accordance with section six, article one of this~~
24 ~~chapter and article three-a, chapter twenty-nine-a of this code by October 1, 2008. The~~
25 ~~emergency rule or rules may not be implemented without prior approval of the Legislative~~
26 ~~Oversight Commission on Education Accountability~~

27 (c) (b) The council has the following powers and duties relating to the authority established

28 ~~in subsection (a) of this section~~ The following powers and duties, previously assigned to the West
29 Virginia Council for Community and Technical College Education in this section, are hereby
30 transferred to the Secretary for the Department of Education and the Arts and, unless specifically
31 limited to the secretary, to his or her designees:

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

35 (A) Achieving the goals and objectives established in articles one and one-d of this
36 chapter;

37 (B) Addressing the goals and objectives contained in the institutional compacts created
38 pursuant to section seven, article one-d of this chapter; and

39 (C) Developing and implementing the master plan described in section five, article one-d
40 of this chapter;

41 (2) Propose a legislative rule pursuant to ~~subsection (b) of this section and~~ article three-a,
42 chapter twenty-nine-a of this code to develop and implement a financing policy for community and
43 technical college education in West Virginia. The rule shall meet the following criteria:

44 (A) Provide an adequate level of education and general funding for institutions pursuant
45 to section five, article one-a of this chapter;

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

48 (C) Establish a plan for strategic funding to strengthen capacity for support of community
49 and technical college education; and

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

52 (i) Achieving the objectives and priorities established in article one-d of this chapter;

53 (ii) Serving targeted populations, especially working age adults twenty-five years of age

54 and over;

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

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

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

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

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

70 (B) Ensuring that the governing boards of the institutions under the ~~council~~ secretary's
71 jurisdiction carry out their duty effectively to govern the individual institutions of higher education;
72 and

73 (C) Holding each community and technical college and the statewide network of
74 independently accredited community and technical colleges as a whole accountable for
75 accomplishing their missions and achieving the goals and objectives established in articles one,
76 one-d and three-c of this chapter;

77 (4) Develop for inclusion in the statewide public agenda, a plan for raising education
78 attainment, increasing adult literacy, promoting workforce and economic development and
79 ensuring access to advanced education for the citizens of West Virginia;

80 (5) Provide statewide leadership, coordination, support, and technical assistance to the
81 community and technical colleges ~~and to provide a focal point for visible and effective advocacy~~
82 ~~for their work and for the public policy agendas approved by the commission and council~~
83 secretary;

84 (6) Review and adopt annually all institutional compacts for the community and technical
85 colleges pursuant to the provisions of section seven, article one-d of this chapter;

86 (7) Fulfill the mandates of the accountability system established in article one-d of this
87 chapter and report on progress in meeting established goals, objectives, and priorities to the
88 elected leadership of the state;

89 (8) Propose a legislative rule pursuant to ~~subsection (b) of this section and~~ article three-a,
90 chapter twenty-nine-a of this code to establish benchmarks and indicators in accordance with the
91 provisions of this subsection;

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

94 (A) In meeting state goals, objectives, and priorities established in articles one and one-d
95 of this chapter;

96 (B) In carrying out institutional missions; and

97 (C) In meeting the essential conditions established in article three-c of this chapter;

98 (10) Establish a formal process for identifying needs for capital investments and for
99 determining priorities for these investments for consideration by the Governor and the Legislature
100 as part of the appropriation request process. ~~Notwithstanding the language in subdivision eleven,~~
101 ~~subsection a, section four, article one-b of this chapter, the commission is not a part of the process~~
102 ~~for identifying needs for capital investments for the statewide network of independently accredited~~
103 ~~community and technical colleges~~

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

106 and training;

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

113 ~~(13) Employ a chancellor for community and technical college education pursuant to~~
114 ~~section three of this article~~

115 ~~(14)~~ (12) Employ other staff as necessary and appropriate to carry out the duties and
116 responsibilities of the council secretary consistent with the provisions of section two, article four
117 of this chapter;

118 ~~(15) Employ other staff as necessary and appropriate to carry out the duties and~~
119 ~~responsibilities of the council Secretary who are employed solely by the council Secretary~~

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

124 ~~(17)~~ (13) Approve the total compensation package from all sources for presidents of
125 community and technical colleges, as proposed by the governing boards. The governing boards
126 must obtain approval from the council secretary of the total compensation package both when
127 presidents are employed initially and subsequently when any change is made in the amount of
128 the total compensation package;

129 ~~(18)~~ (14) Establish and implement policies and procedures to ensure that students may
130 transfer and apply toward the requirements for a degree the maximum number of credits earned
131 at any regionally accredited in-state or out-of-state higher education institution with as few

132 requirements to repeat courses or to incur additional costs as is consistent with sound academic
133 policy;

134 ~~(19)~~ (15) Establish and implement policies and programs, jointly with the community and
135 technical colleges, through which students who have gained knowledge and skills through
136 employment, participation in education and training at vocational schools or other education
137 institutions, or internet-based education programs, may demonstrate by competency-based
138 assessment that they have the necessary knowledge and skills to be granted academic credit or
139 advanced placement standing toward the requirements of an associate degree or a bachelor's
140 degree at a state institution of higher education;

141 ~~(20)~~ (16) Seek out and attend regional and national meetings and forums on education
142 and workforce development-related topics, as council members consider critical for the
143 performance of their duties. The ~~council~~ secretary shall keep abreast of national and regional
144 community and technical college education trends and policies to aid members in developing the
145 policies for this state that meet the education goals and objectives established in articles one and
146 one-d of this chapter;

147 ~~(21)~~ (17) Assess community and technical colleges for ~~the payment of expenses of the~~
148 ~~council or for~~ the funding of statewide services, obligations or initiatives related specifically to the
149 provision of community and technical college education;

150 ~~(22)~~ (18) Promulgate rules allocating reimbursement of appropriations, if made available
151 by the Legislature, to community and technical colleges for qualifying noncapital expenditures
152 incurred in the provision of services to students with physical, learning or severe sensory
153 disabilities;

154 ~~(23)~~ (19) Assume the prior authority of the commission and council in examining and
155 approving tuition and fee increase proposals submitted by community and technical college
156 governing boards as provided in section one, article ten of this chapter;

157 ~~(24)~~ (20) Develop ~~and submit to the commission,~~ a single budget for community and

158 technical college education that reflects recommended appropriations for community and
159 technical colleges and that meets the following conditions:

160 (A) Incorporates the provisions of the financing rule mandated by this section to measure
161 and provide performance funding to institutions which achieve or make significant progress
162 toward achieving established state objectives and priorities;

163 (B) Considers the progress of each institution toward meeting the essential conditions set
164 forth in section three, article three-c of this chapter, including independent accreditation; and

165 (C) Considers the progress of each institution toward meeting the goals, objectives, and
166 priorities established in article one-d of this chapter and its approved institutional compact.

167 ~~(25)~~ (21) Administer and distribute the independently accredited community and technical
168 college development account;

169 ~~(26)~~ (22) Establish a plan of strategic funding to strengthen capacity for support and assure
170 delivery of high-quality community and technical college education in all regions of the state;

171 ~~(27)~~ (23) Foster coordination among all state-level, regional and local entities providing
172 post-secondary vocational education or workforce development and coordinate all public
173 institutions and entities that have a community and technical college mission;

174 ~~(28)~~ (24) Assume the principal responsibility for oversight of those community and
175 technical colleges seeking independent accreditation and for holding governing boards
176 accountable for meeting the essential conditions pursuant to article three-c of this chapter;

177 ~~(29)~~ (25) Advise and consent in the appointment of the presidents of the community and
178 technical colleges pursuant to section six, article one-b of this chapter. The role of the ~~council~~
179 secretary in approving a president is to assure through personal interview that the person selected
180 understands and is committed to achieving the goals and objectives established in the institutional
181 compact and in articles one, one-d and three-c of this chapter;

182 ~~(30)~~ (26) Provide a single, statewide link for current and prospective employers whose
183 needs extend beyond one locality;

184 ~~(34)~~ (27) Provide a mechanism capable of serving two or more institutions to facilitate joint
185 problem-solving in areas including, but not limited, to the following:

186 (A) Defining faculty roles and personnel policies;

187 (B) Delivering high-cost technical education programs across the state;

188 (C) Providing one-stop service for workforce training to be delivered by multiple
189 institutions; and

190 (D) Providing opportunities for resource-sharing and collaborative ventures;

191 ~~(32)~~ (28) Provide support and technical assistance to develop, coordinate, and deliver
192 effective and efficient community and technical college education programs and services in all
193 regions of the state;

194 ~~(33)~~ (29) Assist the community and technical colleges in establishing and promoting links
195 with business, industry and labor in the geographic areas for which each community and technical
196 college is responsible;

197 ~~(34)~~ (30) Develop alliances among the community and technical colleges for resource
198 sharing, joint development of courses and courseware, and sharing of expertise and staff
199 development;

200 ~~(35)~~ (31) Serve aggressively as an advocate for development of a seamless curriculum;

201 ~~(36)~~ (32) Cooperate with all providers of education services in the state to remove barriers
202 relating to a seamless system of public and higher education and to transfer and articulate
203 between and among community and technical colleges, state colleges and universities and public
204 education, preschool through grade twelve;

205 ~~(37)~~ (33) Encourage the most efficient use of available resources;

206 ~~(38)~~ (34) Coordinate with the commission in informing public school students, their parents
207 and teachers of the academic preparation that students need in order to be prepared adequately
208 to succeed in their selected fields of study and career plans, including presentation of academic
209 career fairs;

210 ~~(39)~~ (35) ~~Jointly with the commission, approve~~ Approve and implement a uniform
211 standard, ~~as developed by the chancellors~~ to determine which students shall be placed in
212 remedial or developmental courses. The standard shall be aligned with college admission tests
213 and assessment tools used in West Virginia and shall be applied uniformly by the governing
214 boards throughout the public higher education system. The ~~chancellors~~ secretary shall develop a
215 clear, concise explanation of the standard which the governing boards shall communicate to the
216 State Board of Education and the State Superintendent of Schools;

217 ~~(40)~~ (36) Develop and implement strategies and curriculum for providing developmental
218 education which shall be applied by any state institution of higher education providing
219 developmental education;

220 ~~(41)~~ (37) Develop a statewide system of community and technical college programs and
221 services in every region of West Virginia for competency-based certification of knowledge and
222 skills, including a statewide competency-based associate degree program;

223 ~~(42)~~ (38) Review and approve all institutional master plans for the community and
224 technical colleges pursuant to section four, article two-a of this chapter;

225 ~~(43)~~ (39) Propose rules for promulgation pursuant to ~~subsection (b) of this section and~~
226 article three-a, chapter twenty-nine-a of this code that are necessary or expedient for the effective
227 and efficient performance of community and technical colleges in the state;

228 ~~(44)~~ (40) ~~In its sole discretion,~~ Transfer any rule under its jurisdiction, other than a
229 legislative rule, to the jurisdiction of the governing boards who may rescind, revise, alter or amend
230 any rule transferred pursuant to rules adopted by the ~~council~~ secretary and provide technical
231 assistance to the institutions under its jurisdiction to aid them in promulgating rules;

232 ~~(45)~~ (41) Develop for inclusion in the higher education report card, as defined in section
233 eight, article one-d of this chapter, a separate section on community and technical colleges. This
234 section shall include, but is not limited to, evaluation of the institutions based upon the
235 benchmarks and indicators developed in subdivision (9) of this subsection;

236 ~~(46)~~ (42) Facilitate continuation of the Advantage Valley Community College Network
237 under the leadership and direction of Marshall Community and Technical College;

238 ~~(47)~~ (43) Initiate and facilitate creation of other regional networks of affiliated community
239 and technical colleges that the council secretary finds to be appropriate and in the best interests
240 of the citizens to be served;

241 ~~(48)~~ (44) Develop with the State Board of Education plans for secondary and post-
242 secondary vocational-technical-occupational and adult basic education, including, but not limited
243 to, the following:

244 (A) Policies to strengthen vocational-technical-occupational and adult basic education;
245 and

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

248 ~~(49)~~ (45) Distribute federal vocational education funding provided under the Carl D.
249 Perkins Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on
250 distributing financial assistance among secondary and post-secondary vocational-technical-
251 occupational and adult basic education programs to help meet the public policy agenda.

252 In distributing funds the ~~council~~ secretary shall use the following guidelines:

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

255 (B) The percentage split between the State Board of Education and the ~~council~~ secretary
256 shall be determined by rule promulgated by the ~~council~~ secretary under the provisions of article
257 three-a, chapter twenty-nine-a of this code. The ~~council~~ secretary shall first obtain the approval of
258 the State Board of Education before proposing a rule;

259 ~~(50)~~ (46) Collaborate, cooperate and interact with all secondary and post-secondary
260 vocational-technical-occupational and adult basic education programs in the state, including the
261 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of

262 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of
263 seamless curriculum and the elimination of duplicative programs;

264 ~~(54)~~ (47) Coordinate the delivery of vocational-technical-occupational and adult basic
265 education in a manner designed to make the most effective use of available public funds to
266 increase accessibility for students;

267 ~~(52)~~ (48) Analyze and report to the State Board of Education on the distribution of spending
268 for vocational-technical-occupational and adult basic education in the state and on the availability
269 of vocational-technical-occupational and adult basic education activities and services within the
270 state;

271 ~~(53)~~ (49) Promote the delivery of vocational-technical-occupational education, adult basic
272 education and community and technical college education programs in the state which emphasize
273 the involvement of business, industry and labor organizations;

274 ~~(54)~~ (50) Promote public participation in the provision of vocational-technical-occupational
275 education, adult basic education and community and technical education at the local level,
276 emphasizing programs which involve the participation of local employers and labor organizations;

277 ~~(55)~~ (51) Promote equal access to quality vocational-technical-occupational education,
278 adult basic education and community and technical college education programs to handicapped
279 and disadvantaged individuals, adults in need of training and retraining, single parents,
280 homemakers, participants in programs designed to eliminate sexual bias and stereotyping and
281 criminal offenders serving in correctional institutions;

282 ~~(56) Meet annually between the months of October and December with the Advisory~~
283 ~~Committee of Community and Technical College Presidents created pursuant to section eight of~~
284 ~~this article to discuss those matters relating to community and technical college education in which~~
285 ~~advisory committee members or the council may have an interest~~

286 ~~(57)~~ (52) Accept and expend any gift, grant, contribution, bequest, endowment or other
287 money for the purposes of this article;

288 ~~(58)~~ (53) Assume the powers set out in section nine of this article. The rules previously
289 promulgated by the State College System Board of Directors pursuant to that section and
290 transferred to the commission, and the rules previously promulgated by the West Virginia Council
291 for Community and Technical College Education are hereby transferred to the ~~council~~ secretary
292 and shall continue in effect until rescinded, revised, altered or amended by the ~~council~~ secretary;

293 ~~(59)~~ (54) Pursuant to the provisions of ~~subsection (b) of this section and~~ article three-a,
294 chapter twenty-nine-a of this code, promulgate a uniform joint legislative rule with the commission
295 for the purpose of standardizing, as much as possible, the administration of personnel matters
296 among the institutions of higher education;

297 ~~(60)~~ (55) Determine when a joint rule among the governing boards of the community and
298 technical colleges is necessary or required by law and, in those instances and in consultation with
299 the governing boards, promulgate the joint rule;

300 ~~(64)~~ (56) Promulgate a joint rule ~~with the commission~~ establishing tuition and fee policy
301 for all institutions of higher education. The rule shall include, but is not limited to, the following:

- 302 (A) Comparisons with peer institutions;
- 303 (B) Differences among institutional missions;
- 304 (C) Strategies for promoting student access;
- 305 (D) Consideration of charges to out-of-state students; and
- 306 (E) Any other policies the ~~commission and council~~ secretary may consider appropriate;

307 ~~(62)~~ (57) In cooperation with the West Virginia Division of Highways, study a method for
308 increasing the signage signifying community and technical college locations along the state
309 interstate highways, and report to the Legislative Oversight Commission on Education
310 Accountability regarding any recommendations and required costs; and

311 ~~(63)~~ (58) Implement a policy ~~jointly with the commission~~ whereby any course credit earned
312 at a community and technical college transfers for program credit at any other state institution of
313 higher education and is not limited to, fulfilling a general education requirement.

314 ~~(d)~~ (c) In addition to the powers and duties listed in subsections (a), ~~(b) and (c)~~ and (b) of
315 this section, the ~~council~~ secretary has the following general powers and duties related to its role
316 in developing, articulating and overseeing the implementation of the public policy agenda for
317 community and technical colleges:

318 (1) Planning and policy leadership including a distinct and visible role in setting the state's
319 policy agenda for the delivery of community and technical college education and in serving as an
320 agent of change;

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

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

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

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

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

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

339 ~~Jointly with the commission, development~~ Development, establishment and

340 implementation of policies for licensing and oversight of both public and private degree-granting
341 and nondegree-granting institutions that provide post-secondary education courses or programs;

342 (9) Development, implementation and oversight of statewide and regionwide projects and
343 initiatives related specifically to providing community and technical college education such as
344 those using funds from federal categorical programs or those using incentive and performance-
345 based funding from any source; and

346 (10) Quality assurance that intersects with all other duties of the ~~council~~ secretary
347 particularly in the areas of planning, policy analysis, program review and approval, budgeting and
348 information and accountability systems.

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

352 ~~(1) The governing board has failed for two consecutive years to develop an institutional~~
353 ~~compact as required in section seven, article one-d of this chapter;~~

354 ~~(2) The council has received information, substantiated by independent audit, of significant~~
355 ~~mismanagement or failure to carry out the powers and duties of the board of governors according~~
356 ~~to state law; or~~

357 ~~(3) Other circumstances which, in the view of the council, severely limit the capacity of the~~
358 ~~board of governors to carry out its duties and responsibilities.~~

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

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

365 ~~(g) When the council and commission, each, is required to consent, cooperate, collaborate~~

366 ~~or provide input into the actions of the other the following conditions apply:~~

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

369 ~~(2) The commission or the council, as the receiving body, shall place the proposal on its~~
370 ~~agenda and shall take final action within sixty days of the date when the request for concurrence~~
371 ~~is received; and~~

372 ~~(3) If the receiving body fails to take final action within sixty days, the original proposal~~
373 ~~stands and is binding on both the commission and the council.~~

NOTE: The purpose of this bill is to abolish the West Virginia Higher Education Policy Commission; to transfer all powers and duties of the commission relating to governance of institutions of higher education to the board of governors of the institutions; to transfer all powers and duties of the commission to secure, provide, or administer financial support for educational or research purposes to the Cabinet Secretary for the Department of Education and the Arts; to provide for the transfer and disposition of assets, property and records of the commission; and to authorize legislative and emergency rulemaking; and additionally, to abolish the West Virginia Council for Community and Technical College Education; to transfer the power and duties of the council to the Cabinet Secretary for the Department of Education and the Arts; and to provide for the disposition or transfer of assets and property of the council.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.