

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3150

**FISCAL
NOTE**

BY DELEGATE BARRETT

[Introduced March 15, 2021; 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 tuition and fees of state institutions of higher education.

Be it enacted by the Legislature of West Virginia:

**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, including the fixing of different tuition and fees for online course delivery,
4 and may include among the tuition and fees any one or more of the following as defined in §18B-
5 10-1b of this code:

6 (1) Tuition and required educational and general fees: Provided, that institutions who
7 receive state funding shall not increase in-state tuition rates or general fees more than one percent
8 for any academic calendar year;

9 (2) Auxiliary and auxiliary capital fees: Provided, that institutions who receive state funding
10 shall not increase any fees more than one percent for any academic calendar year; and

11 (3) Required educational and general capital fees: Provided, that institutions who receive
12 state funding shall not increase any fees more than one percent for any academic calendar year.

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

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

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

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

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

24 (5) If a governing board of an Exempted School establishes a single special revenue
25 account for all the foregoing classifications of fees in this subsection, the governing board must
26 account for each classification of fee separately in their internal accounting system.

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

33 (d) By October 1, 2011, the commission and council each shall propose a rule for
34 legislative approval in accordance with §29A-3A-1 *et seq.* of this code to govern the fixing,
35 collection, and expenditure of tuition and other fees by the governing boards under their
36 respective jurisdictions.

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

41 (f) The governing boards shall establish the rates to be charged full-time students, as
42 defined in §18B-10-1b of this code, who are enrolled during a regular academic term. A governing
43 board shall require by rule all fees be due not later than the end of the academic term, and shall
44 provide for appropriate measures to provide for collections of fees past due.

45 (1) Undergraduate students taking fewer than twelve credit hours in a regular term shall

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

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

52 (3) The governing boards may establish rates applicable to tuition and fees for online
53 course delivery without regard to the limitations contained in this subsection.

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

56 (1) The governing boards shall permit fee payments to be made in installments over the
57 course of the academic term.

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

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

66 (4) A governing board may charge interest or fees for any deferred or installment payment
67 plans.

68 (h) In addition to the other fees provided in this section, each governing board may impose,
69 collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest
70 research group if the students at the institution demonstrate support for the increased fee in a
71 manner and method established by that institution's elected student government. The fee may

72 not be used to finance litigation against the institution.

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

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

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

78 (3) Authorizing a governing board to propose to the commission, council, or both, as
79 appropriate, a mandatory auxiliary fee under the following conditions: *Provided*, That the
80 governing boards for the exempted schools may authorize a mandatory auxiliary fee without
81 seeking approval of the commission:

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

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

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

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

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

95 (j) A penalty may not be imposed by the commission or council upon any governing board
96 based upon the number of nonresidents who attend the institution unless the commission or
97 council determines that admission of nonresidents to any institution or program of study within

98 the institution is impeding unreasonably the ability of resident students to attend the institution or
99 participate in the programs of the institution. The governing boards shall report annually to the
100 commission or council on the numbers of nonresidents and any other enrollment information the
101 commission or council may request.

102 (k) Tuition and fee increases of the governing boards, except the exempted schools, are
103 subject to rules adopted by the commission and council pursuant to this section and in accordance
104 with §29A-3A-1 *et seq* of this code. The commission or council, as appropriate, shall examine
105 individually each request from a governing board, including the exempted schools, for an increase
106 and make its determinations as follows:

107 (1) A tuition and fee increase for resident students proposed by a governing board requires
108 the approval of the commission or council, as appropriate, for any tuition and fee increase greater
109 than ten percent in any one year or where the increase would be more than seven percent per
110 year, averaged over a rolling three year period calculated by averaging the proposed increase
111 with the increase for the immediate two previous years;

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

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

120 (B) Consistently achieves the benchmarks established in the compact pursuant to article
121 one-d of this chapter or the master plan for exempted schools in article two-a of this chapter,
122 including the provisions of article one-d required in the master plan;

123 (C) Continuously pursues the statewide goals for post-secondary education;

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

126 (E) Demonstrates to the satisfaction of the commission or council that the governing board
127 is making adequate progress toward achieving the goals for education established by the
128 Southern Regional Education Board;

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

132 (G) Demonstrates to the satisfaction of the commission or council that base appropriation
133 increases have not kept pace with recognized nationwide inflationary benchmarks.

134 (3) This section does not require equal increases among governing boards nor does it
135 require any level of increase by a governing board.

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

NOTE: The purpose of this bill is to cap fees and in-state tuition to a one percent yearly increase for all institutions of higher education in the State of West Virginia which receive state funding.

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