

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 508**

(By Senators Prezioso, Cann, Stollings and McCabe)

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[Originating in the Committee on Education;  
reported March 22, 2013.]

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A BILL to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18B-10-3, all relating to creating a per-credit-hour tuition demonstration pilot project; specifying a termination date; establishing goals and selection criteria for participation; providing for evaluations; and requiring certain reports.

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

That §18B-10-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18B-10-3, all to read as follows:

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT  
STATE INSTITUTIONS OF HIGHER  
EDUCATION.**

**§18B-10-1. Enrollment, tuition and other fees at education  
institutions; refund of fees.**

1 (a) Each governing board shall fix tuition and other fees  
2 for each academic term for the different classes or categories  
3 of students enrolling at the state institution of higher  
4 education under its jurisdiction and may include among the  
5 tuition and fees any one or more of the following as defined  
6 in section one-b of this article:

7 (1) Tuition and required educational and general fees;

8 (2) Auxiliary and auxiliary capital fees; and

9 (3) Required educational and general capital fees.

10 (b) A governing board may establish a single special  
11 revenue account for each of the following classifications of  
12 fees:

13 (1) All tuition and required educational and general fees  
14 collected;

15 (2) All auxiliary and auxiliary capital fees collected; and

16 (3) All required educational and general capital fees  
17 collected to support existing systemwide and institutional  
18 debt service and future systemwide and institutional debt  
19 service, capital projects and campus renewal for educational  
20 and general facilities.

21 (4) Subject to any covenants or restrictions imposed with  
22 respect to revenue bonds payable from the accounts, a  
23 governing board may expend funds from each special  
24 revenue account for any purpose for which funds were  
25 collected within that account regardless of the original  
26 purpose for which the funds were collected.

27 (c) The purposes for which tuition and fees may be  
28 expended include, but are not limited to, health services,  
29 student activities, recreational, athletic and extracurricular  
30 activities. Additionally, tuition and fees may be used to  
31 finance a students' attorney to perform legal services for  
32 students in civil matters at the institutions. The legal services  
33 are limited to those types of cases, programs or services

34 approved by the president of the institution where the legal  
35 services are to be performed.

36 (d) By October 1, 2011, the commission and council each  
37 shall propose a rule for legislative approval in accordance  
38 with article three-a, chapter twenty-nine-a of this code to  
39 govern the fixing, collection and expenditure of tuition and  
40 other fees by the governing boards under their respective  
41 jurisdictions.

42 (e) The schedule of all tuition and fees, and any changes  
43 in the schedule, shall be entered in the minutes of the meeting  
44 of the appropriate governing board and the board shall file  
45 with the commission or council, or both, as appropriate, and  
46 the Legislative Auditor a certified copy of the schedule and  
47 changes.

48 (f) The governing boards shall establish the rates to be  
49 charged full-time students, as defined in section one-b of this  
50 article, who are enrolled during a regular academic term.

51 (1) Undergraduate students taking fewer than twelve  
52 credit hours in a regular term shall have their fees reduced

53 pro rata based upon one twelfth of the full-time rate per credit  
54 hour and graduate students taking fewer than nine credit  
55 hours in a regular term shall have their fees reduced pro rata  
56 based upon one ninth of the full-time rate per credit hour.

57 (2) Fees for students enrolled in summer terms or other  
58 nontraditional time periods shall be prorated based upon the  
59 number of credit hours for which the student enrolls in  
60 accordance with this subsection.

61 (3) In order to implement a per-credit-hour tuition  
62 demonstration pilot project pursuant to section three of this  
63 article, while the pilot project is in progress, students at  
64 certain state institutions of higher education who take more  
65 than twelve credit hours in a regular term will be assessed for  
66 each additional credit hour based on the one-twelfth  
67 calculation set out in subdivision (1) of this subsection.

68 (g) All fees are due and payable by the student upon  
69 enrollment and registration for classes except as provided in  
70 this subsection:

71 (1) The governing boards shall permit fee payments to be  
72 made in installments over the course of the academic term.  
73 All fees shall be paid prior to awarding course credit at the  
74 end of the academic term.

75 (2) The governing boards also shall authorize the  
76 acceptance of credit cards or other payment methods which  
77 may be generally available to students for the payment of  
78 fees. The governing boards may charge the students for the  
79 reasonable and customary charges incurred in accepting  
80 credit cards and other methods of payment.

81 (3) If a governing board determines that a student's  
82 finances are affected adversely by a legal work stoppage, it  
83 may allow the student an additional six months to pay the  
84 fees for any academic term. The governing board shall  
85 determine on a case-by-case basis whether the finances of a  
86 student are affected adversely.

87 (4) The commission and council jointly shall propose a  
88 rule in accordance with article three-a, chapter twenty-nine-a  
89 of this code defining conditions under which a governing

90 board may offer tuition and fee deferred payment plans itself  
91 or through third parties.

92 (5) A governing board may charge interest or fees for any  
93 deferred or installment payment plans.

94 (h) In addition to the other fees provided in this section,  
95 each governing board may impose, collect and distribute a  
96 fee to be used to finance a nonprofit, student-controlled  
97 public interest research group if the students at the institution  
98 demonstrate support for the increased fee in a manner and  
99 method established by that institution's elected student  
100 government. The fee may not be used to finance litigation  
101 against the institution.

102 (i) Governing boards shall retain tuition and fee revenues  
103 not pledged for bonded indebtedness or other purposes in  
104 accordance with the tuition rules proposed by the  
105 commission and council pursuant to this section. The tuition  
106 rules shall address the following areas:

107 (1) Providing a basis for establishing nonresident tuition  
108 and fees;

109 (2) Allowing governing boards to charge different tuition  
110 and fees for different programs;

111 (3) Authorizing a governing board to propose to the  
112 commission, council or both, as appropriate, a mandatory  
113 auxiliary fee under the following conditions:

114 (A) The fee shall be approved by the commission, council  
115 or both, as appropriate, and either the students below the  
116 senior level at the institution or the Legislature before  
117 becoming effective;

118 (B) Increases may not exceed previous state subsidies by  
119 more than ten percent;

120 (C) The fee may be used only to replace existing state  
121 funds subsidizing auxiliary services such as athletics or  
122 bookstores;

123 (D) If the fee is approved, the amount of the state subsidy  
124 shall be reduced annually by the amount of money generated  
125 for the institution by the fees. All state subsidies for the  
126 auxiliary services shall cease five years from the date the  
127 mandatory auxiliary fee is implemented;



128 (E) The commission or council or both, as appropriate,  
129 shall certify to the Legislature annually by October 1 the  
130 amount of fees collected for each of the five years;

131 (4) Establishing methodology, where applicable, to  
132 ensure that, within the appropriate time period under the  
133 compact, community and technical college tuition rates for  
134 students in all community and technical colleges will be  
135 commensurate with the tuition and fees charged by their  
136 peer institutions.

137 (j) A penalty may not be imposed by the commission or  
138 council upon any governing board based upon the number  
139 of nonresidents who attend the institution unless the  
140 commission or council determines that admission of  
141 nonresidents to any institution or program of study within  
142 the institution is impeding unreasonably the ability of  
143 resident students to attend the institution or participate in  
144 the programs of the institution. The governing boards shall  
145 report annually to the commission or council on the

146 numbers of nonresidents and any other enrollment  
147 information the commission or council may request.

148 (k) Tuition and fee increases of the governing boards,  
149 including the governing boards of Marshall University and  
150 West Virginia University, are subject to rules adopted by the  
151 commission and council pursuant to this section and in  
152 accordance with article three-a, chapter twenty-nine-a of this  
153 code. The commission or council, as appropriate, shall  
154 examine individually each request from a governing board  
155 for an increase and make its determinations as follows:

156 (1) A tuition and fee increase greater than five percent for  
157 resident students proposed by a governing board requires the  
158 approval of the commission or council, as appropriate.

159 (2) A fee used solely for the purpose of complying with  
160 the athletic provisions of 20 U. S. C. 1681, *et seq.*, known as  
161 Title IX of the Education Amendment of 1972, is exempt  
162 from the limitations on fee increases set forth in this  
163 subsection for three years from the effective date of the  
164 section.

165 (3) In determining whether to approve or deny a  
166 governing board's request for a tuition and/or fee increase for  
167 resident students greater than the increases granted pursuant  
168 to subdivision (1) of this subsection, the commission or  
169 council shall determine the progress the governing board has  
170 made toward meeting the conditions outlined in this  
171 subsection and shall make this determination the predominate  
172 factor in its decision. The commission or council shall  
173 consider the degree to which each governing board has met  
174 the following conditions:

175 (A) Maximizes resources available through nonresident  
176 tuition and fee charges to the satisfaction of the commission  
177 or council;

178 (B) Consistently achieves the benchmarks established in  
179 the compact pursuant to article one-d of this chapter;

180 (C) Continuously pursues the statewide goals for post-  
181 secondary education and the statewide compact established  
182 in this chapter;

183 (D) Demonstrates to the satisfaction of the commission or  
184 council that an increase will be used to maintain high-quality  
185 programs at the institution;

186 (E) Demonstrates to the satisfaction of the commission or  
187 council that the governing board is making adequate progress  
188 toward achieving the goals for education established by the  
189 southern regional education board;

190 (F) Demonstrates to the satisfaction of the commission or  
191 council that the governing board has considered the average  
192 per capita income of West Virginia families and their ability  
193 to pay for any increases; and

194 (G) Demonstrates to the satisfaction of the commission or  
195 council that base appropriation increases have not kept pace  
196 with recognized nation-wide inflationary benchmarks;

197 (4) This section does not require equal increases among  
198 governing boards nor does it require any level of increase by  
199 a governing board.

200 (5) The commission and council shall report to the  
201 Legislative Oversight Commission on Education

202 Accountability regarding the basis for approving or denying  
203 each request as determined using the criteria established in this  
204 subsection.

**§18B-10-3. Per-credit-hour tuition demonstration pilot project.**

1 (a) The purpose of this section is to establish a per-credit-  
2 hour tuition demonstration pilot project beginning July 1, 2013,  
3 and ending June 30, 2016.

4 (1) The commission and council, each, shall select up to  
5 three state institutions of higher education under their  
6 respective jurisdictions to participate in the pilot project.

7 (2) Participating institutions may assess students who take  
8 more than twelve credit hours in a regular term for each  
9 additional credit hour based on the one-twelfth calculation set  
10 out in subsection (f), section ten of this article.

11 (3) As part of the pilot project, the commission and council  
12 shall conduct research and evaluate the impact of the pilot  
13 project and, based upon their research findings, determine the  
14 feasibility of implementing a tuition per-credit-hour model for  
15 students in all state institutions of higher education.

16 (b) The commission and the council have the following  
17 powers and duties with respect to the per-credit-hour tuition  
18 pilot project:

19 (1) To issue requests for proposals from institutions under  
20 their respective jurisdictions and to determine the data that  
21 each institution shall provide in order to be considered for  
22 inclusion;

23 (2) To select for participation in the pilot project up to  
24 three institutions from each system which selections shall  
25 reflect the diversity among state institutions in the following  
26 manner:

27 (A) One institution selected from each system shall be a  
28 high tuition cost institution and one shall be a low tuition cost  
29 institution.

30 (B) At least one institution selected from each system  
31 shall be located in a low socioeconomic region.

32 (3) To evaluate the impact of the pilot project within each  
33 state system of higher education upon completion, based, in

34 part, on criteria established in subsection (c) of this section;

35 and

36 (4) To report the results of their evaluations to the  
37 Legislative Oversight Commission on Education  
38 Accountability by October 1, 2016. The report shall include  
39 a recommendation, together with supporting data, regarding  
40 the feasibility of adopting the tuition per-credit-hour model  
41 state wide or for either state system.

42 (c) *Evaluation of pilot project.* –

43 The criteria to be used in evaluating the pilot project  
44 include, but are not limited to, the following items:

45 (1) Impact on tuition cost of tuition and increases in  
46 tuition rates;

47 (2) Change in enrollment intensity;

48 (3) Increase in the total amount of individual student  
49 loans per institution and per system;

50 (4) Impact on head count enrollment;

51 (5) Changes in the ratio of part-time enrollment to full-  
52 time enrollment per institution and per system;

53       (6) Impact on affordability and retention per institution  
54   and per system;

55       (7) Implementation of new programs delivered in an  
56   accelerated format or in a condensed time frame to decrease  
57   time to completion;

58       (8) Impact on total tuition revenue generated; and

59       (9) Impact on distribution of student financial aid  
60   packages.

61       (d) The per-credit-hour demonstration pilot project  
62   established by this section terminates on June 30, 2016,  
63   unless continued or reestablished by the Legislature.