

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **House Bill 4524**

**FISCAL  
NOTE**

BY DELEGATES ELLINGTON, BLAIR, HOUSEHOLDER, E.

NELSON, IRELAND, HAMRICK, D. EVANS AND COOPER

[Introduced February 12, 2016; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended, relating  
2 to permitting the governing body to charge tuition on certain credit hours.

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

1 That §18B-10-1 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted 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 for each academic term for the  
2 different classes or categories of students enrolling at the state institution of higher education  
3 under its jurisdiction and may include among the tuition and fees any one or more of the following  
4 as defined in section one-b of this article:

- 5 (1) Tuition and required educational and general fees;
- 6 (2) Auxiliary and auxiliary capital fees; and
- 7 (3) Required educational and general capital fees.

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

- 10 (1) All tuition and required educational and general fees collected;
- 11 (2) All auxiliary and auxiliary capital fees collected; and
- 12 (3) All required educational and general capital fees collected to support existing  
13 systemwide and institutional debt service and future systemwide and institutional debt service,  
14 capital projects and campus renewal for educational and general facilities.
- 15 (4) Subject to any covenants or restrictions imposed with respect to revenue bonds  
16 payable from the accounts, a governing board may expend funds from each special revenue  
17 account for any purpose for which funds were collected within that account regardless of the

18 original purpose for which the funds were collected.

19 (c) The purposes for which tuition and fees may be expended include, but are not limited  
20 to, health services, student activities, recreational, athletic and extracurricular activities.  
21 Additionally, tuition and fees may be used to finance a students' attorney to perform legal services  
22 for students in civil matters at the institutions. The legal services are limited to those types of  
23 cases, programs or services approved by the president of the institution where the legal services  
24 are to be performed.

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

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

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

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

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

42 (g) The governing boards may charge full-time students, as defined in section one-b of  
43 this article, who are enrolled during a regular academic term taking more than fifteen credit hours

44 in a regular term a rate of up to one half of the pro rata cost of a full-time rate per credit hour  
45 above the fifteenth credit hour.

46 ~~(g)~~ (h) All fees are due and payable by the student upon enrollment and registration for  
47 classes except as provided in this subsection:

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

51 (2) The governing boards also shall authorize the acceptance of credit cards or other  
52 payment methods which may be generally available to students for the payment of fees. The  
53 governing boards may charge the students for the reasonable and customary charges incurred in  
54 accepting credit cards and other methods of payment.

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

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

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

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

69 ~~(i)~~ (j) Governing boards shall retain tuition and fee revenues not pledged for bonded

70 indebtedness or other purposes in accordance with the tuition rules proposed by the commission  
71 and council pursuant to this section. The tuition rules shall address the following areas:

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

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

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

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

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

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

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

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

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

91 ~~(j)~~ (k) A penalty may not be imposed by the commission or council upon any governing  
92 board based upon the number of nonresidents who attend the institution unless the commission  
93 or council determines that admission of nonresidents to any institution or program of study within  
94 the institution is impeding unreasonably the ability of resident students to attend the institution or  
95 participate in the programs of the institution. The governing boards shall report annually to the

96 commission or council on the numbers of nonresidents and any other enrollment information the  
97 commission or council may request.

98 ~~(k)~~ (l) Tuition and fee increases of the governing boards, including the governing boards  
99 of Marshall University and West Virginia University, are subject to rules adopted by the  
100 commission and council pursuant to this section and in accordance with article three-a, chapter  
101 twenty-nine-a of this code. The commission or council, as appropriate, shall examine individually  
102 each request from a governing board for an increase and make its determinations as follows:

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

105 (2) A fee used solely for the purpose of complying with the athletic provisions of 20 U.S.C.  
106 1681, *et seq.*, known as Title IX of the Education Amendment of 1972, is exempt from the  
107 limitations on fee increases set forth in this subsection for three years from the effective date of  
108 the section.

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

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

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

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

121 (D) Demonstrates to the satisfaction of the commission or council that an increase will be

122 used to maintain high-quality programs at the institution;

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

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

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

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

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

NOTE: The purpose of this bill is to permit community and technical colleges and universities to charge students half the cost of a credit for every credit taken over the fifteenth hour.

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