

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### House Bill 4788

FISCAL  
NOTE

BY DELEGATE RODIGHIERO

[Introduced February 10, 2020; Referred to the  
Committee on Education]

1 A BILL to amend and reenact §18B-1B-4 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring that no later than July 1, 2020, credits earned at two-year colleges or  
3 community and technical college transfer for program credit at any other state institution  
4 of higher education.

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

## **ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.**

### **§18B-1B-4. Powers and duties of Higher Education Policy Commission.**

1 (a) The primary responsibility of the commission is to provide shared services in a cost-  
2 effective manner upon request to the state colleges and universities, the council, and the  
3 community and technical colleges; undertake certain statewide and regional initiatives as  
4 specifically designated in this chapter, including those related to the administration of grants and  
5 scholarships and including those in conjunction with the council; to review, confirm or approve  
6 certain actions undertaken by governing boards, as delineated in this chapter; and assist in the  
7 development of policy that will achieve the goals, objectives and priorities found in §18B-1D-1 of  
8 this code. The commission shall exercise its authority and carry out its responsibilities in a manner  
9 that is consistent and not in conflict with the powers and duties assigned by law to the West  
10 Virginia Council for Community and Technical College Education and the powers and duties  
11 assigned to the governing boards. To that end, the commission has the following powers and  
12 duties relating to the governing boards under its jurisdiction:

13 (1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this  
14 code, to address major challenges facing the state, including, but not limited to, the following:

15 (A) The goals, objectives and priorities established in this chapter including specifically  
16 those goals, objectives and priorities pertaining to the compacts created pursuant to §18B-1D-7  
17 of this code; and

18 (B) Development of the master plan described in §18D-1D-5 of this code for the purpose  
19 of accomplishing the mandates of this section;

20 (2) Develop, oversee and advance the promulgation and implementation of a financing  
21 rule for state institutions of higher education under its jurisdiction except the exempted schools.

22 The rule shall meet the following criteria:

23 (A) Provide for an adequate level of educational and general funding for institutions  
24 pursuant to §18D-1A-5 of this code;

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

27 (C) Invest and provide incentives for achieving the priority goals in the public policy  
28 agenda, including, but not limited to, those found in §18B-1A-1 *et seq.*, §18B-1D-1 *et seq.* of this  
29 code;

30 (3) In collaboration with the council and the governing boards:

31 (A) Building public consensus around and sustaining attention to a long-range public policy  
32 agenda. In developing the agenda, the commission and council shall seek input from the  
33 Legislature, the Governor, the governing boards, and specifically from the State Board of  
34 Education and local school districts in order to create the necessary linkages to assure smooth,  
35 effective and seamless movement of students through the public education and post-secondary  
36 education systems and to ensure that the needs of public school courses and programs can be  
37 fulfilled by the graduates produced and the programs offered;

38 (B) Assisting governing boards to carry out their duty effectively to govern the individual  
39 institutions of higher education;

40 (4) Except the exempted schools, review and comment on each compact for the governing  
41 boards under its jurisdiction, and final confirmation of each compact;

42 (5) Review and confirm the bi-annual updates of the institutional compacts, except the  
43 exempted schools;

44 (6) Serve as a point of contact to state policymakers:

45 (A) The Governor for the public policy agenda; and

46 (B) The Legislature by maintaining a close working relationship with the legislative  
47 leadership and the Legislative Oversight Commission on Education Accountability.

48 (7) Upon request, provide shared services to a state institution of higher education;

49 (8) Administer scholarship and grant programs as provided for in this code;

50 (9) Establish and implement the benchmarks and performance indicators for state colleges  
51 and universities necessary to measure institutional progress in achieving state policy priorities  
52 and institutional missions pursuant to §18B-1D-7 of this code;

53 (10) Establish a formal process for recommending capital investment needs and for  
54 determining priorities for state colleges and universities for these investments for consideration  
55 by the Governor and the Legislature as part of the appropriation request process pursuant to  
56 §18B-19-1 *et seq.* of this code;

57 (11) Except the exempted schools, develop standards and evaluate governing board  
58 requests for capital project financing in accordance with §18B-19-1 *et seq.* of this code;

59 (12) Except the exempted schools, ensure that governing boards manage capital projects  
60 and facilities needs effectively, including review and approval of capital projects, in accordance  
61 with §18B-19-1 *et seq.* of this code;

62 (13) Acquire legal services as considered necessary, including representation of the  
63 commission, the governing boards, employees and officers before any court or administrative  
64 body, notwithstanding any other provision of this code to the contrary. The counsel may be  
65 employed either on a salaried basis or on a reasonable fee basis. In addition, the commission  
66 may, but is not required to, call upon the Attorney General for legal assistance and representation  
67 as provided by law;

68 (14) Employ a Chancellor for Higher Education pursuant to §18B-1B-5 of this code;

69 (15) Employ other staff as necessary and appropriate to carry out the duties and  
70 responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this  
71 code;

72 (16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors and  
73 other staff;

74 (17) Advise and confirm in the appointment of the presidents of the institutions of higher  
75 education under its jurisdiction pursuant to §18B-6-1 *et seq.* of this code, except the exempted  
76 schools. The role of the commission in confirming an institutional president is to assure through  
77 personal interview that the person selected understands and is committed to achieving the goals,  
78 objectives and priorities set forth in the compact, in §18B-1D-1a and §18B-1D-1d of this code;

79 (18) Approve the total compensation package from all sources for presidents of institutions  
80 under its jurisdiction, except the exempted schools, as proposed by the governing boards. The  
81 governing boards, except the exempted schools, must obtain approval from the commission of  
82 the total compensation package both when institutional presidents are employed initially and  
83 afterward when any change is made in the amount of the total compensation package: *Provided,*  
84 That the commission ~~will~~ shall receive notice, but need not approve or confirm, an increase in the  
85 compensation of an institutional president that is exactly in the ratio of compensation increases  
86 allocated to all institutional employees and approved by the governing board to expressly include  
87 the president;

88 (19) Assist and facilitate the work of the institutions to implement the policy of the state to  
89 assure that parents and students have sufficient information at the earliest possible age on which  
90 to base academic decisions about what is required for students to be successful in college, other  
91 post-secondary education and careers related, as far as possible, to results from current  
92 assessment tools in use in West Virginia;

93 (20) Approve and implement a uniform standard jointly with the council to determine which  
94 students shall be placed in remedial or developmental courses. The standard shall be aligned  
95 with college admission tests and assessment tools used in West Virginia and shall be applied  
96 uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of  
97 the standard which they shall communicate to the State Board of Education and the State

98 Superintendent of Schools;

99 (21) Jointly with the council, develop and implement an oversight plan to manage  
100 systemwide technology except the exempted schools, including, but not limited to, the following:

101 (A) Expanding distance learning and technology networks to enhance teaching and  
102 learning, promote access to quality educational offerings with minimum duplication of effort; and

103 (B) Increasing the delivery of instruction to nontraditional students, to provide services to  
104 business and industry and increase the management capabilities of the higher education system.

105 (C) Notwithstanding any other provision of law or this code to the contrary, the council,  
106 commission and governing boards are not subject to the jurisdiction of the Chief Technology  
107 Officer for any purpose;

108 (22) Establish and implement policies and procedures to ensure that a student may  
109 transfer and apply toward the requirements for a bachelor's degree the maximum number of  
110 credits earned at any regionally accredited in-state or out-of-state community and technical  
111 college with as few requirements to repeat courses or to incur additional costs as are consistent  
112 with sound academic policy;

113 (23) Establish and implement policies and procedures to ensure that a student may  
114 transfer and apply toward the requirements for any degree the maximum number of credits earned  
115 at any regionally accredited in-state or out-of-state higher education institution with as few  
116 requirements to repeat courses or to incur additional costs as are consistent with sound academic  
117 policy;

118 (24) Establish and implement policies and procedures to ensure that a student may  
119 transfer and apply toward the requirements for a master's degree the maximum number of credits  
120 earned at any regionally accredited in-state or out-of-state higher education institution with as few  
121 requirements to repeat courses or to incur additional costs as are consistent with sound academic  
122 policy;

123 (25) Establish and implement policies and programs, in cooperation with the council and

124 the governing boards, through which a student who has gained knowledge and skills through  
125 employment, participation in education and training at vocational schools or other education  
126 institutions, or Internet-based education programs, may demonstrate by competency-based  
127 assessment that he or she has the necessary knowledge and skills to be granted academic credit  
128 or advanced placement standing toward the requirements of an associate's degree or a  
129 bachelor's degree at a state institution of higher education;

130 (26) Seek out and attend regional, national and international meetings and forums on  
131 education and workforce development-related topics as, in the commission's discretion, are  
132 critical for the performance of their duties as members, for the purpose of keeping abreast of  
133 education trends and policies to aid it in developing the policies for this state to meet the  
134 established education goals, objectives and priorities pursuant to §18B-1-1a and §18B-1-1d of  
135 this code;

136 (27) Promulgate and implement a rule for higher education governing boards and  
137 institutions, except the exempted schools, to follow when considering capital projects pursuant to  
138 §18B-19-1 *et seq.*, of this code, which rule shall provide for appropriate deference to the value  
139 judgments of governing boards under the jurisdiction of the commission;

140 (28) Submit to the appropriate agencies of the executive and legislative branches of state  
141 government an appropriation request that reflects recommended appropriations for the  
142 commission and the governing boards under its jurisdiction. The commission shall submit as part  
143 of its appropriation request the separate recommended appropriation request it received from the  
144 council, both for the council and for the governing boards under the council's jurisdiction, including  
145 the exempted schools. The commission annually shall submit the proposed allocations based on  
146 each institution's progress toward meeting the goals of its compact;

147 (29) The commission may assess institutions under its jurisdiction, including the exempted  
148 schools, for the payment of expenses of the commission or for the funding of statewide higher  
149 education services, obligations or initiatives related to the goals set forth for the provision of public

150 higher education in the state: *Provided*, That the commission may not assess institutions pursuant  
151 to this subdivision on or after July 1, 2018;

152 (30) Promulgate rules allocating reimbursement of appropriations, if made available by the  
153 Legislature, to governing boards for qualifying noncapital expenditures incurred in providing  
154 services to students with physical, learning or severe sensory disabilities;

155 (31) Pursuant to §29A-3-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary  
156 or expedient to fulfill the purposes of this chapter;

157 (32) Determine when a joint rule among the governing boards under its jurisdiction is  
158 necessary or required by law and, in those instances, in consultation with the governing boards  
159 under its jurisdiction, promulgate the joint rule;

160 (33) Promulgate and implement a rule jointly with the council no later than July 1, 2020,  
161 whereby course credit earned at a two-year college or community and technical college transfers  
162 for program credit at any other state institution of higher education and is not limited to fulfilling a  
163 general education requirement;

164 (34) By October 1, 2011, promulgate a rule pursuant to §18B-10-1 of this code,  
165 establishing tuition and fee policy for all governing boards under the jurisdiction of the  
166 commission, except the exempted schools. The rule shall include, but is not limited to, the  
167 following:

168 (A) Differences among institutional missions;

169 (B) Strategies for promoting student access;

170 (C) Consideration of charges to out-of-state students; and

171 (D) Such other policies as the commission and council consider appropriate;

172 (35) Assist governing boards in actions to implement general disease awareness  
173 initiatives to educate parents and students, particularly dormitory residents, about meningococcal  
174 meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and  
175 activities that can increase risks; measures that can be taken to prevent contact or infection; and



176 potential benefits of vaccination. The commission shall encourage governing boards that provide  
177 medical care to students to provide access to the vaccine for those who wish to receive it; and

178 (36) Notwithstanding any other provision of this code to the contrary sell, lease, convey or  
179 otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-1 *et*  
180 *seq.*, of this code.

181 (37) Policy analysis and research focused on issues affecting institutions of higher  
182 education generally or a geographical region thereof;

183 (38) Development and approval of institutional mission definitions except the exempted  
184 schools, including use of incentive funds to influence institutional behavior in ways that are  
185 consistent with public priorities;

186 (39) Academic program review and approval for governing boards under its jurisdiction.  
187 The review and approval includes use of institutional missions as a template to judge the  
188 appropriateness of both new and existing programs and the authority to implement needed  
189 changes.

190 (A) The commission's authority to review and approve academic programs for the  
191 exempted schools is limited to programs that are proposed to be offered at a new location not  
192 presently served by that institution: *Provided*, That West Virginia University and the West Virginia  
193 University Institute of Technology are subject to the commission's authority as provided in §18B-  
194 1C-2 of this code;

195 (B) In reviewing and approving academic programs, the commission shall focus on the  
196 following policy concerns:

197 (1) New programs should not be implemented which change the institutional mission,  
198 unless the institution also receives approval for expanding the institutional mission;

199 (2) New programs which will require significant additional expense investments for  
200 implementation should not be implemented unless the institution demonstrates that:

201 (i) The expenses will be addressed by effective reallocations of existing institutional

202 resources; or

203 (ii) The expenses can be legitimately spread out over future years and will be covered by  
204 reasonably anticipated additional net revenues from new enrollments;

205 (3) A new undergraduate program which is significantly similar to an existing program  
206 already in the geographic service area should not be implemented unless the institution  
207 requesting the new program demonstrates a compelling need in the service area that is not being  
208 met by the existing program: *Provided*, That the academic programs of the exempted schools are  
209 not to be taken into consideration except as it relates to academic programs offered at West  
210 Virginia University in Beckley and West Virginia University Institute of Technology in Beckley.

211 (C) The commission shall approve or disapprove proposed academic degree programs in  
212 those instances where approval is required as soon as practicable. The commission shall  
213 maintain by rule a format model by which a new program approval shall be requested by an  
214 institution. When a request for approval of a new program is submitted to the commission, the  
215 chancellor shall provide notice within two weeks as to whether the submission meets the required  
216 format, and if it does not the chancellor shall identify each specific deficiency and return the  
217 request to the institution. The institution may re-file the request for approval with the commission  
218 to address any identified deficiencies. Within 30 days after the chancellor's confirmation that the  
219 request meets the required format, the commission shall either approve or disapprove the request  
220 for the new program. The commission may not withhold approval unreasonably.

221 (40) Distribution of funds appropriated to the commission, including incentive and  
222 performance-based funds;

223 (41) Administration of state and federal student aid programs under the supervision of the  
224 vice chancellor for administration, including promulgation of rules necessary to administer those  
225 programs;

226 (42) Serving as the agent to receive and disburse public funds when a governmental entity  
227 requires designation of a statewide higher education agency for this purpose;

228 (43) Developing and distributing information, assessment, accountability and personnel  
229 systems for state colleges and universities, including maintaining statewide data systems that  
230 facilitate long-term planning and accurate measurement of strategic outcomes and performance  
231 indicators;

232 (44) Jointly with the council, promulgating and implementing rules for licensing and  
233 oversight for both public and private degree-granting and nondegree-granting institutions that  
234 provide post-secondary education courses or programs in the state. The council has authority  
235 and responsibility for approval of all post-secondary courses or programs providing community  
236 and technical college education as defined in §18B-1-2 of this code;

237 (45) Developing, facilitating, and overseeing statewide and regional projects and initiatives  
238 related to providing post-secondary education at the baccalaureate level and above such as those  
239 using funds from federal categorical programs or those using incentive and performance-based  
240 funds from any source;

241 (46) (A) For all governing boards under its jurisdiction, except for the exempted schools,  
242 the commission shall review institutional operating budgets, review and approve capital budgets,  
243 and distribute incentive and performance-based funds;

244 (B) For the governing boards of, the exempted schools, the commission shall distribute  
245 incentive and performance-based funds and may review and comment upon the institutional  
246 operating budgets and capital budgets. The commission's comments, if any, shall be made part  
247 of the governing board's minute record and shall be filed with the Legislative Oversight  
248 Commission on Education Accountability;

249 (47) May provide information, research, and recommendations to state colleges and universities  
250 relating to programs and vocations with employment rates greater than 90 percent within six  
251 months post-graduation; and

252 (48) May provide information, research and recommendations to state colleges and  
253 universities on coordinating with the West Virginia State Board of Education about complimentary

254 programs.

255 (b) In addition to the powers and duties provided in subsections (a) and (b) of this section  
256 and any other powers and duties assigned to it by law, the commission has other powers and  
257 duties necessary or expedient to accomplish the purposes of this article: *Provided*, That the  
258 provisions of this subsection shall not be construed to shift management authority from the  
259 governing boards to the commission.

260 (c) The commission may withdraw specific powers of a governing board under its  
261 jurisdiction for a period not to exceed two years, if the commission determines that any of the  
262 following conditions exist:

263 (1) The commission has received information, substantiated by independent audit, of  
264 significant mismanagement or failure to carry out the powers and duties of the governing board  
265 according to state law; or

266 (2) Other circumstances which, in the view of the commission, severely limit the capacity  
267 of the governing board to exercise its powers or carry out its duties and responsibilities.

268 The commission may not withdraw specific powers for a period exceeding two years.  
269 During the withdrawal period, the commission shall take all steps necessary to reestablish sound,  
270 stable and responsible institutional governance.

271 (d) The Higher Education Policy Commission shall examine the question of general  
272 revenue appropriations to individual higher education institutions per student, and per credit hour,  
273 and by other relevant measures at all higher education institutions, including four-year  
274 baccalaureate institutions and the community and technical colleges, and on or before January  
275 1, 2018, the commission shall deliver its report to the Joint Committee on Government and  
276 Finance and the Legislative Oversight Commission on Education Accountability. This report shall  
277 include a recommendation to the Legislature on a formula for the allocation of general revenue to  
278 be appropriated to such institutions that provides for ratable funding across all four-year  
279 institutions and community and technical colleges on a ratable basis, by enrolled student, by credit

280 hour or by other relevant measures. On such basis, the commission shall make a  
281 recommendation to the Legislature as to the amounts that each such institution should have  
282 appropriated to it in the general revenue budget for fiscal year 2019, based upon the total general  
283 revenue appropriations that such institutions receive in aggregate in the enacted budget for fiscal  
284 year 2018.

NOTE: The purpose of this bill is to require that no later than July 1, 2020, credits earned at two-year colleges or community and technical college transfer for program credit at any other state institution of higher education.

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