

Key: **Green** = existing Code. **Red** = new code to be enacted

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 10

BY SENATORS PHILLIPS, KARNES, MARTIN, MAYNARD,
TARR, GRADY, TAYLOR, ROBERTS, SMITH, RUCKER,
HAMILTON, BARRETT, WOODRUM, HUNT, AZINGER,
STUART, AND DEEDS

[Originating in the Committee the Judiciary;
reported on January 18, 2023]

A BILL to amend and reenact §18B-1-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-2A-4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code by adding thereto a new section, designated §18B-4-5b, all relating generally to carrying concealed pistol or revolver; regulating the carrying of a concealed pistol or revolver by a person who holds a current license to carry a concealed deadly weapon on the property of a public institution of higher education; authorizing the carrying of concealed pistols or revolvers under certain circumstances and in certain areas on the grounds of an institution of higher education; eliminating authority of the Higher Education Policy Commission, the Council for Community and Technical College Education, and the institutional boards of governors to restrict or regulate the carrying of concealed pistols or revolvers in certain circumstances in or on areas of an institution of higher education; requiring institutions to provide storage space for concealed pistols and revolvers; designating these amendments as the Campus Self-defense Act; expressing legislative intent; and creating an internal effective date of July 1, 2024.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18B. HIGHER EDUCATION

ARTICLE 1. GOVERNANCE.

§18B-1-6. Rulemaking.

(a) The commission is ~~hereby empowered to~~ may promulgate, adopt, amend, or repeal rules, in accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This grant of rule-making authority does not limit, overrule, restrict, supplant, or supersede the rule-making authority provided to the exempted schools.

(b) The council is ~~hereby empowered to~~ may promulgate, adopt, amend, or repeal rules in accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This grant of rule-making power extends only to those areas over which the council has been granted specific authority and jurisdiction by law.

(c) As it relates to the authority granted to governing boards of state institutions of higher education to promulgate, adopt, amend, or repeal any rule under this code:

(1) "Rule" means any regulation, guideline, directive, standard, statement of policy, or interpretation of general application which has institution-wide effect or which affects the rights, privileges, or interests of employees, students, or citizens. Any regulation, guideline, directive,

standard, statement of policy, or interpretation of general application that meets this definition is a rule for the purposes of this section.

(2) Regulations, guidelines, or policies established for individual units, divisions, departments, or schools of the institution, which deal solely with the internal management or responsibilities of a single unit, division, department, or school or with academic curricular policies that do not constitute a mission change for the institution, are excluded from this subsection, except for the requirements relating to posting.

(3) The commission shall promulgate a rule to guide the development of rules made by the governing boards, including a process for comment by the commission as appropriate, except the exempted schools, who shall each promulgate their own ~~such~~ rules. The council shall promulgate a rule to guide the development and approval of rules made by the governing boards. The commission and council shall provide technical assistance in rulemaking as requested. The rules promulgated by the exempted schools, the commission and council shall include, but are not limited to, the following provisions which shall be included in the rule on rules adopted by each governing board of a state institution of higher education:

(A) A procedure to ensure that public notice is given and that the right of interested parties to have a fair and adequate opportunity to respond is protected, including providing for a 30 day public comment period prior to final adoption of a rule;

(B) Designation of a single location where all proposed and approved rules, guidelines, and other policy statements are posted and can be accessed by the public;

(C) A procedure to maximize Internet access to all proposed and approved rules, guidelines, and other policy statements to the extent technically and financially feasible; and

(D) Except for the exempted schools, a procedure for the governing board to follow in submitting its rules for review and comment by the commission and approval by the council, as appropriate:

(i) The governing boards shall submit rules for review and comment to the commission.

(ii) The commission shall return to the governing board its comments and suggestions within 15 business days of receiving the rule.

(iii) If a governing board receives comments or suggestions on a rule from the commission, it shall record ~~these~~ them as part of the minute record. The rule is not effective and may not be implemented until the governing board holds a meeting and places on the meeting agenda the comments it has received from the commission.

(d) Nothing in this section requires that any rule reclassified or transferred by the commission or the council under this section be promulgated again under the procedures set out in [§29A-3A-1](#) *et seq.* of this code unless the rule is amended or modified.

(e) The commission and council each shall file with the Legislative Oversight Commission on Education Accountability any rule it proposes to promulgate, adopt, amend, or repeal under the authority of this article.

(f) The governing boards shall promulgate and adopt any rule which they are required to adopt by this chapter or chapter 18C of this code no later than July 1, 2011, unless a later date is specified. On and after this date:

(1) Any rule of a governing board which meets the definition set out in subsection (c) of this section and which has not been promulgated and adopted by formal vote of the appropriate governing board is void and may not be enforced;

(2) Any authority granted by this code which inherently requires the governing board to promulgate and adopt a rule is void until the governing board complies with this section.

(g) Within 15 business days of the adoption of a rule, including repeal or amendment of an existing rule, and before the change is implemented, a governing board shall furnish a copy of each rule which it has adopted to the commission or the council, respectively, for review.

(h) Annually, by October 1, each governing board shall file with the commission or the council, as appropriate, a list of all rules that were in effect for that institution on July 1 of that year, including the most recent date on which each rule was considered and adopted, amended, or repealed by the governing board. For all rules adopted, amended, or repealed after the effective date of this section, the list shall include a statement by the chair of the governing board certifying that the governing board has complied with this section when each listed rule was promulgated and adopted.

(i) Any rule of the commission or council in effect at the time of the re-enactment of this section or approved by the Legislature during its 2017 Regular Session shall remain in effect and applicable to an institution of higher education under the jurisdiction of the commission or council until ~~such time as~~ an institution exercises its authority to adopt a rule pursuant to this chapter.

(j) On or after July 1, 2024, a rule adopted pursuant to the provisions of this section may not restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this code.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

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

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

(1) Develop and advance the public policy agenda pursuant to [§18B-1D-1](#) *et seq.* of this code to address major challenges facing the state, including, but not limited to, the goals, objectives, and priorities established in this chapter;

(2) In conjunction with the council, propose emergency and legislative rules in accordance with [§29A-3A-1](#) and [§18B-1-6](#) of this code to establish a performance-based funding formula model the commission and council shall use, beginning in the fiscal year 2024 budget cycle, in developing their annual budget requests to ensure the fair and equitable distribution and use of public funds among the state's institutions of higher education, including the statutorily and administratively exempted schools. This funding formula model shall advance the goals of the state's post-secondary education system by emphasizing outcomes focused on student success and institutional mission achievement. The formula shall include a range of variables that shall be weighted in a manner that corresponds to each institution's mission and provides incentives for productivity improvements consistent with the goal of strengthening the state's economy and workforce by developing the most competitive and capable graduates in the nation. The rule shall, at a minimum:

(A) Establish a set of objective performance metrics that reflect and support the state's higher education goals and priorities and the methodology by which those metrics shall be used in the allocation of state funds;

(B) Ensure that a portion of each institution's base appropriation is allocated based on outcomes achieved over a defined period of time;

(C) Incentivize post-secondary program offerings that align with the state's higher education and workforce development priorities; and

(D) Establish safeguards to ensure stability of the funding formula model including, but not limited to, providing for periodic reviews of and revision to the performance metrics and funding methodology in addition to accounting for inflation;

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

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

(B) ~~Assisting~~ Assist governing boards in carrying out their duty effectively to govern the individual institutions of higher education;

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

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

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

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

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

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

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

(9) Except the statutorily and administratively exempted schools, develop standards, and evaluate governing board requests for capital project financing in accordance with [§18B-19-1](#) *et seq.* of this code;

(10) Except the statutorily and administratively exempted schools, ensure that governing boards manage capital projects and facilities needs effectively, including review and approval of capital projects, in accordance with [§18B-19-1](#) *et seq.* of this code;

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

(12) Employ a chancellor, and any interim chancellor employed shall meet all criteria required of the chancellor, pursuant to [§18B-1B-5](#) of this code;

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

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

(15) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, except the statutorily exempted schools, as proposed by the governing boards. The governing boards, except the governing boards of the statutorily exempted schools, must obtain approval from the commission of the total compensation package both when

institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package: *Provided*, That the commission shall receive notice, but need not approve or confirm, an increase in the compensation of an institutional president that is exactly in the ratio of compensation increases allocated to all institutional employees and approved by the governing board to expressly include the president;

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

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

(18) Jointly with the council and in conjunction with the West Virginia Network, support systemwide technology needs through leveraged consortium purchasing, software, database and networking support, and other services including, but not limited to, the following:

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

(B) Increasing the delivery of instruction to nontraditional students, providing services to business and industry, and increasing the management capabilities of the higher education system.

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

(19) Propose rules in accordance with [§29A-3A-1](#) *et seq.* and [§18B-1-6](#) of this code to ensure that, within sound academic policy, a student may transfer and apply toward the requirements of any post-secondary credential the maximum number of credits earned at any regionally accredited in-state or out-of-state institution of higher education in a manner that minimizes the need to repeat courses or incur additional costs. This requirement applies to

transfer processes for all levels of post-secondary programs delivered at community and technical colleges, baccalaureate-degree-granting institutions, and graduate-degree-granting institutions;

(20) Propose rules in accordance with [§29A-3A-1](#) *et seq.* and [§18B-1-6](#) of this code to develop a program through which a student who has gained knowledge and skills through employment, participation in education, and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that he or she has the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate's degree or a bachelor's degree at a state institution of higher education;

(21) Seek out and attend regional, national, and international meetings and forums on education and workforce development-related topics as, in the commission's discretion, are critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals, objectives, and priorities pursuant to [§18B-1-1a](#) and [§18B-1D-1](#) *et seq.* of this code;

(22) Promulgate and implement a rule for governing boards and institutions to follow when considering capital projects pursuant to [§18B-19-1](#) *et seq.* of this code, which rule shall provide

for appropriate deference to the value judgments of governing boards and may not apply to the statutorily or administratively exempted schools;

(23) Submit to the appropriate agencies of the executive and legislative branches of state government an appropriation request that reflects recommended appropriations for the commission and the governing boards under its jurisdiction, including the statutorily and administratively exempted schools. The commission shall submit as part of its appropriation request the separate recommended appropriation request it received from the council, both for the council and for the governing boards under the council's jurisdiction. The commission annually shall submit the proposed allocations based on the funding formula model required by subdivision (a)(2) of this section;

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

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

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

(27) Promulgate and implement a rule jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(28) Promulgate a rule pursuant to §18B-10-1 of this code establishing tuition and fee policy for all governing boards under the jurisdiction of the commission, except the statutorily and administratively exempted schools. The rule shall include, but is not limited to, the following:

(A) Differences among institutional missions;

(B) Strategies for promoting student access;

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

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

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

(30) Provide policy analysis and research focused on issues affecting institutions of higher education generally or a geographical region thereof;

(31) ~~Development and approval~~ approve of institutional mission definitions except for the statutorily and administratively exempted schools: *Provided*, That the commission may use funds appropriated by the Legislature for incentive funds to influence institutional behavior in ways that are consistent with public priorities, including the statutorily and administratively exempted schools;

(32) ~~Academic program Review and approval~~ approve academic programs for governing boards under its jurisdiction, except the statutorily and administratively exempted schools. The review and approval includes use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes.

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

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

(i) New programs may not be implemented which change the institutional mission, unless the institution also receives approval for expanding the institutional mission;

(ii) New programs which require significant additional expense investments for implementation may not be implemented unless the institution demonstrates that:

(I) The expenses shall be addressed by effective reallocations of existing institutional resources; or

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

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

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

(33) ~~Distribution~~ Distribute of funds appropriated to the commission, including incentive and performance-based funds;

(34) ~~Administration of~~ Administer state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of rules necessary to administer those programs;

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

(36) ~~Developing and distributing~~ Develop and distribute information, assessment, accountability, and personnel systems for state colleges and universities, including maintaining statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

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

(38) ~~Developing, facilitating, and overseeing~~ Develop, facilitate and oversee statewide and regional projects and initiatives related to providing post-secondary education at the baccalaureate level and above ~~such as those using funds from federal categorical programs or those using incentive and performance-based funds from any source;~~

(39) (A) For all governing boards under its jurisdiction, except for the statutorily exempted schools, ~~the commission shall~~ review institutional operating budgets, review, and approve capital budgets, and distribute incentive and performance-based funds.

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

(40) ~~May~~ Provide information, research, and recommendations to state colleges and universities relating to programs and vocations with employment rates greater than 90 percent within six months post-graduation; and

(41) ~~May~~ Provide information, research, and recommendations to state colleges and universities on coordinating with the West Virginia State Board of Education about complimentary programs.

(b) In addition to the powers and duties provided in this section and any other powers and duties assigned to it by law, the commission has other powers and duties necessary or expedient to accomplish the purposes of this chapter and chapter 18C of this code: *Provided*, That the provisions of this subsection ~~may do not be construed to shift~~ management authority from the governing boards to the commission.

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

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

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

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

(d) On or after July 1, 2024, nothing in this section authorizes the commission to restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this code.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-4. Powers and duties of governing boards generally.

Each governing board separately ~~has the following powers and duties~~ shall:

(a) Determine, control, supervise, and manage the financial, business, and education policies and affairs of the state institution of higher education under its jurisdiction;

(b) Develop a master plan for the institution under its jurisdiction.

(1) The ultimate responsibility for developing and updating each master plan at the institution resides with the governing board, but the ultimate responsibility for approving the final version of each master plan, including periodic updates, resides with the commission or council, as appropriate: *Provided*, That commission approval is not required for master plans of exempted schools.

(2) Each master plan shall include, but is not limited to, the following:

(A) A detailed demonstration of how the master plan will be used to meet the goals, objectives, and priorities of the compact;

(B) A well-developed set of goals, objectives, and priorities outlining missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels, and other planning determinates and projections necessary in a plan to assure that the needs of the institution's area of responsibility for a quality system of higher education are addressed;

(C) Documentation showing how the governing board involved the commission or council, as appropriate, constituency groups, clientele of the institution, and the general public in the development of all segments of the master plan.

(3) The plan shall be established for periods of not fewer than three nor more than five years and shall be revised periodically as necessary, including adding or deleting programs. The commission may review and comment upon the master plan of an exempted school. The commission may review, but may not approve or disapprove, additions or deletions of degree programs, except as expressly provided for in [§18B-1B-4\(a\)\(39\)](#) of this code.

(4) For the exempted schools, the master plan shall be updated at least bi-annually and include the steps taken to meet the legislatively established policies contained in [§18B-1D-1 et seq.](#) of this code and reports on each of the data elements identified in [§18B-1D-1 et seq.](#) of this code, including progress that the exempted schools are making relating to retention and graduation rates for resident students by organization and each college within the organization. The exempted schools shall provide copies of their respective master plan to the Legislative Oversight Commission on Education Accountability and the commission.

(c) Develop a 10-year campus development plan in accordance with [§18B-19-1 et seq.](#) of this code;

(d) Prescribe for the institution, under its jurisdiction, in accordance with its master plan and compact, specific functions and responsibilities to achieve the goals, objectives, and priorities established in [§18B-1-1](#) *et seq.* and [§18B-1D-1](#) *et seq.* of this code to meet the higher education needs of its area of responsibility and to avoid unnecessary duplication;

(e) Direct the preparation of an appropriation request for the institution under its jurisdiction, which relates directly to missions, goals and projections found in the master plan and the compact;

(f) Consider, revise, and submit for review and approval to the commission or council, as appropriate, an appropriation request on behalf of the institution under its jurisdiction, including the exempted schools;

(g) Review, at least every five years, all academic programs offered at the institution under its jurisdiction. The review shall address the viability, adequacy, and necessity of the programs in relation to established state goals, objectives and priorities, the master plan, the compact, and the education and workforce needs of its responsibility district. As a part of the review, each governing board shall require the institution under its jurisdiction to conduct periodic studies of its graduates and their employers to determine placement patterns and the effectiveness of the

education experience. Where appropriate, these studies should coincide with the studies required of many academic disciplines by their accrediting bodies;

(h) Ensure that the sequence and availability of academic programs and courses offered by the institution under its jurisdiction is such that students have the maximum opportunity to complete programs in the time frame normally associated with program completion. Each governing board is responsible to see that the needs of nontraditional college-age students are appropriately addressed and, to the extent it is possible for the individual governing board to control, to assure core course work completed at the institution is transferable to any other state institution of higher education for credit with the grade earned;

(i) Subject to [§18B-1B-1](#) *et seq.* of this code, approve the teacher education programs offered in the institution under its control. In order to permit graduates of teacher education programs to receive a degree from a nationally accredited program and in order to prevent expensive duplication of program accreditation, the commission may select and use one nationally recognized teacher education program accreditation standard as the appropriate standard for program evaluation;

(j) Involve faculty, students, and classified employees in institution-level planning and decision making when those groups are affected;

(k) Subject to federal law and pursuant to [§18B-7-1](#) *et seq.*, [§18B-8-1](#) *et seq.*, [§18B-9-1](#) *et seq.*, and §18B-9A1 *et seq.* of this code and to rules adopted by the commission and the council, administer a system for the management of personnel matters, including, but not limited to, discipline for employees at the institution under its jurisdiction: *Provided*, That any rules adopted by the commission and the council do not apply to exempted schools;

(l) Administer a system for hearing employee grievances and appeals. Notwithstanding any other provision of this code to the contrary, the procedure established in [§6C-2-1](#) *et seq.* of this code is the exclusive mechanism for hearing prospective employee grievances and appeals;

(m) Solicit and use or expend voluntary support, including financial contributions and support services, for the institution under its jurisdiction;

(n) Appoint a president for the institution under its jurisdiction, subject to [§18B-1B-6](#) of this code;

(o) Conduct written performance evaluations of the president, pursuant to [§18B-1B-6](#) of this code;

(p) Employ all faculty and staff at the institution under its jurisdiction. The employees operate under the supervision of the president, but are employees of the governing board;

(q) Submit to the commission or council, as appropriate, any data or reports requested by the commission or council within the time frame set by the commission or council;

(r) Enter into contracts or consortium agreements with the public schools, private schools, or private industry to provide technical, vocational, college preparatory, remedial, and customized training courses at locations either on campuses of the state institutions of higher education or at off-campus locations in the institution's responsibility district. To accomplish this goal, the boards may share resources among the various groups in the community;

(s) Provide and transfer funds and property to certain corporations pursuant to [§18B-12-10](#) of this code;

(t) Delegate, with prescribed standards and limitations, the part of its power and control over the business affairs of the institution to the president in any case where it considers the delegation necessary and prudent in order to enable the institution to function in a proper and expeditious manner and to meet the requirements of its master plan and compact. If a governing board elects to delegate any of its power and control under this subsection, it shall enter the delegation in the minutes of the meeting when the decision was made and shall notify the commission or council, as appropriate. Any delegation of power and control may be rescinded by the appropriate governing board, the commission or council, as appropriate, at any time, in whole

or in part, except that the commission may not revoke delegations of authority made by the governing board of the exempted schools.

(u) Unless changed by the commission or the council, as appropriate, continue to abide by existing rules setting forth standards for accepting advanced placement credit for the institution under its jurisdiction. Individual departments at a state institution of higher education, with approval of the faculty senate, may require higher scores on the advanced placement test than scores designated by the governing board when the credit is to be used toward meeting a requirement of the core curriculum for a major in that department;

(v) Consult, cooperate, and coordinate with the State Treasurer and the State Auditor to update as necessary and maintain an efficient and cost-effective system for the financial management and expenditure of appropriated and non-appropriated revenue at the institution under its jurisdiction. The system shall ensure that properly submitted requests for payment are paid on or before the due date but, in any event, within 15 days of receipt in the State Auditor's Office;

(w) In consultation with the appropriate chancellor and the Secretary of the Department of Administration, develop, update as necessary, and maintain a plan to administer a consistent method of conducting personnel transactions, including, but not limited to, hiring, dismissal,

promotions, changes in salary or compensation, and transfers at the institution under its jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized system or forms, as appropriate, which shall be submitted to the respective governing board and the Department of Administration:

(1) Not later than July 1, 2012, the Department of Administration shall make available to each governing board the option of using a standardized electronic system for these personnel transactions.

(2) The Secretary of the Department of Administration may suspend a governing board's participation in the standardized electronic system if he or she certifies to the Governor that the governing board has failed repeatedly and substantially to comply with the department's policies for administering the electronic system;

(x) Notwithstanding any other provision of this code to the contrary, transfer funds from any account specifically appropriated for its use to any corresponding line item in a general revenue account at any agency or institution under its jurisdiction as long as the transferred funds are used for the purposes appropriated;

(y) Transfer funds from appropriated special revenue accounts for capital improvements under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction

as long as the transferred funds are used for the purposes appropriated in accordance with §18B-19-1 et seq. of this code;

(z) Notwithstanding any other provision of this code to the contrary, acquire necessary legal services ~~that are necessary~~, including representation of the governing board, its institution, employees, and officers before any court or administrative body. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the governing board may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law; ~~and~~

(aa) Contract and pay for disability insurance for a class or classes of employees at a state institution of higher education under its jurisdiction; and

(bb) ~~A governing board under the jurisdiction of the commission may~~ Contract and pay for any supplemental employee benefit, at the governing board's discretion: *Provided*, That if such supplemental benefit program incurs institutional expense, then the board may not delegate the approval of ~~such~~ the supplemental employee benefit program.

(cc) On or after July 1, 2024, nothing in this section authorizes a governing board to restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current and

valid license to carry a concealed deadly weapon except as expressly authorized in [§18B-4-5b](#) of this code.

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

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

(a) The council is the sole agency responsible for administration of vocational-technical-occupational education and community and technical college education in the state. The council has jurisdiction and authority over the community and technical colleges and the statewide network of independently accredited community and technical colleges as a whole, including community and technical college education programs as defined in [§18B-1-2](#) of this code.

(b) The council shall propose rules pursuant to [§18B-1-6](#) ~~of this code~~ and [§29A-3A-1](#) ~~et seq.~~ of this code to implement the provisions of this section and applicable provisions of [§18B-1D-1](#) ~~et seq.~~ of this code;

(1) To implement the provisions of [§18B-1D-1](#) ~~et seq.~~ of this code relevant to community and technical colleges, the council may propose rules jointly with the commission, or separately, and may choose to address all components of the accountability system in a single rule or may propose additional rules to cover specific components;

(2) The rules pertaining to financing policy and benchmarks and indicators required by this section shall be filed with the Legislative Oversight Commission on Education Accountability by October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated again under the procedure set forth in §29A-3A-1 *et seq.* of this code unless such rules are rescinded, revised, altered, or amended; and

(3) The Legislature finds that an emergency exists and, therefore, the council shall propose an emergency rule or rules to implement the provisions of this section relating to the financing policy and benchmarks and indicators in accordance with §18B-1-6 and §29A-3A-1 *et seq.* of this code by October 1, 2008. The emergency rule or rules may not be implemented without prior approval of the Legislative Oversight Commission on Education Accountability.

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

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

(A) Achieving the goals and objectives established in §18B-1-1 *et seq.* and §18B-1D-1 *et seq.* of this code;

(B) Addressing the goals and objectives contained in the institutional compacts created pursuant to [§18B-1D-7](#) of this code; and

(C) Developing and implementing the master plan described in [§18B-1D-5](#) of this code;

(2) Propose a legislative rule pursuant to subsection (b) of this section and [§29A-3A-1](#) *et seq.* of this code to develop and implement a financing policy for community and technical college education in West Virginia. The rule shall: ~~meet the following criteria:~~

(A) Provide an adequate level of education and general funding for institutions pursuant to [§18B-1A-5](#) of this code;

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

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

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

(i) Achieving the objectives and priorities established in [§18B-1D-1](#) *et seq.* of this code;

(ii) Serving targeted populations, especially working age adults 25 years of age and over;

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

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

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

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

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

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

(C) Holding each community and technical college and the statewide network of independently accredited community and technical colleges as a whole accountable for accomplishing their missions and achieving the goals and objectives established in [§18B-1-1](#) *et seq.*, [§18B-1D-1](#) *et seq.*, and [§18B-3C-1](#) *et seq.* of this code;

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

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

(6) Review and adopt annually all institutional compacts for the community and technical colleges pursuant to the provisions of [§18B-1D-7](#) of this code;

(7) Fulfill the mandates of the accountability system established in [§18B-1D-1](#) *et seq.* of this code and report on progress in meeting established goals, objectives, and priorities to the elected leadership of the state;

(8) Propose a legislative rule pursuant to subsection (b) of this section and [§29A-3A-1](#) *et seq.* of this code to establish benchmarks and indicators in accordance with the provisions of this subsection;

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

(A) In meeting state goals, objectives, and priorities established in [§18B-1-1](#) *et seq.* and [§18B-1D-1](#) *et seq.* of this code;

(B) In carrying out institutional missions; and

(C) In meeting the essential conditions established in [§18B-3C-1](#) *et seq.* of this code;

(10) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. Notwithstanding the language in [§18B-1B-4\(a\)\(11\)](#) of this code, the commission is not a part of the process for identifying needs for capital investments for the statewide network of independently accredited community and technical colleges;

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

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

(13) Employ a chancellor for community and technical college education pursuant to [§18B-2B-3](#) of this code;

(14) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the council consistent with the provisions of [§18B-4-2](#) of this code;

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

(16) Provide suitable offices in Charleston for the chancellor and other staff: *Provided*, That the offices may be located outside of Charleston at a technology and

research center: *Provided, however,* That the current employees of WVNET shall not be moved from Monongalia County without legislative approval;

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

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

(19) Establish and implement policies and programs, jointly with the community and technical colleges, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or

advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

(20) Seek out and attend regional and national meetings and forums on education and workforce development-related topics, as council members consider critical for the performance of their duties. The council shall keep abreast of national and regional community and technical college education trends and policies to aid members in developing the policies for this state that meet the education goals and objectives established in [§18B-1-1](#) *et seq.* and [§18B-1D-1](#) *et seq.* of this code;

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

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

(23) Assume the prior authority of the commission in examining and approving tuition and fee increase proposals submitted by community and technical college governing boards as provided in [§18B-10-1](#) of this code;

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

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

(B) Considers the progress of each institution toward meeting the essential conditions set forth in [§18B-3C-3](#) of this code, including independent accreditation; and

(C) Considers the progress of each institution toward meeting the goals, objectives, and priorities established in [§18B-1D-1](#) *et seq.* of this code and its approved institutional compact.

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

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

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

(28) Assume the principal responsibility for oversight of those community and technical colleges seeking independent accreditation and for holding governing boards accountable for meeting the essential conditions pursuant to [§18B-3C-1](#) *et seq.* of this code;

(29) Advise and consent in the appointment of the presidents of the community and technical colleges pursuant to [§18B-1B-6](#) of this code. The role of the council in approving a president is to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives established in the institutional compact and in [§18B-1-1](#) *et seq.*, [§18B-1D-1](#) *et seq.*, and [§18B-3C-1](#) *et seq.* of this code;

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

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

(A) Defining faculty roles and personnel policies;

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

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

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

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

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

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

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

(36) Cooperate with all providers of education services in the state to remove barriers relating to a seamless system of public and higher education and to transfer and articulate between and among community and technical colleges, state colleges and universities, and public education, preschool through grade 12;

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

(38) Coordinate with the commission in informing public school students, their parents, and teachers of the academic preparation that students need in order to be prepared adequately

to succeed in their selected fields of study and career plans, including presentation of academic career fairs;

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

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

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

(42) Review and approve all institutional master plans for the community and technical colleges pursuant to [§18B-2A-4](#) of this code;

(43) Propose rules for promulgation pursuant to subsection (b) of this section and [§29A-3A-1](#) *et seq.* of this code that are necessary or expedient for the effective and efficient performance of community and technical colleges in the state;

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

(45) Develop for inclusion in the higher education report card, as defined in [§18B-1D-8](#) of this code, a separate section on community and technical colleges. This section shall include, but is not limited to, evaluation of the institutions based upon the benchmarks and indicators developed in subdivision (9) of this subsection;

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

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

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

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

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

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

In distributing funds the council shall use the following guidelines:

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

(B) The percentage split between the State Board of Education and the council shall be determined by rule promulgated by the council under the provisions of [§29A-3A-1](#) *et seq.* of this

code. The council shall first obtain the approval of the State Board of Education before proposing a rule;

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

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

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

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

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

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

(56) Meet annually between the months of October and December with the Advisory Committee of Community and Technical College Presidents created pursuant to [§18B-2B-8](#) of this code to discuss those matters relating to community and technical college education in which advisory committee members or the council may have an interest;

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

(58) Assume the powers set out in [§18B-2B-9](#) of this code. The rules previously promulgated by the State College System Board of Directors pursuant to that section and

transferred to the commission are hereby transferred to the council and shall continue in effect until rescinded, revised, altered or amended by the council;

(59) Pursuant to the provisions of subsection (b) of this section and [§29A-3A-1](#) *et seq.* of this code, promulgate a uniform joint legislative rule with the commission for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in [§18B-1D-7](#) of this code;

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

(3) Other circumstances which, in the view of the council, severely limit the capacity of the Board of Governors to carry out its duties and responsibilities.

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

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

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

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

(2) The commission or the council, as the receiving body, shall place the proposal on its agenda and shall take final action within 60 days of the date when the request for concurrence is received; and

(3) If the receiving body fails to take final action within 60 days, the original proposal stands and is binding on both the commission and the council.

(h) On or after July 1, 2024, nothing in this section provides the authority to restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this code.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5b. Concealed carry on higher education campuses; exceptions.

(a) Subject to the provisions of subsection (b) of this section, a person holding a current and valid license to carry a concealed deadly weapon may carry a concealed pistol or revolver on the campus and in the buildings of a state institution of higher education. This subsection only applies to areas of the campus and buildings of a state institution of higher education under the

custodial possession of the state institution of higher education and does not include areas rented, leased, or under an exclusive agreement for the full-time occupancy and use of a private entity.

(b) The provisions of subsection (a) of this section do not limit the authority of a state institution of higher education to regulate possession of a concealed pistol or revolver by a person holding a current and valid license to carry a concealed deadly weapon in the following locations when in compliance with §61-7-14 of this code:

(1) At an organized event taking place at a stadium or arena with a capacity of more than 1,000 spectators;

(2) At a daycare facility located on the property of the state institution of higher education;

(3) In the secure area of any building used by a law-enforcement agency on the property of the state institution for higher education;

(4) In an area of the property of the state institution of higher education that has adequate security measures in place to ensure that pistols or revolvers are not carried by the public into the area. As used in this section, "adequate security measures" means the use of electronic equipment and armed personnel at public entrances to detect and restrict the carrying of any pistols or revolvers into the area, including, but not limited to, metal detectors, metal detector

wands, or any other equipment used for similar purposes to ensure that pistols or revolvers are not carried in those areas by members of the public;

(5) In an on-campus room or rooms in which a student or employee disciplinary proceeding is being held;

(6) In sole occupancy offices on the campus and in the buildings of the state institution of higher education. "Sole occupancy office" means a room with at least one door and walls that extend to the ceiling that is assigned to a single person as his or her workspace. This subdivision does not authorize a state institution of higher education to prohibit, regulate, or restrict faculty or staff members who hold a current and valid license to carry a concealed deadly weapon from carrying a concealed pistol or revolver in his or her assigned office;

(7) At a primary or secondary education school-sponsored function being held in a specific location on the property of the state institution of higher education that is rented, leased, or under the exclusive use of the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(8) At a private function that is being held in a specific location on the property of the state institution of higher education that is rented, leased, or under the exclusive use of an entity that

is not affiliated with the state institution of higher education for the actual period of time the function is occurring;

(9) In any area on the property of the state institution of higher education where possession of a firearm is prohibited by state or federal law;

(10) In specifically designated areas in which patient-care or mental health counseling is being provided;

(11) In high hazardous and animal laboratories, defined as laboratories with:

(A) Greater than 55 gallons of Class I flammable liquids and/or significant quantities of acids, bases, organics, pyrophorics, peroxides, bio-hazardous materials, extremely toxic materials, or pyrophoric or toxic gases classified NFPA 704 Category 3 or higher;

(B) Hazardous gases with K-size or larger cylinders containing corrosive, reactive, flammable, toxic, and/or oxidizer gases classified NFPA 704 Category 2 or higher;

(C) MRI and/or NMR equipment capable of generating significant magnetic fields with field strength of at least 5 gauss is measured outside the equipment or 5 gauss line typically at least 3 feet and as much as 20 feet from equipment;

(D) Large cylinders of acetylene; or

(E) Animal research laboratory spaces in locations not accessible to the public or generally accessible to students and staff, or

(12) In on-campus residence halls, except common areas such as lounges, dining areas, and study areas.

(c) An employee whose employment responsibilities require him or her to be in an on-campus residence hall and who holds a current and valid license to carry a concealed deadly weapon is permitted to carry a concealed revolver or pistol on or about his or her person while present in on-campus residence halls for purposes of his or her employment.

(d) Institutions of higher education shall provide either: (1) A secure location for the storage of a pistol or revolver in at least one of the institution's on-campus residence halls; or (2) make available an appropriate safe that may be installed in a resident's room in any of the institution's on-campus residence halls. If an institution chooses to make a storage room available to on-campus residents at an on-campus residence hall, the institution shall develop a policy that reserves an appropriate amount of rooms in the on-campus residence hall where the storage room is located for on-campus residents with a current and valid license to carry a concealed deadly weapon. The institution shall make the storage room available at all times during which the on-campus residence hall is open and fully operational for use by its residents. If West Virginia

University chooses to provide secure locations instead of making safes available to students, it shall provide a secure location in at least two on-campus residence halls at its Morgantown campus and one at each of its Beckley and Keyser campuses.

(e) An institution of higher education may charge a reasonable fee for the use of the secure storage location or a safe.

(f) The provisions of subsection (a) of this section do not limit the authority of a state institution of higher education from taking disciplinary action against a student or employee with a valid license to carry a concealed deadly weapon who is convicted of a violation of §61-7-14 of this code related to carrying a firearm in a location listed in subsection (b) of this section.

(g) Notwithstanding any provision of subsection (a) of this section to the contrary, while on the campus or in the buildings of a state institution of higher education, a holder of a license to carry a concealed deadly weapon or any other person not expressly authorized to do so by the state institution of higher education, may not carry a pistol or revolver which is partially or wholly visible, or intentionally or knowingly display a firearm in plain view of another person in a way or manner to cause, or threaten, a breach of the peace, regardless of whether the firearm is holstered. A holder of a license to carry a concealed deadly weapon who violates this subsection

may, in addition to any applicable criminal charges, be subject to discipline the state institution of higher education considers appropriate.

(h) It is the intent of the Legislature to establish, by this act, conditions under which persons with a current and valid license to carry a concealed deadly weapon may carry a concealed pistol or revolver at a state institution of higher education. When a person exercises the rights granted by this section, neither the carrying of a concealed pistol or revolver, nor any other conduct of person involving a concealed pistol or revolver, shall be construed to be an act of the state institution of higher education nor of the state, and no liability for any such actions of such person shall be imputed to the state institution of higher education, its officers, agents, or employees, unless the state institution of higher education has expressly requested or directed such person to carry a concealed pistol or revolver: *Provided*, That the failure to provide adequate security measures at any building or location at a state institution of higher education where the carrying of a concealed pistol or revolver is not permitted shall not give rise to a cause action or any liability whatsoever related to or arising from the carrying of a concealed pistol or revolver by any person.

(i) For the purposes of this section, a "license to carry a concealed deadly weapon" refers to a current and valid license, lawfully issued by the State of West Virginia pursuant to **§61-7-**

4 or §61-7-4a of this code, or a current and valid license or permit recognized under §61-7-6a of this code.

(j) These amendments to this section enacted during the 2023 Regular Session of the Legislature may be cited as The Campus Self-defense Act.

(k) The provisions of this section apply on or after July 1, 2024.