



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

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

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

10 (2) Auxiliary and auxiliary capital fees; and

11 (3) Required educational and general capital fees.

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

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

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

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

22 (4) Subject to any covenants or restrictions imposed with  
23 respect to revenue bonds payable from the accounts, a governing  
24 board may expend funds from each special revenue account for any

1 purpose for which funds were collected within that account  
2 regardless of the original purpose for which the funds were  
3 collected.

4 (c) The purposes for which tuition and fees may be expended  
5 include, but are not limited to, health services, student  
6 activities, recreational, athletic and extracurricular activities.  
7 Additionally, tuition and fees may be used to finance a students'  
8 attorney to perform legal services for students in civil matters at  
9 the institutions. The legal services are limited to those types of  
10 cases, programs or services approved by the president of the  
11 institution where the legal services are to be performed.

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

17 (e) The schedule of all tuition and fees, and any changes in  
18 the schedule, shall be entered in the minutes of the meeting of the  
19 appropriate governing board and the board shall file with the  
20 commission or council, or both, as appropriate, and the Legislative  
21 Auditor a certified copy of the schedule and changes.

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

1           (1) Undergraduate students taking fewer than twelve credit  
2 hours in a regular term shall have their fees reduced pro rata  
3 based upon one twelfth of the full-time rate per credit hour and  
4 graduate students taking fewer than nine credit hours in a regular  
5 term shall have their fees reduced pro rata based upon one ninth of  
6 the full-time rate per credit hour.

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

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

14          (1) The governing boards shall permit fee payments to be made  
15 in installments over the course of the academic term. All fees  
16 shall be paid prior to awarding course credit at the end of the  
17 academic term.

18          (2) The governing boards also shall authorize the acceptance  
19 of credit cards or other payment methods which may be generally  
20 available to students for the payment of fees. The governing  
21 boards may charge the students for the reasonable and customary  
22 charges incurred in accepting credit cards and other methods of  
23 payment.

24          (3) If a governing board determines that a student's finances

1 are affected adversely by a legal work stoppage, it may allow the  
2 student an additional six months to pay the fees for any academic  
3 term. The governing board shall determine on a case-by-case basis  
4 whether the finances of a student are affected adversely.

5 (4) The commission and council jointly shall propose a rule in  
6 accordance with article three-a, chapter twenty-nine-a of this code  
7 defining conditions under which a governing board may offer tuition  
8 and fee deferred payment plans itself or through third parties.

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

11 (h) In addition to the other fees provided in this section,  
12 each governing board may impose, collect and distribute a fee to be  
13 used to finance a nonprofit, student-controlled public interest  
14 research group if the students at the institution demonstrate  
15 support for the increased fee in a manner and method established by  
16 that institution's elected student government. The fee may not be  
17 used to finance litigation against the institution.

18 (I) Governing boards shall retain tuition and fee revenues not  
19 pledged for bonded indebtedness or other purposes in accordance  
20 with the tuition rules proposed by the commission and council  
21 pursuant to this section. The tuition rules shall address the  
22 following areas:

23 (1) Providing a basis for establishing nonresident tuition and  
24 fees;

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

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

6           (A) The fee shall be approved by the commission, council or  
7 both, as appropriate, and either the students below the senior  
8 level at the institution or the Legislature before becoming  
9 effective;

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

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

14          (D) If the fee is approved, the amount of the state subsidy  
15 shall be reduced annually by the amount of money generated for the  
16 institution by the fees. All state subsidies for the auxiliary  
17 services shall cease five years from the date the mandatory  
18 auxiliary fee is implemented;

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

22          (4) Establishing methodology, where applicable, to ensure  
23 that, within the appropriate time period under the compact,  
24 community and technical college tuition rates for students in all

1 community and technical colleges will be commensurate with the  
2 tuition and fees charged by their peer institutions.

3       (j) A penalty may not be imposed by the commission or council  
4 upon any governing board based upon the number of nonresidents who  
5 attend the institution unless the commission or council determines  
6 that admission of nonresidents to any institution or program of  
7 study within the institution is impeding unreasonably the ability  
8 of resident students to attend the institution or participate in  
9 the programs of the institution. The governing boards shall report  
10 annually to the commission or council on the numbers of  
11 nonresidents and any other enrollment information the commission or  
12 council may request.

13       (k) Tuition and fee increases of the governing boards,  
14 including the governing boards of Marshall University and West  
15 Virginia University, are subject to rules adopted by the commission  
16 and council pursuant to this section and in accordance with article  
17 three-a, chapter twenty-nine-a of this code. The commission or  
18 council, as appropriate, shall examine individually each request  
19 from a governing board for an increase and make its determinations  
20 as follows:

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

24       (2) A fee used solely for the purpose of complying with the

1 athletic provisions of 20 U.S.C. 1681, *et seq.*, known as Title IX  
2 of the Education Amendment of 1972, is exempt from the limitations  
3 on fee increases set forth in this subsection for three years from  
4 the effective date of the section. A fee used solely for the  
5 purpose of complying with the Americans with Disabilities Act is  
6 exempt from the limitations on fee increases set forth in this  
7 subsection.

8 (3) In determining whether to approve or deny a governing  
9 board's request for a tuition and/or fee increase for resident  
10 students greater than the increases granted pursuant to subdivision  
11 (1) of this subsection, the commission or council shall determine  
12 the progress the governing board has made toward meeting the  
13 conditions outlined in this subsection and shall make this  
14 determination the predominate factor in its decision. The  
15 commission or council shall consider the degree to which each  
16 governing board has met the following conditions:

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

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

21 (C) Continuously pursues the statewide goals for post-  
22 secondary education and the statewide compact established in this  
23 chapter;

24 (D) Demonstrates to the satisfaction of the commission or



1 council that an increase will be used to maintain high-quality  
2 programs at the institution;

3 (E) Demonstrates to the satisfaction of the commission or  
4 council that the governing board is making adequate progress toward  
5 achieving the goals for education established by the southern  
6 regional education board;

7 (F) Demonstrates to the satisfaction of the commission or  
8 council that the governing board has considered the average per  
9 capita income of West Virginia families and their ability to pay  
10 for any increases; and

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

14 (4) This section does not require equal increases among  
15 governing boards nor does it require any level of increase by a  
16 governing board.

17 (5) In order to provide flexibility, an institution may apply  
18 to the commission for an alternative fee and tuition schedule. The  
19 application may provide for a waiver for all or a portion of the  
20 requirements of this section relating to tuition or fees. The  
21 alternative schedule shall demonstrate that it is in the best  
22 interest of the educational mission of the institution or its  
23 ability to meet the needs of current or potential students or  
24 improve or maintain the financial condition of the institution. A

1 copy of any waiver requested shall also be submitted to the  
2 Legislative Oversight Committee on Educational Accountability upon  
3 submission.

4 ~~(5)~~ (6) The commission and council shall report to the  
5 Legislative Oversight Commission on Education Accountability  
6 regarding the basis for approving or denying each request as  
7 determined using the criteria established in this subsection.

NOTE: The purpose of this bill is to provide that state institutions of higher education may apply for an alternative fee and tuition schedule if in the best interest of the mission of the institution. It also provides that fees used solely for the purpose of complying with the Americans with Disabilities Act are exempt from the limitations on fee increases set forth in this subsection.

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