

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 145**

4 (By Senator Unger)

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6 [Originating in the Committee on Education;  
7 reported February 17, 2012.]  
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10 A BILL to amend and reenact §18B-10-1 of the Code of West Virginia,  
11 1931, as amended, relating to allowing students to opt out of  
12 institutional insurance coverage in certain circumstances.

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

14 That §18B-10-1 of the Code of West Virginia, 1931, as amended,  
15 be amended and reenacted to read as follows:

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

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

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

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

2 (2) Auxiliary and auxiliary capital fees; and

3 (3) Required educational and general capital fees.

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

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

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

9 (3) All required educational and general capital fees  
10 collected to support existing systemwide and institutional debt  
11 service and future systemwide and institutional debt service,  
12 capital projects and campus renewal for educational and general  
13 facilities.

14 (4) Subject to any covenants or restrictions imposed with  
15 respect to revenue bonds payable from the accounts, a governing  
16 board may expend funds from each special revenue account for any  
17 purpose for which funds were collected within that account  
18 regardless of the original purpose for which the funds were  
19 collected.

20 (c) (1) The purposes for which tuition and fees may be  
21 expended include, but are not limited to, health services, student  
22 activities, recreational, athletic and extracurricular activities.  
23 Additionally, tuition and fees may be used to finance a students'  
24 attorney to perform legal services for students in civil matters at  
25 the institutions.

26 (2) The legal services are limited to those types of cases,

1 programs or services approved by the president of the institution  
2 where the legal services are to be performed.

3 (3) When a student is required to have health insurance  
4 coverage and that student has health insurance independent of the  
5 institution, he or she may opt out of the institution's coverage by  
6 providing appropriate documentation. Once the institution grants  
7 a waiver from its health insurance, future silence or inaction on  
8 the student's part may not be construed as an assent either to  
9 permit the institution to include that student under its insurance  
10 coverage or to collect a fee associated with that coverage.

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

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

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

24 (1) Undergraduate students taking fewer than twelve credit  
25 hours in a regular term shall have their fees reduced pro rata  
26 based upon one twelfth of the full-time rate per credit hour and

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

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

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

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

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

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

26 (4) The commission and council jointly shall propose a rule in

1 accordance with article three-a, chapter twenty-nine-a of this code  
2 defining conditions under which a governing board may offer tuition  
3 and fee deferred payment plans itself or through third parties.

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

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

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

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

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

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

25 (A) The fee shall be approved by the commission, council or  
26 both, as appropriate, and either the students below the senior

1 level at the institution or the Legislature before becoming  
2 effective;

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

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

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

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

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

20 (j) A penalty may not be imposed by the commission or council  
21 upon any governing board based upon the number of nonresidents who  
22 attend the institution unless the commission or council determines  
23 that admission of nonresidents to any institution or program of  
24 study within the institution is impeding unreasonably the ability  
25 of resident students to attend the institution or participate in  
26 the programs of the institution. The governing boards shall report

1 annually to the commission or council on the numbers of  
2 nonresidents and any other enrollment information the commission or  
3 council may request.

4 (k) Tuition and fee increases of the governing boards,  
5 including the governing boards of Marshall University and West  
6 Virginia University, are subject to rules adopted by the commission  
7 and council pursuant to this section and in accordance with article  
8 three-a, chapter twenty-nine-a of this code. The commission or  
9 council, as appropriate, shall examine individually each request  
10 from a governing board for an increase and make its determinations  
11 as follows:

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

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

20 (3) In determining whether to approve or deny a governing  
21 board's request for a tuition and/or fee increase for resident  
22 students greater than the increases granted pursuant to subdivision  
23 (1) of this subsection, the commission or council shall determine  
24 the progress the governing board has made toward meeting the  
25 conditions outlined in this subsection and shall make this  
26 determination the predominate factor in its decision. The

1 commission or council shall consider the degree to which each  
2 governing board has met the following conditions:

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

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

7 (C) Continuously pursues the statewide goals for postsecondary  
8 education and the statewide compact established in this chapter;

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

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

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

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

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

26 (5) The commission and council shall report to the Legislative



1 Oversight Commission on Education Accountability regarding the  
2 basis for approving or denying each request as determined using the  
3 criteria established in this subsection.