

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3374

**FISCAL
NOTE**

By Delegate Capito

[Introduced February 13, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §18b-10-7e, relating to waivers from tuition and other costs and fees for certain
 3 resident veterans and their resident dependents; limiting waivers to 150 cumulative credit
 4 hours; requiring application and evidence to support entitlement to waiver; limiting
 5 application of other veteran tuition benefits; exception for certain institutions of higher
 6 education for extraordinary costs associated with a particular course; mandating reporting
 7 requirements, and promulgation of rules.

Be it enacted by the Legislature of West Virginia:

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

§18B-10-7e. Tuition waivers for veterans, military personnel, and dependents.

1 (a) The governing board of each institution of higher education shall award tuition
 2 and fee waivers, including tuition, fees, and other charges for correspondence courses or
 3 distance learning courses, for the following persons: *Provided*, That this waiver applies to
 4 resident members as defined in this section and does not include general deposit fees,
 5 student services fees, and any fees or charges for lodging, board, or clothing:

6 (1) All nurses and honorably discharged resident members of the armed forces of
 7 the United States who served during the Spanish-American War or during World War I;

8 (2) All resident member nurses, resident members of the Women's Army Auxiliary
 9 Corps, resident members of the Women's Auxiliary Volunteer Emergency Service, and all
 10 honorably discharged resident members of the armed forces of the United States who
 11 served during World War II except those who were discharged from service because they
 12 were over the age of 38 or because of a personal request on the part of the person that the
 13 person be discharged from service;

14 (3) All honorably discharged men and women of the armed forces of the United
15 States who served during the national emergency which began on June 27, 1950, and
16 which is referred to as the Korean War; and

17 (4) All persons who were honorably discharged from the armed forces of the
18 United States after serving on active military duty, excluding training, for more than 180
19 days and who served a portion of their active duty during:

20 (A) The Cold War which began on the date of the termination of the national
21 emergency cited in subdivision (3);

22 (B) The Vietnam era which began on December 21, 1961, and ended on May 7,
23 1975;

24 (C) The Grenada and Lebanon era which began on August 24, 1982, and ended
25 on July 31, 1984;

26 (D) The Panama era which began on December 20, 1989, and ended on January
27 21, 1990;

28 (E) The Persian Gulf War which began on August 2, 1990, and ends on the date
29 thereafter prescribed by Presidential proclamation;

30 (F) The national emergency by reason of certain terrorist attacks that began on
31 September 11, 2001; or

32 (G) Any future national emergency declared in accordance with federal law.

33 For purposes of this section, "resident member" means a person who currently
34 resides in this state and entered the service at a location in this state, and declared this
35 state as the person's home of record in the manner provided by the applicable military or
36 other service.

- 37 (b) The waivers provided for in subsection (a) also apply to:
- 38 (1) The spouse of a resident member of the armed forces of the United States:
- 39 (A) Who was killed in action;
- 40 (B) Who died while in service;
- 41 (C) Who is missing in action;
- 42 (D) Whose death is documented to be directly caused by illness or injury
- 43 connected with service in the armed forces of the United States; or
- 44 (E) Who became totally and permanently disabled or meets the eligibility
- 45 requirements for individual unemployability according to the disability ratings of the
- 46 Department of Veterans Affairs as a result of a service-related injury; or
- 47 (2) A resident member of the West Virginia National Guard or the West Virginia Air
- 48 National Guard who:
- 49 (A) Was killed since January 1, 1946, while on active duty either in the service of
- 50 this state or the United States; or
- 51 (B) Is totally and permanently disabled or meets the eligibility requirements for
- 52 individual unemployability according to the disability ratings of the Department of
- 53 Veterans Affairs, regardless of whether the resident member is eligible to receive
- 54 disability benefits from the department, as a result of a service-related injury suffered
- 55 since January 1, 1946, while on active duty either in the service of this state or the United
- 56 States.
- 57 (3) The children of resident members of the armed forces of the United States:
- 58 (A) Who are or were killed in action;
- 59 (B) Who die or died while in service;

60 (C) Who are missing in action;

61 (D) Whose death is documented to be directly caused by illness or injury
62 connected with service in the armed forces of the United States; or

63 (E) Who became totally and permanently disabled or meet the eligibility
64 requirements for individual unemployability according to the disability ratings of the
65 Department of Veterans Affairs as a result of a service-related injury; and

66 (4) The children of resident members of the West Virginia National Guard and the
67 West Virginia Air National Guard who:

68 (A) Were killed since January 1, 1946, while on active duty either in the service of
69 their state or the United States; or

70 (B) Are totally and permanently disabled or meet the eligibility requirements for
71 individual unemployability according to the disability ratings of the Department of
72 Veterans Affairs, regardless of whether the resident members are eligible to receive
73 disability benefits from the department, as a result of a service-related injury suffered
74 since January 1, 1946, while on active duty either in the service of this state or the United
75 States.

76 (5) To qualify for a waiver under this subsection, the spouse or child must be a
77 domiciled resident of the State of West Virginia for a period of 30 days or more
78 immediately prior to his or her registration.

79 (c) A person may not receive the waivers provided for by this section for more than
80 a cumulative total of 150 credit hours.

81 (d) The governing board of each institution of higher education granting a waiver
82 under this section shall require each applicant claiming the waiver to submit to the

83 institution, in the form and manner prescribed by the West Virginia Department of
84 Veterans Assistance an application for the waiver and necessary evidence that the
85 applicant qualifies for the waiver not later than the last class date of the semester or term
86 to which the waiver applies, except that the governing board may encourage the
87 submission of an application and evidence by the official day of record for the semester or
88 term to which the waiver applies on which the institution must determine the enrollment
89 that is reported to the West Virginia Higher Education Policy Commission.

90 (e) The waiver from tuition, fees, and other charges provided for by this section
91 does not apply to a person who at the time of registration is entitled to receive educational
92 benefits under federal legislation that may be used only for the payment of tuition and fees
93 if the value of those benefits received in a semester or other term is equal to or exceeds
94 the value of the waiver for the same semester or other term. If the value of federal
95 benefits that may be used only for the payment of tuition and fees and are received in a
96 semester or other term does not equal or exceed the value of the waiver for the same
97 semester or other term, the person is entitled to receive both those federal benefits and
98 the waiver in the same semester or other term. The combined amount of the federal
99 benefit that may be used only for the payment of tuition and fees plus the amount of the
100 waiver received in a semester or other term may not exceed the cost of tuition and fees for
101 that semester or other term: *Provided*, That a person may not receive a waiver under this
102 section if the person is in default on a loan made or guaranteed for educational purposes
103 by the State of West Virginia.

104 (f) The governing board of each institution of higher education may enter into
105 contracts with the United States government, or any of its agencies, to furnish instruction

106 to ex-servicemen and ex-service women at a tuition rate which covers the estimated cost
107 of the instruction or, in the alternative, at a tuition rate of \$100 a semester, as may be
108 determined by the governing board. If the rates specified are prohibited by federal law for
109 any particular class of ex-servicemen or ex-service women, the tuition rate shall be set by
110 the governing board, but shall not be less than the established rate for civilian students. If
111 federal law provides as to any class of veterans that the tuition payments are to be
112 deducted from subsequent benefits to which the veteran may be entitled, the institution
113 shall refund to any resident veteran within the meaning of this section the amount by
114 which any adjusted compensation payment is actually reduced because of tuition
115 payments made to the institution by the federal government for the veteran.

116 (g) The governing board of a public junior college, public technical institute, or
117 public state college may establish a fee for extraordinary costs associated with a specific
118 course or program and may provide that the waivers provided by this section do not apply
119 to this fee.

120 (h) The governing board of each institution of higher education shall electronically
121 report to the West Virginia Department of Veterans Assistance information relating to
122 each individual receiving a waiver from fees and charges under subsection (a), (b), or (k)
123 of this section. The institution shall report the information not later than January 31 of
124 each year for the fall semester, June 30 of each year for the spring semester, and
125 September 30 of each year for the summer session.

126 (i) The West Virginia Department of Veterans Assistance may adopt rules to
127 provide for the efficient and uniform application of this section. In developing rules under
128 this subsection, the commission shall consult with the West Virginia Higher Education

129 Policy Commission and institutions of higher education.

130 (j) In determining whether to admit a person to any certificate program or any
131 baccalaureate, graduate, postgraduate, or professional degree program, an institution of
132 higher education may not consider the fact that the person is eligible for a waiver under
133 this section.

134 (k) The West Virginia Department of Veterans Assistance by rule shall prescribe
135 procedures to allow:

136 (1) A person who becomes eligible for a waiver provided by subsection (a) of this
137 section to waive the person's right to any unused portion of the number of cumulative
138 credit hours for which the person could receive the waiver and assign the waiver for the
139 unused portion of those credit hours to a child of the person; and

140 (2) Following the death of a person who becomes eligible for a waiver provided by
141 subsection (a) of this section, the assignment of the waiver for the unused portion of the
142 credit hours to a child of the person, to be made by the person's spouse or by the
143 conservator, guardian, custodian, or other legally designated caretaker of the child, if the
144 child does not otherwise qualify for a waiver under subsection (b) of this section.

145 (l) The procedures under subsection (k) must provide:

146 (1) The manner in which a person may decline the waiver;

147 (2) The manner in which a child may be designated to receive the waiver;

148 (3) A procedure permitting the designation of a different child to receive the waiver
149 if the child previously designated to receive the waiver did not use the waiver under this
150 section for all of the assigned portion of credit hours;

151 (4) A method of documentation to enable institutions of higher education to

152 determine the eligibility of the designated child to receive the waiver; and

153 (5) A procedure permitting a person who declined the waiver and designated a
154 child to receive the waiver to revoke that designation as to any unused portion of the
155 assigned credit hours.

156 (m) To be eligible to receive a waiver under subsection (k), the child must:

157 (1) Be a student who is classified as a resident under subsection (b) of this section
158 when the child enrolls in an institution of higher education;

159 (2) As a graduate or undergraduate student, maintain a grade point average that
160 satisfies the grade point average requirement for making satisfactory academic progress
161 in a degree, certificate, or continuing education program as determined by the institution
162 at which the child is enrolled in accordance with the institution's policy regarding eligibility
163 for financial aid; and

164 (3) Be 25 years of age or younger on the first day of the semester or other
165 academic term for which the waiver is claimed.

166 (n) For purposes of this section, a person is the child of another person if:

167 (1) The person is the stepchild or the biological or adopted child of the other
168 person; or

169 (2) The other person claimed the person as a dependent on a federal income tax
170 return filed for the preceding year or will claim the person as a dependent on a federal
171 income tax return for the current year.

172 (o) The West Virginia Veterans Commission by rule shall prescribe procedures by
173 which a child assigned a waiver under subsection (k) who suffered from a severe illness or
174 other debilitating condition that affected the child's ability to use the waiver before

175 reaching the age described by subsection (m)(3) of this section may be granted additional
176 time to use the waiver corresponding to the time the child was unable to use the waiver
177 because of the illness or condition.

178 (p) The West Virginia Higher Education Policy Commission and the West Virginia
179 Department of Veterans Assistance shall coordinate to provide each respective agency
180 with any information required to ensure the proper administration of this section and the
181 proper execution of each agency's statutory responsibilities concerning this section.

NOTE: The purpose of this bill is to create a waiver for veterans and their dependents from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses and distance learning courses but excluding general deposit fees, student services fees, and any fees or charges for lodging, board, or clothing at an institution of higher education within this state.

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