

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

### **Introduced**

## **House Bill 2557**

BY DELEGATES KELLY, CRISS, COOPER, ROWAN,

ROMINE, R., HARSHBARGER, HOLLEN, DEEM,

HIGGINBOTHAM, ANDERSON AND ZATEZALO

[Introduced February 20, 2017; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18B-2B-6 of the Code of West Virginia, 1931, as amended, relating  
2 to tuition and fees at community and technical colleges; setting forth guidelines therefor.

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

1 That §18B-2B-6 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

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

**§18B-2B-6. Powers and duties 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) The council shall propose rules pursuant to section six, article one of this chapter and  
8 article three-a, chapter twenty-nine-a of this code to implement the provisions of this section and  
9 applicable provisions of article one-d of this chapter:

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

14 (2) The rules pertaining to financing policy and benchmarks and indicators required by this  
15 section shall be filed with the Legislative Oversight Commission on Education Accountability by  
16 October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated  
17 again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless

18 such rules are rescinded, revised, altered or amended; and

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

25 (c) The council has the following powers and duties relating to the authority established in  
26 subsection (a) of this section:

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

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

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

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

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

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

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

43 (C) Establish a plan for strategic funding to strengthen capacity for support of community

44 and technical college education; and

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

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

48 (ii) Serving targeted populations, especially working age adults twenty-five years of age  
49 and over;

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

52 (iv) Increasing the percentage of functionally literate adults in every region of the state;

53 and

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

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

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

65 (B) Ensuring that the governing boards of the institutions under the council's jurisdiction  
66 carry out their duty effectively to govern the individual institutions of higher education; and

67 (C) Holding each community and technical college and the statewide network of  
68 independently accredited community and technical colleges as a whole accountable for  
69 accomplishing their missions and achieving the goals and objectives established in articles one,

70 one-d and three-c of this chapter;

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

74 (5) Provide statewide leadership, coordination, support, and technical assistance to the  
75 community and technical colleges and to provide a focal point for visible and effective advocacy  
76 for their work and for the public policy agendas approved by the commission and council;

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

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

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

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

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

89 (B) In carrying out institutional missions; and

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

91 (10) Establish a formal process for identifying needs for capital investments and for  
92 determining priorities for these investments for consideration by the Governor and the Legislature  
93 as part of the appropriation request process. Notwithstanding the language in subdivision eleven,  
94 subsection a, section four, article one-b of this chapter, the commission is not a part of the process  
95 for identifying needs for capital investments for the statewide network of independently accredited

96 community and technical colleges;

97 (11) Draw upon the expertise available within the Governor's Workforce Investment Office  
98 and the West Virginia Development Office as a resource in the area of workforce development  
99 and training;

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

106 (13) Employ a chancellor for community and technical college education pursuant to  
107 section three of this article;

108 (14) Employ other staff as necessary and appropriate to carry out the duties and  
109 responsibilities of the council consistent with the provisions of section two, article four of this  
110 chapter;

111 (15) Employ other staff as necessary and appropriate to carry out the duties and  
112 responsibilities of the council who are employed solely by the council;

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

117 (17) Approve the total compensation package from all sources for presidents of community  
118 and technical colleges, as proposed by the governing boards. The governing boards must obtain  
119 approval from the council of the total compensation package both when presidents are employed  
120 initially and subsequently when any change is made in the amount of the total compensation  
121 package;

122 (18) Establish and implement policies and procedures to ensure that students may transfer  
123 and apply toward the requirements for a degree the maximum number of credits earned at any  
124 regionally accredited in-state or out-of-state higher education institution with as few requirements  
125 to repeat courses or to incur additional costs as is consistent with sound academic policy;

126 (19) Establish and implement policies and programs, jointly with the community and  
127 technical colleges, through which students who have gained knowledge and skills through  
128 employment, participation in education and training at vocational schools or other education  
129 institutions, or Internet-based education programs, may demonstrate by competency-based  
130 assessment that they have the necessary knowledge and skills to be granted academic credit or  
131 advanced placement standing toward the requirements of an associate degree or a bachelor's  
132 degree at a state institution of higher education;

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

138 (21) Assess community and technical colleges for the payment of expenses of the council  
139 or for the funding of statewide services, obligations or initiatives related specifically to the  
140 provision of community and technical college education;

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

144 (23) Assume the prior authority of the commission in examining and approving tuition and  
145 fee increase proposals submitted by community and technical college governing boards as  
146 provided in section one, article ten of this chapter, subject to the following:

147 (A) Annual tuition and fees may not exceed \$6,000;

148           (B) The annual increase in tuition and fees for all the institutions accumulated together  
149 may not exceed five percent of such tuition and fees from the previous year;

150           (C) Within ten years, the tuition and fees of all community and technical colleges may not  
151 vary by more than five percent but no such college may be required to lower its tuition;

152           (D) Year-to-year changes in tuition shall be less than ten percent.

153           (24) Develop and submit to the commission, a single budget for community and technical  
154 college education that reflects recommended appropriations for community and technical colleges  
155 and that meets the following conditions:

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

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

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

163           (25) Administer and distribute the independently accredited community and technical  
164 college development account;

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

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

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

173           (29) Advise and consent in the appointment of the presidents of the community and



174 technical colleges pursuant to section six, article one-b of this chapter. The role of the council in  
175 approving a president is to assure through personal interview that the person selected  
176 understands and is committed to achieving the goals and objectives established in the institutional  
177 compact and in articles one, one-d and three-c of this chapter;

178 (30) Provide a single, statewide link for current and prospective employers whose needs  
179 extend beyond one locality;

180 (31) Provide a mechanism capable of serving two or more institutions to facilitate joint  
181 problem-solving in areas including, but not limited to, the following:

182 (A) Defining faculty roles and personnel policies;

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

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

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

187 (32) Provide support and technical assistance to develop, coordinate, and deliver effective  
188 and efficient community and technical college education programs and services in all regions of  
189 the state;

190 (33) Assist the community and technical colleges in establishing and promoting links with  
191 business, industry and labor in the geographic areas for which each community and technical  
192 college is responsible;

193 (34) Develop alliances among the community and technical colleges for resource sharing,  
194 joint development of courses and courseware, and sharing of expertise and staff development;

195 (35) Serve aggressively as an advocate for development of a seamless curriculum;

196 (36) Cooperate with all providers of education services in the state to remove barriers  
197 relating to a seamless system of public and higher education and to transfer and articulate  
198 between and among community and technical colleges, state colleges and universities and public  
199 education, preschool through grade twelve;

200 (37) Encourage the most efficient use of available resources;

201 (38) Coordinate with the commission in informing public school students, their parents and  
202 teachers of the academic preparation that students need in order to be prepared adequately to  
203 succeed in their selected fields of study and career plans, including presentation of academic  
204 career fairs;

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

212 (40) Develop and implement strategies and curriculum for providing developmental  
213 education which shall be applied by any state institution of higher education providing  
214 developmental education;

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

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

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

223 (44) In its sole discretion, transfer any rule under its jurisdiction, other than a legislative  
224 rule, to the jurisdiction of the governing boards who may rescind, revise, alter or amend any rule  
225 transferred pursuant to rules adopted by the council and provide technical assistance to the

226 institutions under its jurisdiction to aid them in promulgating rules;

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

231           (46) Facilitate continuation of the Advantage Valley Community College Network under  
232 the leadership and direction of Marshall Community and Technical College;

233           (47) Initiate and facilitate creation of other regional networks of affiliated community and  
234 technical colleges that the council finds to be appropriate and in the best interests of the citizens  
235 to be served;

236           (48) Develop with the State Board of Education plans for secondary and post-secondary  
237 vocational-technical-occupational and adult basic education, including, but not limited to, the  
238 following:

239           (A) Policies to strengthen vocational-technical-occupational and adult basic education;  
240 and

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

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

247           In distributing funds the council shall use the following guidelines:

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

250           (B) The percentage split between the State Board of Education and the council shall be  
251 determined by rule promulgated by the council under the provisions of article three-a, chapter

252 twenty-nine-a of this code. The council shall first obtain the approval of the State Board of  
253 Education before proposing a rule;

254 (50) Collaborate, cooperate and interact with all secondary and post-secondary  
255 vocational-technical-occupational and adult basic education programs in the state, including the  
256 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of  
257 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of  
258 seamless curriculum and the elimination of duplicative programs;

259 (51) Coordinate the delivery of vocational-technical-occupational and adult basic  
260 education in a manner designed to make the most effective use of available public funds to  
261 increase accessibility for students;

262 (52) Analyze and report to the State Board of Education on the distribution of spending for  
263 vocational-technical-occupational and adult basic education in the state and on the availability of  
264 vocational-technical-occupational and adult basic education activities and services within the  
265 state;

266 (53) Promote the delivery of vocational-technical-occupational education, adult basic  
267 education and community and technical college education programs in the state which emphasize  
268 the involvement of business, industry and labor organizations;

269 (54) Promote public participation in the provision of vocational-technical-occupational  
270 education, adult basic education and community and technical education at the local level,  
271 emphasizing programs which involve the participation of local employers and labor organizations;

272 (55) Promote equal access to quality vocational-technical-occupational education, adult  
273 basic education and community and technical college education programs to handicapped and  
274 disadvantaged individuals, adults in need of training and retraining, single parents, homemakers,  
275 participants in programs designed to eliminate sexual bias and stereotyping and criminal  
276 offenders serving in correctional institutions;

277 (56) Meet annually between the months of October and December with the Advisory

278 Committee of Community and Technical College Presidents created pursuant to section eight of  
279 this article to discuss those matters relating to community and technical college education in which  
280 advisory committee members or the council may have an interest;

281 (57) Accept and expend any gift, grant, contribution, bequest, endowment or other money  
282 for the purposes of this article;

283 (58) Assume the powers set out in section nine of this article. The rules previously  
284 promulgated by the state College System Board of Directors pursuant to that section and  
285 transferred to the commission are hereby transferred to the council and shall continue in effect  
286 until rescinded, revised, altered or amended by the council;

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

291 (60) Determine when a joint rule among the governing boards of the community and  
292 technical colleges is necessary or required by law and, in those instances and in consultation with  
293 the governing boards, promulgate the joint rule;

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

296 (A) Comparisons with peer institutions;

297 (B) Differences among institutional missions;

298 (C) Strategies for promoting student access;

299 (D) Consideration of charges to out-of-state students; and

300 (E) Any other policies the commission and council consider appropriate;

301 (62) In cooperation with the West Virginia Division of Highways, study a method for  
302 increasing the signage signifying community and technical college locations along the state  
303 interstate highways, and report to the Legislative Oversight Commission on Education

304 Accountability regarding any recommendations and required costs; and

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

308 (d) In addition to the powers and duties listed in subsections (a), (b) and (c) of this section,  
309 the council has the following general powers and duties related to its role in developing,  
310 articulating and overseeing the implementation of the public policy agenda for community and  
311 technical colleges:

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

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

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

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

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

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

329 (7) Development, establishment and implementation of information, assessment and

330 internal accountability systems, including maintenance of statewide data systems that facilitate  
331 long-term planning and accurate measurement of strategic outcomes and performance indicators  
332 for community and technical colleges;

333 (8) Jointly with the commission, development, establishment and implementation of  
334 policies for licensing and oversight of both public and private degree-granting and nondegree-  
335 granting institutions that provide post-secondary education courses or programs;

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

340 (10) Quality assurance that intersects with all other duties of the council particularly in the  
341 areas of planning, policy analysis, program review and approval, budgeting and information and  
342 accountability systems.

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

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

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

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

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

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

359 (g) When the council and commission, each, is required to consent, cooperate, collaborate  
360 or provide input into the actions of the other the following conditions apply:

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

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

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

NOTE: The purpose of this bill is to set forth guidelines for increases of tuition and fees at community and technical colleges.

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