

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 508**

4 (By Senators Prezioso, Cann, Stollings and McCabe)

5 _____
6 [Originating in the Committee on Education;

7 reported March 22, 2013.]

8
9
10

11 A BILL to amend and reenact §18B-10-1 of the Code of West Virginia,
12 1931, as amended; and to amend said code by adding thereto a
13 new section, designated §18B-10-3, all relating to creating a
14 per-credit-hour tuition demonstration pilot project;
15 specifying a termination date; establishing goals and
16 selection criteria for participation; providing for
17 evaluations; and requiring certain reports.

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

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

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

25 **§18B-10-1. Enrollment, tuition and other fees at education**

1 **institutions; refund of fees.**

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

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

9 (2) Auxiliary and auxiliary capital fees; and

10 (3) Required educational and general capital fees.

11 (b) A governing board may establish a single special revenue
12 account for each of the following classifications of 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 debt
18 service and future systemwide and institutional debt service,
19 capital projects and campus renewal for educational and general
20 facilities.

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

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

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

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

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

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

1 the full-time rate per credit hour.

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

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

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

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

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

26 (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;

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

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

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

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

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

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

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

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

25 (j) A penalty may not be imposed by the commission or council
26 upon any governing board based upon the number of nonresidents who

1 attend the institution unless the commission or council determines
2 that admission of nonresidents to any institution or program of
3 study within the institution is impeding unreasonably the ability
4 of resident students to attend the institution or participate in
5 the programs of the institution. The governing boards shall report
6 annually to the commission or council on the numbers of
7 nonresidents and any other enrollment information the commission or
8 council may request.

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

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

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

25 (3) In determining whether to approve or deny a governing
26 board's request for a tuition and/or fee increase for resident

1 students greater than the increases granted pursuant to subdivision
2 (1) of this subsection, the commission or council shall determine
3 the progress the governing board has made toward meeting the
4 conditions outlined in this subsection and shall make this
5 determination the predominate factor in its decision. The
6 commission or council shall consider the degree to which each
7 governing board has met the following conditions:

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

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

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

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

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

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

26 (G) Demonstrates to the satisfaction of the commission or

1 council that base appropriation increases have not kept pace with
2 recognized nation-wide inflationary benchmarks;

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

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

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

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

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

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

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

26 (b) The commission and the council have the following powers

1 and duties with respect to the per-credit-hour tuition pilot
2 project:

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

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

9 (A) One institution selected from each system shall be a high
10 tuition cost institution and one shall be a low tuition cost
11 institution.

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

14 (3) To evaluate the impact of the pilot project within each
15 state system of higher education upon completion, based, in part,
16 on criteria established in subsection (c) of this section; and

17 (4) To report the results of their evaluations to the
18 Legislative Oversight Commission on Education Accountability by
19 October 1, 2016. The report shall include a recommendation,
20 together with supporting data, regarding the feasibility of
21 adopting the tuition per-credit-hour model state wide or for either
22 state system.

23 (c) *Evaluation of pilot project.* -

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

26 (1) Impact on tuition cost of tuition and increases in tuition

1 rates;

2 (2) Change in enrollment intensity;

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

5 (4) Impact on head count enrollment;

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

8 (6) Impact on affordability and retention per institution and
9 per system;

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

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

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

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