# WEST VIRGINIA CODE CHAPTER 18B ARTICLE 10

WV Legislature

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

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

(1) Tuition and required educational and general fees;

(2) Auxiliary and auxiliary capital fees; and

(3) Required educational and general capital fees.

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

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

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

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

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

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

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

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

WV Legislature

their respective jurisdictions.

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

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

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

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

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

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

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

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

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

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

(h) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the

WV Legislature

increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

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

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

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

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

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

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

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

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

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

(j) A penalty may not be imposed by the commission or council upon any governing board based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The governing boards shall report annually to the commission or council on the numbers of nonresidents and any other enrollment information the commission or council may request.

(k) Tuition and fee increases of the governing boards, except the exempted schools, are subject to rules adopted by the commission and council pursuant to this section and in

WV Legislature

accordance with article three-a, chapter twenty-nine-a of this code. The commission or council, as appropriate, shall examine individually each request from a governing board, including the exempted schools, for an increase and make its determinations as follows:

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

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

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

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

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

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

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

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

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

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

(4) The commission and council shall report to the Legislative Oversight Commission on Education Accountability regarding the basis for approving or denying each request as

WV Legislature

determined using the criteria established in this subsection.

WV Legislature

**§18B-10-1a. Resident tuition rates for members or veterans of the National Guard, reserves, armed forces, and their spouses and dependents.**

(a) Notwithstanding any provision of this code to the contrary, the following persons shall be charged in-state tuition rates at the state's institutions of higher education regardless of domicile:

(1) Members of the National Guard or reserves who are not residents of West Virginia but who are active members of a National Guard or reserve unit in West Virginia;

(2) Current members of the United States armed forces who reside in or move to West Virginia;

(3) Veterans of the National Guard, a reserve unit, or the armed forces of the United States who reside in or move to West Virginia for the purpose of attending a state institution of higher education; and

(4) Spouses or dependents of a member or veteran of the National Guard, a reserve unit, or the armed forces of the United States who reside in or move to West Virginia with such member or veteran.

(b) The requirements of this section may not be construed to deny to a person eligible for in-state tuition rates under this section any waiver of tuition rates otherwise available to that person under any other provision of this code.

(c) The provisions of this section apply at the beginning of the semester or term immediately following the effective date of this section.

WV Legislature

## §18B-10-1b. Special equity fee; purpose; exemptions.

In addition to the other fees provided in this article, each governing board has the authority to impose, collect and expend the proceeds of a special equity fee under the following conditions:

(a) The fee shall be used solely for the purpose of complying with the athletic provisions of 20 U.S.C. 1681, et seq., known as Title IX of the Education Amendment of 1972;

(b) The fee is exempt from limitations on fee increases set forth in this article for three years from the effective date of this section;

(c) The fee may not be used by an institution to advance its classification of participation in its athletics governing body; and

(d) The fee may not be imposed upon part-time students or students enrolled in an administratively linked community and technical college.

WV Legislature

## §18B-10-1c. Definitions.

For the purposes of this article, the following words have the meanings specified unless the context clearly indicates a different meaning:

(a) “Auxiliary capital fees” means charges levied on students to support debt service, information technology projects, capital projects and campus maintenance and renewal for the auxiliary facilities and information technology systems of the institutions;

(b) “Auxiliary fees” means charges levied on all students to support auxiliary enterprises or optional charges levied only on students using the auxiliary service. Auxiliary fees include sales and service revenue from entities that exist predominately to furnish goods or services to students, faculty or staff such as residence halls, faculty and staff housing, food services, intercollegiate athletics, student unions, bookstores, parking and other service centers;

(c) “Full-time graduate student” means a graduate student who is enrolled for nine or more credit hours in a regular term;

(d) “Full-time undergraduate student” means an undergraduate student who is enrolled for 12 or more credit hours in a regular term;

(e) “Required educational and general capital fees” means:

(1) Charges levied on all students to support debt service of systemwide bond issues; and

(2) Charges levied on all students to support debt service, information technology projects, capital projects and campus maintenance and renewal for an institution’s educational and general educational facilities, and information systems.

(f) “Tuition and required educational and general fees” means:

(1) Charges levied on all students of that class or category to support educational and general program services and to support debt service, information technology projects, capital projects and campus maintenance, and renewal for an institution’s educational and general educational facilities, auxiliary facilities and information technology systems; and

(2) Optional charges levied for education and general services collected only from students using the service or from students for whom the services are made available.

WV Legislature

## §18B-10-1d. Resident tuition rates for economic development participants.

(a) The term "resident" or "residency", or any other term or expression used to designate a West Virginia resident student, when used to determine the rate of tuition to be charged students attending state institutions of higher education, may be construed to include economic development participants.

(b) To meet the definition of "economic development participant" under this section, the following criteria must be met:

(1) The person or the person’s parent or legal guardian received economic development incentives to locate to West Virginia, offered pursuant to §5B-2-3b of this code; and

(2) The person files with that institution of higher education a letter of intent to establish residency in this state.

(c) An economic development participant who qualifies as a resident on the first day of the semester or term of the institution of higher education shall be eligible for resident tuition rates.

WV Legislature

## §18B-10-2. Higher education resource assessment.

(a) Pursuant to the authority granted by section four, article one-b of this chapter, and section six, article two-b of this chapter, the commission and council jointly shall establish a higher education resource assessment per student for each state institution of higher education under their respective jurisdictions. Community and technical colleges shall transfer all funds collected pursuant to this section to the council. All other institutions shall transfer all funds collected pursuant to this section to the commission. Any reference in this code to higher education resource fee means this higher education resource assessment.

(b) The commission and council jointly shall fix the assessment for the various institutions and classes of students and may periodically change these assessments. The amount of the assessment for each institution shall be prorated for part-time students.

(c) Each institution shall maintain a level of support for libraries and library supplies, including books, periodicals, subscriptions and audiovisual materials, instructional equipment and materials; and for the improvement in quality and scope of student services comparable to that level supported by the higher education resource fee previously authorized by this section.

(d) The assessment shall be expended or allocated by the commission or council to meet its general operating expenses or to fund statewide programs. To the maximum extent practicable, the commission and council shall offset the impact, if any, on financially needy students of any potential assessment increase under this section by allocating an appropriate amount of the revenue to the state scholarship program to be expended in accordance with the provisions of article five, chapter eighteen-c of this code.

WV Legislature

**§18B-10-3.**

Repealed.

Acts, 2004 Reg. Sess., Ch. 13.

WV Legislature

## §18B-10-4. Medical education.

The commission shall determine an appropriate portion of all tuition and fees paid by medical students enrolled for credit at the West Virginia University school of medicine, Marshall university school of medicine and the West Virginia school of osteopathic medicine to be used to support the health education student loan fund. The portion determined by the commission for this purpose shall be deposited into the health education student loan fund account in accordance with the provisions of article three, chapter eighteen-c of this code.

WV Legislature

**§18B-10-4a.**

Repealed.

Acts, 2004 Reg. Sess., Ch. 13.

WV Legislature

## §18B-10-4b. Additional fee waivers for health sciences and technology academy programs.

(a) In addition to the number of fee waivers permitted in sections five and six of this article for undergraduate, graduate and professional schools, each state institution of higher education may waive all fees or any part thereof for students who are residents of West Virginia and who successfully complete the health sciences and technology academy affiliated programs.

(b) For purposes of this section, "Health Sciences and Technology Academy Programs" means those programs in the health sciences designed to assist junior high and high school students in conjunction with their parents and teachers, to enhance their knowledge and abilities in subject matters which will further a career in the field of health sciences.

WV Legislature

## §18B-10-5. Fee waivers -- Undergraduate schools.

Each governing board periodically may establish fee waivers for students in undergraduate studies at institutions under its jurisdiction entitling recipients to waiver of tuition, capital and other fees subject to the following conditions and limitations:

(a) Undergraduate fee waivers established by the governing boards of Marshall University and West Virginia University, respectively, for the state institutions of higher education known as Marshall University and West Virginia University, are subject to the provisions of section six-a of this article;

(b) For the governing boards of state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University, the following conditions apply:

(1) An institution may not have in effect at any time undergraduate fee waivers totaling more in value than five percent of the tuition and required fees assessed for all full-time equivalent undergraduate students registered during the fall semester of the immediately preceding academic year.

(2) Each undergraduate fee waiver entitles the recipient of the waiver to attend a designated state institution of higher education without payment of the tuition, capital and other fees as may be prescribed by the governing board and is for a period of time not to exceed eight semesters of undergraduate study.

(3) The governing board shall make rules pursuant to the provisions of section six, article one of this chapter governing the award of undergraduate fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits of the waiver; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of undergraduate fee waivers shall be entered in the minutes of the meetings of the governing board.

(5) Students enrolled in an administratively linked community and technical college shall be awarded a proportionate share of the total number of undergraduate fee waivers awarded by a governing board. The number to be awarded to students of the community and technical college is based upon the full-time equivalent enrollment of that institution.

(6) An institution may grant fee waivers to its employees, their spouses and dependents and these waivers are not counted when determining the maximum percentage of waivers permitted by this section.

(7) Any fee waivers mandated by this article or by section three, article nineteen, chapter eighteen of this code are not counted when determining the maximum percentage of waivers permitted by this section.

WV Legislature

## §18B-10-6. Fee waivers -- Professional and graduate schools.

In addition to the fee waivers authorized for undergraduate study by the provisions of section five of this article, each governing board periodically may establish fee waivers for study in graduate and professional schools under its jurisdiction, including medicine and dentistry, entitling the recipients to waiver of tuition, capital and other fees subject to the following conditions and limitations:

(a) Graduate and professional fee waivers established by the governing boards of Marshall University and West Virginia University, respectively, are subject to the provisions of section six-a of this article;

(b) For the governing boards of state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University, the following conditions apply:

(1) An institution may not have in effect at any time graduate and professional school fee waivers totaling more in value than five percent of the tuition and required fees assessed for all full-time equivalent graduate and professional students registered during the corresponding fall semester, spring semester and summer term of the immediately preceding academic year. In addition to the five percent in this subdivision, all graduate assistants employed by these institutions shall be granted a fee waiver.

(2) Each graduate or professional school fee waiver entitles the recipient to waiver of the tuition, capital and other fees as may be prescribed by the governing boards and is for a period of time not to exceed the number of semesters normally required in the recipient's academic discipline.

(3) The governing boards shall make rules pursuant to the provisions of section six, article one of this chapter governing the award of graduate and professional school fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits of the waivers; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of graduate and professional school fee waivers shall be entered in the minutes of the meeting of each governing board.

(5) An institution may grant fee waivers to its employees, their spouses and dependents, and these waivers are not counted when determining the maximum percentage of waivers permitted by this section.

(6) Any fee waivers mandated by this article or by section three, article nineteen, chapter eighteen of this code are not counted when determining the maximum percentage of waivers permitted by this section.

WV Legislature

**§18B-10-6a. Undergraduate, graduate and professional fee waivers – Marshall University and West Virginia University.**

(a) Undergraduate fee waivers. --

(1) The governing boards of Marshall University and West Virginia University, respectively, may establish fee waivers for students in undergraduate studies at institutions under their jurisdiction which entitle recipients to waiver of tuition, capital and other fees, in whole or in part.

(2) Each undergraduate fee waiver is for a period of time not to exceed eight semesters of undergraduate study.

(3) Each governing board shall promulgate rules pursuant to the provisions of section six, article one of this chapter to govern the award of undergraduate fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of undergraduate fee waivers shall be entered in the minutes of the meetings of the governing board.

(5) Students enrolled in an administratively linked community and technical college shall be awarded a proportionate share of the total number of undergraduate fee waivers awarded by a governing board. The number to be awarded to students of the community and technical college is based upon the full-time equivalent enrollment of that institution.

(b) Graduate and professional school fee waivers. --

(1) In addition to the fee waivers authorized for undergraduate study by subsection (a) of this section, the governing boards of Marshall University and West Virginia University, respectively, each may establish fee waivers for study in the graduate and professional schools under its jurisdiction, including medicine and dentistry, which entitle the recipients to waiver of tuition, capital and other fees, in whole or in part.

(2) Each graduate or professional school fee waiver entitles the recipient to waiver of the tuition, capital and other fees, in whole or in part, as may be prescribed by the governing board and is for a period of time not to exceed the number of semesters normally required in the recipient's academic discipline.

(3) The governing boards each shall promulgate a rule pursuant to the provisions of section six, article one of this chapter, governing the award of graduate and professional school fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

WV Legislature

(4) The awarding of graduate and professional school fee waivers shall be entered in the minutes of the meeting of each governing board.

WV Legislature

**§18B-10-7. Tuition and fee waivers for children and spouses of officers, firefighters, National Guard personnel, reserve personnel and active military duty personnel killed in the line of duty.**

(a) Each state institution of higher education shall waive tuition and fees for any person who is the child or spouse of an individual who:

(1) Was employed or serving as:

(A) A law-enforcement officer as defined in section one, article twenty-nine, chapter thirty of this code;

(B) A correctional officer at a state penal institution;

(C) A parole officer;

(D) A probation officer;

(E) A natural resources police officer; or

(F) A registered firefighter; and

(2) Was killed in the line of duty while:

(A) Employed by the state or any political subdivision of the state; or

(B) A member of a volunteer fire department serving a political subdivision of this state.

(b) Each state institution of higher education shall waive tuition and fees for any person who is the child or spouse of:

(1) A National Guard member or a member of a reserve component of the Armed Forces of the United States who is a resident of this state and is killed in the line of duty. The member is considered to have been killed in the line of duty if death resulted from performing a duty required by his or her orders or commander while in an official duty status, other than on federal active duty, authorized under federal or state law; or

(2) A person on federal or state active military duty who is a resident of this state and is killed in the line of duty. The person is considered to have been killed in the line of duty if death resulted from performance of a duty required by his or her orders or commander while in an official duty status.

(c) Any waiver granted pursuant to this section is subject to the following:

(1) The recipient may attend any undergraduate course if classroom space is available;

(2) The recipient has applied and been admitted to the institution;

WV Legislature

(3) The recipient has applied for and submitted the Free Application for Federal Student Aid;

(4) The recipient has exhausted all other sources of student financial assistance dedicated solely to tuition and fees that exceed other grant assistance that are available to him or her, excluding student loans;

(5) Waiver renewal is contingent upon the recipient continuing to meet the academic progress standards established by the institution.

(d) The state institution of higher education may require the person to pay:

(1) Special fees, including any laboratory fees, if the fees are required of all other students taking a single course or that particular course; and

(2) Parking fees.

(e) The governing boards may promulgate rules:

(1) For determining the availability of classroom space;

(2) As each considers necessary to implement this section; and

(3) Regarding requirements for attendance, which may not exceed the requirements for other students.

(f) The governing boards may extend to persons attending courses and classes under this section any rights, privileges or benefits extended to other students which it considers appropriate.

WV Legislature

**§18B-10-7a. Tuition and fee waivers or adjustments for residents and certain nonresidents at least 60 years old.**

(a) Each governing board shall promulgate a rule establishing a reduced tuition and fee program for senior citizens. The rule shall include at least the following:

(1) One option for individuals who attend undergraduate and graduate courses without receiving credit and one option for those who attend undergraduate and graduate courses for credit;

(2) A requirement that the following conditions be met under either option of the program:

(A) The participant is a resident of West Virginia or classified as a metro area student at the institution;

(B) The participant is 60 years of age or older; and

(C) Classroom space is available;

(3) A method of establishing priority for allowing a participant to attend a class or course;

(4) A determination of whether to require participants to pay special fees, including laboratory fees, if the fees are required of all other students;

(5) A determination of whether to require participants to pay for parking;

(6) Requirements for participants in the program under the no credit option:

(A) A grade or credit may not be given; and

(B) The total tuition and fees charged for each course or class, excluding laboratory and parking fees, may not exceed $50. After July 1, 2004, the governing boards may change the maximum fee; and

(C) Any differential tuition for qualified nonresident students shall not exceed 50 percent of the rate for West Virginia resident students;

(7) A requirement for participants in the program under the for-credit option that tuition and fee rates may not exceed 50 percent of the normal rates charged to state residents by the institution.

(b) The provisions of this section apply to both classroom-based courses, electronic and Internet-based courses, and all other distance education delivery.

WV Legislature

## §18B-10-7b. Tuition waivers for high school graduates in foster care.

The governing boards shall make provision for institutions under their respective jurisdictions to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the fall, two thousand, semester or term, who graduate from high school or pass the GED examination while in the legal custody of the state Department of Human Services. The student must be in foster care or other residential care for at least one year prior to the waiver award. If the foster care or other residential care is provided in another state, the student must first be returned to this state for waiver award eligibility.

To be eligible for a waiver award, a student must first: (1) Apply to and be accepted at the institution; and (2) apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant.

Waiver renewal is contingent upon the student continuing to meet the academic progress standards established by the institution.

The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study. An initial waiver must be granted within two years of graduation from high school or passing the GED examination.

The waiver may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.

Any award under this section is in addition to the number of fee waivers permitted in sections five and six of this article for undergraduate, graduate and professional schools.

No student who is enrolled in an institution of higher education as of the effective date of this section is eligible for a waiver award under the provisions of this section.

The governing boards may establish any limitations on the provisions of this section as they consider proper.

WV Legislature

## §18B-10-7c. Tuition and fee waivers for certain veterans receiving federal educational assistance benefits.

(a) The Legislature finds that:

(1) The United States Congress, in enacting the Post-9/11 Veterans Educational Assistance Act of 2008, 38 U.S.C. §3301, et seq., has established a program within the United States Department of Veterans Affairs known as the "Yellow Ribbon G.I. Education Enhancement Program";

(2) Under the Act, certain individuals who served or are serving on active duty in the United States Armed Forces after September 11, 2001, are eligible to receive educational assistance benefits equal to the cost of undergraduate resident tuition and mandatory fees charged by a state institution of higher education; and

(3) The Program provides additional educational assistance benefits above the cost of undergraduate resident tuition and mandatory fees to veterans receiving benefits under the Act.

(b) The purpose of this section is to require state institutions of higher education to participate in the Program and encourage private institutions of higher education located in the state to participate.

(c) As soon as practicable after the effective date of this section, the governing board of each state institution of higher education shall enter into an agreement with the United States Secretary of Veterans Affairs to participate in the Program. For every eligible veteran who is enrolled or will be enrolled as an undergraduate student, the agreement shall provide for a waiver of the cost of tuition and mandatory fees not otherwise covered under 38 U.S.C. §3313(c)(1)(A) at a percentage equal to the maximum contribution available for match by the United States Department of Veterans Affairs. The agreement also may provide for a waiver of the cost of tuition and mandatory fees not otherwise covered under 38 U.S.C. §3313(c)(1)(A) at a percentage equal to the maximum contribution available for match by the United States Department of Veterans Affairs for every eligible veteran who is or will be enrolled in a graduate or professional program.

(d) For the purposes of the limitation on the amount of fee waivers permitted at state institutions of higher education set forth in sections five and six of this article, any waiver granted by a state institution of higher education in connection with the Program is not counted toward the amount of undergraduate, graduate or professional fee waivers permitted at that institution.

(e) The Legislature encourages every private institution of higher education located in the state to participate in the Program.

(f) For the purposes of this section:

WV Legislature

(1) "The Act" means the Post-9/11 Veterans Educational Assistance Act of 2008, 38 U.S.C. §3301, et seq.;

(2) "The Program" means the Yellow Ribbon G.I. Education Enhancement Program, 38 U.S.C. §3317; and

(3) "Eligible veteran" means any individual who is eligible to participate in the Program.

WV Legislature

**§18B-10-7d. Tuition waivers for national service volunteers serving in West Virginia.**

(a) The governing boards shall make provision for institutions under their respective jurisdictions to award tuition and fee waivers for undergraduate and graduate courses at state institutions of higher education beginning in the 2022 fall semester or term for any student who has completed service in West Virginia as a participant in an AmeriCorps State, National, VISTA, or Senior Corps program in accordance with the following:

(1) The student has applied and been accepted at the institution;

(2) The student has filed the Free Application for Federal Student Aid and has accepted all offers of state and federal financial assistance for which he or she is eligible: *Provided*, That the student is not required to accept offers of student loan or work study assistance;

(3) The student has accepted the Segal AmeriCorps Education Award;

(4) The student has successfully completed his or her term of service as defined by the AmeriCorps program and consistent with regulations of the Corporation for National and Community Service, the service was completed in West Virginia, and the Certification of Service Letter is provided to the state institution of higher education as documentation of the completion of service;

(5) The student shall be awarded a tuition and fee waiver for one semester if the student successfully completed a term of service consisting of at least 600 hours of service, or if the student successfully completed multiple terms of service that in the aggregate consist of at least 600 hours of service. The student shall be awarded a tuition and fee waiver for two semesters if the student successfully completed a term of service consisting of at least 1,200 hours of service, or if the student successfully completed multiple terms of service that in the aggregate consist of at least 1,200 hours. The hours of service used to qualify for an award may not be again used to qualify for another award;

(6) A student may successfully complete additional terms of service while enrolled at a state institution of higher education or between semesters and provide the documentation specified in subdivision (4) of this subsection to the state institution for waivers of tuition and fees in accordance with this section;

(7) The total number of tuition and fee waivers that may be granted to a student pursuant to this section is limited to eight semesters of enrollment at the undergraduate or graduate levels combined;

(8) The nominal value of a tuition and fee waiver is the remaining cost of tuition and fees after the state and federal financial assistance accepted by the student in accordance with subdivision (2) of this subsection has been applied: *Provided*, That if the subsequent application of the student's Segal AmeriCorps Education Award causes the total of the student's financial assistance, waivers, and grants to exceed the student's cost of

WV Legislature

attendance, the nominal value of the tuition and fee waiver may be further reduced to reach the cost of attendance; and

(9) The award of a tuition and fee waiver is contingent upon the student meeting the academic progress standards established by the institution.

(b) The award of tuition and fee waivers granted pursuant to this section is in addition to the tuition and fee waivers otherwise permitted in this article.

(c) The governing boards may establish any limitations on the provisions of this section as they consider proper.

(d) The commission and the council may propose rules for legislative approval, pursuant to the provisions of §29A-3A-1 *et seq*. of this code, if necessary, to provide for uniformity in the administration and tracking of awards made pursuant to this section.

WV Legislature

**§18B-10-8. Collection; disposition and use of capital and auxiliary capital fees; creation of special capital and auxiliary capital improvements funds; revenue bonds.**

(a) This section and any rules adopted by the commission, council, or both, in accordance with this section and §29A-3a-1 *et seq*. of this code, govern the collection, disposition, and use of the capital and auxiliary capital fees authorized by §18B-10-1 of this code. The statutory provisions governing collection and disposition of capital funds in place prior to the enactment of this section remain in effect.

(b) Fees for full-time students. — The governing boards shall fix capital and auxiliary capital fees for full-time students at each state institution of higher education per semester. For institutions under its jurisdiction, a governing board may fix the fees at higher rates for students who are not residents of this state.

(c) Fees for part-time students. — For all part-time students and for all summer school students, the governing boards shall impose and collect the fees in proportion to, but not exceeding, the fees paid by full-time students. Refunds of the fees may be made in the same manner as any other fee collected at state institutions of higher education.

(d) There is continued in the State Treasury a special capital improvements fund and special auxiliary capital improvements fund for each state institution of higher education and the commission into which shall be paid all proceeds, respectively, of the following:

(1) The capital and auxiliary capital fees collected from students at all state institutions of higher education pursuant to this section; and

(2) The fees collected from the students pursuant to section one of this article. The fees shall be expended by the commission and governing boards for the payment of the principal of or interest on any revenue bonds issued by the board of regents or the succeeding governing boards for which the fees were pledged prior to the enactment of this section.

(e) The governing boards may make expenditures from any of the special capital improvements funds or special auxiliary capital improvement funds established in this section, and up to 50 percent of its gross tuition revenues to finance or fund on a cash basis, in whole or in part, in combination with any federal, state or other grants or contributions, for any one or more of the following projects:

(1) The acquisition of land or any rights or interest in land;

(2) The construction or acquisition of new buildings;

(3) The renovation or construction of additions to existing buildings;

(4) The acquisition of furnishings and equipment for the buildings;

(5) The costs of information technology projects, including, but not limited to, costs

WV Legislature

associated with planning, designing, implementing, upgrading, modifying and replacing new and existing enterprise resource planning, data, student, critical, or foundational technology systems, without regard to whether such costs are capitalizable, and which may include costs relating to the improvement of business practices to maximize the use of such systems, design, development, infrastructure, software licenses and subscriptions, testing, training, data transfers and relevant labor costs and consultant costs; and

(6) The construction or acquisition of any other capital improvements or capital education facilities at the state institutions of higher education, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing, and placing in operation of the buildings, capital improvements, or capital education facilities, including student unions, dormitories, housing facilities, food service facilities, motor vehicle parking facilities, and athletic facilities.

(f) The commission, when singly or jointly requested by the council or governing boards, periodically may issue revenue bonds of the state as provided in this section to finance all or part of the purposes and pledge all or any part of the moneys in the special funds for the payment of the principal of and interest on the revenue bonds, and for reserves for the revenue bonds. Any pledge of the special funds for the revenue bonds shall be a prior and superior charge on the special funds over the use of any of the moneys in the funds to pay for the cost of any of the purposes on a cash basis. Any expenditures from the special funds, other than for the retirement of revenue bonds, may be made by the commission or governing boards only to meet the cost of a predetermined capital improvements program for one or more of the state institutions of higher education, in the order of priority agreed upon by the governing board or boards and the commission and for which the aggregate revenue collections projected are presented to the Governor for inclusion in the annual budget bill, and are approved by the Legislature for expenditure. Any expenditure made pursuant to subsection (e) of this section shall be part of the 10-year campus development plan approved by the governing board pursuant to §18B-19-3 of this chapter.

(g) The revenue bonds periodically may be authorized and issued by the commission or governing boards to finance, in whole or in part, the purposes provided in this section in an aggregate principal amount not exceeding the amount which the commission determines can be paid as to both principal and interest and reasonable margins for a reserve therefor from the moneys in the special funds.

(h) The issuance of the revenue bonds by schools other than the exempted schools shall be authorized by a resolution adopted by the governing board receiving the proceeds and the commission, and the revenue bonds shall bear the date or dates; mature at such time or times not exceeding 40 years from their respective dates; be in such form either coupon or registered, with such exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places, within or without the state; be subject to such terms of prior redemption at such prices not exceeding 105 percent of the principal amount thereof; and have the other terms and provisions determined by the governing board receiving the proceeds and by the commission. The revenue bonds issued by schools other



WV Legislature

than the exempted schools shall be signed by the Governor and by the chancellor of the commission or the chair of the governing boards authorizing the issuance of the revenue bonds, under the Great Seal of the state, attested by the Secretary of State, and the coupons attached to the revenue bonds shall bear the facsimile signature of the chancellor of the commission or the chair of the appropriate governing boards. The revenue bonds shall be sold in the manner the commission or governing board determines is in the best interests of the state.

(i) The issuance of the revenue bonds by exempted schools shall be authorized by a resolution adopted by the governing board receiving the proceeds, and the revenue bonds shall bear the date or dates; mature at such time or times not exceeding 100 years from their respective dates; be in such form either coupon or registered, with such exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places, within or without the state; be subject to such terms of prior redemption at such prices not exceeding 105 percent of the principal amount thereof; and have the other terms and provisions determined by the governing board receiving the proceeds. The revenue bonds shall be signed by the Governor and the chair of the governing boards authorizing the issuance of the revenue bonds, under the Great Seal of the state, attested by the Secretary of State, and the coupons attached to the revenue bonds shall bear the facsimile signature of the chair of the appropriate governing boards. The revenue bonds shall be sold in the manner the governing board determines is in the best interests of the state.

(j) The commission or governing boards may enter into trust agreements with banks or trust companies, within or without the state, and in the trust agreements or the resolutions authorizing the issuance of the bonds may enter into valid and legally binding covenants with the holders of the revenue bonds as to the custody, safeguarding and disposition of the proceeds of the revenue bonds, the moneys in the special funds, sinking funds, reserve funds, or any other moneys or funds; as to the rank and priority, if any, of different issues of revenue bonds by the commission or governing boards under this section; as to the maintenance or revision of the amounts of the fees; as to the extent to which swap agreements, as defined in §13-2G-2 of this code shall be used in connection with the revenue bonds, including such provisions as payment, term, security, default, and remedy provisions as the commission considers necessary or desirable, if any, under which the fees may be reduced; and as to any other matters or provisions which are considered necessary and advisable by the commission or governing boards in the best interests of the state and to enhance the marketability of the revenue bonds.

(k) After the issuance of any revenue bonds, the fees at the state institutions of higher education pledged to the payment of the revenue bonds may not be reduced as long as any of the revenue bonds are outstanding and unpaid except under the terms, provisions and conditions contained in the resolution, trust agreement or other proceedings under which the revenue bonds were issued. The revenue bonds are and constitute negotiable instruments under the Uniform Commercial Code of this state; together with the interest thereon, be exempt from all taxation by the State of West Virginia, or by any county, school



WV Legislature

district, municipality, or political subdivision thereof; and the revenue bonds may not be considered to be obligations or debts of the state and the credit or taxing power of the state may not be pledged therefor, but the revenue bonds shall be payable only from the revenue pledged therefor as provided in this section.

(l) Additional revenue bonds may be issued by the commission or governing boards pursuant to this section and financed by additional revenues or funds dedicated from other sources. The special revenue fund in the State Treasury known as the Community and Technical College Capital Improvement Fund into which shall be deposited the amounts specified in §29-22-18(j) of this code is continued. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by the commission for community and technical college capital improvements or used by the council on a cash basis as provided under §29-22-18(j)(4) of this code for community and technical college capital improvements or capital projects.

(m) Funding of systemwide and campus-specific revenue bonds under any other section of this code is continued and authorized pursuant to the terms of this section. Revenues of any state institution of higher education pledged to the repayment of any revenue bonds issued pursuant to this code shall remain pledged.

(n) Any revenue bonds for state institutions of higher education proposed to be issued under this section or other sections of this code first must be approved by the Governor and:

(1) Approved by the governing board for revenue bonds issued by the exempted schools;

(2) Confirmed by the commission, for revenue bonds issued by institutions under the jurisdiction of the commission, or

(3) Approved by the council and the commission, for revenue bonds issued by institutions under the jurisdiction of the council.

(o) Revenue bonds issued pursuant to this code may be issued by the commission or governing boards, either singly or jointly.

(p) Fees pledged for repayment of revenue bonds issued under this section or §18-12B-1 *et seq*. of this code prior to or after the effective date of this section shall be transferred to the commission in a manner prescribed by the commission. The commission may transfer funds from the accounts of institutions pledged for the repayment of revenue bonds issued prior to the effective date of this section or issued subsequently by the commission upon the request of institutions, if an institution fails to transfer the pledged revenues to the commission in a timely manner.

(q) Effective July 1, 2004, the capital and auxiliary capital fees authorized by this section and §18B-10-1 of this code are in lieu of any other fees set out in this code for capital and

WV Legislature

auxiliary capital projects to benefit public higher education institutions. Notwithstanding any other provisions of this code to the contrary, in the event any capital, tuition, registration, or auxiliary fees are pledged to the payment of any revenue bonds issued pursuant to any general bond resolutions of the commission, any of its predecessors or any institution, adopted prior to the effective date of this section, the fees shall remain in effect in amounts not less than the amounts in effect as of that date, until the revenue bonds payable from any of the fees have been paid or the pledge of the fees is otherwise legally discharged.

WV Legislature

## §18B-10-9. Authority to excuse students in certain educational programs from payment of enrollment fees.

Whenever the cost of any institute, workshop, special course, or other educational program is wholly financed by a grant from any federal, state or local agency or from any foundation, corporation or other association or person, except for indirect costs of administration and other overhead expenses, such as the cost of providing classrooms and other facilities, the governing board of the state institution of higher education administering the program has the authority to excuse all students enrolled in such program from the payment of tuition and other fees.

WV Legislature

## §18B-10-10. The Medal of Honor and Andrew J. Trail Purple Heart Recipient Tuition Waiver.

(a) This section is known as the Medal of Honor and Andrew J. Trail Purple Heart Recipient Tuition Waiver.

(b) A state institution of higher education shall waive undergraduate tuition and mandatory fee charges for a state resident that has been honorably discharged from any branch of the United States Armed Forces if that resident:

(1) Has received the Medal of Honor or a Purple Heart Medal. The waiver pursuant to this subdivision is for the amount of tuition and mandatory fee charges that exceeds the total amount of any state and federal education benefits, grants or scholarships received by the resident;

(2) Has received the Medal of Honor or a Purple Heart Medal and sustained wounds during military combat that resulted in either a permanent disability or a loss of limb. The waiver pursuant to this subdivision is for the amount of tuition and mandatory fee charges that exceeds state and federal education benefits, grants or scholarships received by the resident that are designated solely for tuition and mandatory fees.

(c) Tuition and mandatory fee waivers provided pursuant to this section are not counted when determining the maximum number of waivers permitted at an institution by section five of this article.

(d) A tuition and mandatory fee waiver is available pursuant to this section for a maximum of eight semesters.

WV Legislature

## §18B-10-11. Fees and money derived from athletic contests.

The governing board of a state institution of higher education may fix and charge admission fees to athletic contests at institutions under its jurisdiction. The governing board may enter into contracts and spend and receive money under such contracts for the student athletic teams of the institutions to contest with other athletic teams inside or outside the state. All money received from such fees and contracts shall be deposited in the auxiliary operating account of the institution and expended for any purpose considered necessary and proper by the governing board.

WV Legislature

## §18B-10-12. Student activities.

(a) The governing board of a state institution of higher education may make funds available from tuition and fees to support extracurricular activities of the students as considered necessary. (b) Each institution shall maintain a level of support for extracurricular activities of the students comparable to that level supported by student activities fees previously authorized by this section.

WV Legislature

## §18B-10-13. Fees from operation of dormitories, faculty homes, dining halls and cafeterias.

The appropriate governing board of each state institution of higher education shall fix the fees to be charged students and faculty members for rooms, board and meals at the dormitories, faculty homes, dining halls and cafeterias operated by such board at the institution. Such fees shall be commensurate with the complete cost of such services.

All fees collected for such services shall be used first to meet interest, principal and sinking fund requirements due on any outstanding revenue bonds for which the receipts may have been pledged as security and to pay the operating and maintenance costs of the dormitories, faculty homes, dining halls and cafeterias. Any such receipts not needed for these purposes may be expended by the appropriate governing board for any other auxiliary enterprise or educational and general instructional costs.

WV Legislature

**§18B-10-14. Bookstores.**

(a) Definitions: The following words when used in this section have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) “Digital Courseware” means a system of educational content and software designed to support the delivery of all or part of a particular course. The term does not include a learning management platform or any other software system designed to provide support for courses generally;

(2) “Course material” means a textbook, supplemental material, or open educational resource; and

(3) “Open Education Resource Materials” has the meaning assigned in §10-1-14a of this code.

(b) Each governing board may establish and operate a bookstore at the institutions under its jurisdiction to sell course materials, educational materials, books, stationery, and other school and office supplies generally carried in college bookstores. Institutions may work with booksellers, publishers, or other third parties to offer a courseware and book fee at a lump sum or per credit hour amount, provided that an opt out option is offered to students in advance of the start of each academic term.

(c) The prices to be charged may not be less than the prices fixed by any fair trade agreements and shall, in all cases, include in addition to the purchase price paid by the bookstore, a sufficient handling charge to cover all expenses incurred for personal and other services, supplies and equipment, storage, and other operating expenses.

(d) Each governing board shall establish, or if already established, continue, an educational materials affordability committee consisting of faculty, students, administrators and bookstore representatives and the committee shall make recommendations to the governing board to:

(1) Encourage bookstores operated at institutions under its jurisdiction minimize the costs to students of purchasing educational materials;

(2) Encourage course instructors to select appropriate, high quality course educational materials;

(3) Encourage the use of previous or older versions of basic educational materials to the extent those older versions are available and less costly to students and remain relevant, high quality educational materials with up-to-date information and content;

(4) Require the repurchase and resale of educational materials on an institutional basis;

(5) Encourage the use of certain basic educational materials for a reasonable number of



WV Legislature

years;

(6) Encourage the use of emerging technologies, such as electronic textbooks, online textbooks, print-on-demand services, and other open resource materials; and

(7) Prohibit employees from profiteering by requiring the purchase of one-time use materials (such as worksheets) or receiving payment or other consideration as an inducement to require students to purchase course materials.

(e) An employee of a governing board:

(1) May not:

(A) Receive a payment, loan, subscription, advance, deposit of money, service, benefit or thing of value, present or promised, as an inducement for requiring students to purchase a specific course material for coursework or instruction; or

(B) Require for any course a course material that includes his or her own writing or work if the course material incorporates either detachable worksheets or workbook-style pages intended to be written on or removed from the course material. This provision does not prohibit an employee from requiring as a supplement to course materials any workbook or similar material which is published independently from the course material; and

(2) May receive:

(A) Sample copies, instructor’s copies and instructional material which are not to be sold; and

(B) Royalties or other compensation from sales of course materials that include the employee’s own writing or work.

(f) A governing board shall provide to students a listing of course materials required or assigned for any course offered at the institution.

(1) The listing shall be prominently posted:

(A) In a central location at the institution;

(B) In any campus bookstore; and

(C) On the institution’s website.

(2) The list shall include for each textbook the International Standard Book Number (ISBN), the edition number and any other relevant information.

(3) The list shall include whether the course material is an open educational resource material, and whether all educational materials required for the course or course section are

WV Legislature

generally available at no cost and without limitation to all students enrolled in the course or course section.

(4) The list shall include any associated fee or charge, such as a technology cost, library use cost, or printing or publication fee.

(5) If the student will be charged for the course material or for access to digital courseware for a course by the institution or another entity on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term, the list shall include the disclosures required under subsections (g)-(j) of this section.

(6) An institution shall post a course material to the listing when the adoption process is complete and, for course materials that comes at a cost to the student, when the course material is designated for order by the bookstore.

(g) An institution shall disclose to a student enrolled at the institution as provided by this section any charges for course materials or access to digital courseware assessed by the institution or another entity to the student on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term, regardless of how the charge is assessed on an opt-in, opt-out, or compulsory basis. This subsection does not apply to a charge assessed for a purchase initiated by the student separately from the enrollment process at the institution, such as the purchase of course materials at a bookstore that may be charged to the student's account at the institution.

(h) If the required course materials or digital courseware have not been selected prior to a student's enrollment in a course or course section such that the requirements of subsection (g) are not met, and if that selection would cause an increased charge to the student, the institution shall no later than 30 days prior to the start of the course or course section:

(1) Provide individual notice to each student affected of the new or increased charges, including all of the information required under subsection (g);

(2) Provide each student affected with the opportunity to withdraw from the course or course section, or change to a different course or course section, without penalty; and

(3) Only assess the new or increased charge to a student if the institution has a policy under which the student may opt out of the way the institution provides for the student to obtain or purchase the course materials and receive a full refund for any charges already incurred for course materials for that specific course or course section.

(i) For a charge described by subsection (g) that is assessed based on the cost of required or recommended course materials or access to digital courseware for a certain course or course section in which the student is enrolled, the institution shall:

(1) In the listing required under subsection (f), state or provide an internet website link to:

WV Legislature

(A) The full amount of the charge;

(B) If the charge is for a course material in a primarily electronic format or for access to digital courseware, the terms under which the publisher of the course material or digital courseware collects and uses student data obtained through a student's use of the course material or digital courseware; and

(C) Any provision that allows the student to opt in or opt out of the charge or the collection or use of the student's data; and

(2) Itemize the charge separately from any other charges assessed for the course or course section in the institution's billing to the student.

(j) For a charge described by subsection (g) that is assessed on the basis of the number of semester credit hours or the equivalent or the number of courses in which the student is enrolled or on any other basis not described by subsection (i), the institution shall:

(1) Include the amount of the charge in the institution's tuition or fees under §18B-10-1 of this code;

(2) In a prominent location in any written or electronic agreement authorizing the charge, disclose:

(A) If the charge is for course materials in a primarily electronic format or for access to digital courseware, the terms under which the publisher of the course material or digital courseware collects and uses student data obtained through a student's use of the course material or digital courseware; and

(B) Any provision that allows the student to opt in or opt out of the charge or the collection or use of the student's data; and

(3) Not assess the charge to a student for a course or course section for which all required educational materials are generally available at no cost in at least one form to the student, such as:

(A) An open educational resource material;

(B) Digital materials available at no cost through a multi-user license held by the institution's library; or

(C) Other lawfully made materials available to the public at no cost and without limitation to all students enrolled in the course or course section.

(k) An institution may enter into an agreement between the institution and an entity under which the institution assesses on the entity's behalf or allows the entity to assess a charge described by subsection (g) to students enrolled at the institution only if:

WV Legislature

(1) The institution's educational materials affordability committee established under subsection (d) determines the agreement to be consistent with the goals enumerated in subsection (d);

(2) The governing board of the institution adopts a policy that provides that:

(A) The institution's refund policy would apply with respect to the charges assessed to a student if the student withdraws from the course or course section; and

(B) A student may opt out of the charge at any time during a period beginning no later than when the student enrolls in the course or course section or takes any other action triggering the assessment of the charge, and ending no earlier than the last day to withdraw from the course without penalty;

(3) The agreement does not provide for a penalty or charge added to price of materials provided under the agreement based on failing to meet a target or quota for a number or percentage of:

(A) Students to whom the charge is assessed; or

(B) Courses or course sections for which the charge is assessed; and

(4) The agreement prohibits the entity from engaging in, or authorizing third parties to engage in, the sale, disclosure, licensing, use, retention, or other exploitation of any data collected under the agreement, including but not limited to personally identifiable information, location data, anonymized data, and any materials derived therefrom, except as permitted by the Family Education Rights and Privacy Act (20 U.S.C. § 1232g and 34 CFR Part 99) or other applicable law. *Provided*, that this subsection shall not apply to:

(A) The disclosure of information to a government entity or scholarship entity in order to be reimbursed for the distribution of course materials to a student using financial aid subsidies for course materials;

(B) The use of student data for research and development of course materials or the entity's educational sites, services, or applications, and to demonstrate the effectiveness of the entity's services;

(C) The use of de-identified student data for adaptive learning purposes and customized student learning;

(D) Disclosures made to a service provider, provided the entity:

(i) Prohibits the service provider from using any student data for any purpose other than providing the contracted service to, or on behalf of, the entity,

(ii) Prohibits the service provider from disclosing any student data provided by the entity

WV Legislature

with subsequent third parties without explicit permission from the entity, and

(iii) Requires the service provider to implement and maintain reasonable security procedures and practices to protect the student data;

(E) Use, disclosure, or retention of student data to ensure legal and regulatory compliance or to respond or to or participate in judicial process;

(F) Use, disclosure, or retention of student data to protect the safety of users or others or security of entity's sites, services, or applications; and

(G) When the student or guardian, as applicable, has granted prior written consent for the sale, disclosure, licensing, use, or retention of student data.

(l) An agreement authorized under subsection (k) is a public record under chapter 29B of this code.

(m) All moneys derived from the operation of the bookstore shall be paid into a special revenue fund as provided in §12-2-2 of this code. Subject to the approval of the Governor, each governing board periodically shall change the amount of the revolving fund necessary for the proper and efficient operation of each bookstore.

(n) Moneys derived from the operation of the bookstore shall be used first to replenish the stock of goods and to pay the costs of operating and maintaining the bookstore. Notwithstanding any other provision of this section, any institution that has contracted with a private entity for bookstore operation shall deposit into an appropriate account all revenue generated by the operation and enuring to the benefit of the institution. The institution shall use the funds for nonathletic scholarships.

(o) Each governing board shall promulgate a rule in accordance with the provisions of §18B-1-6 of this code to implement the provisions of this section.

(p) This section applies to course material sales and bookstores supported by an institution's auxiliary services and those operated by a private contractor.

(q) This section may not be construed to affect any authority granted to a faculty member by an institution to select course materials for courses taught by the faculty member.

WV Legislature

**§18B-10-15. Authority of educational institutions to provide special services and programs; collection and disposition of fees therefor.**

(a) The governing board of each state institution of higher education may provide special services and special programs at such institutions and may fix and collect special fees or charges therefor. Such special services and special programs include, but are not limited to, any of the following:

(1) The conduct of music camps and band, orchestra or voice clinics for secondary school students or other youth groups; summer tutoring programs for primary and secondary school students; speech therapy clinics and services; educational and psychological testing programs; student guidance programs; and statistical studies and calculations by an electronic computer service.

(2) Rental of lockers or other storage facilities and the maintenance and operation of parking facilities for use by students, faculty, staff and visitors.

(3) Rental of musical recordings, educational films, slides and other audiovisual aids.

(4) Microfilming or other mechanical reproduction of records and noncopyrighted library reference materials.

(5) Institutes, conferences, workshops, postgraduate and refresher noncredit courses and any other special program or special service customarily provided by institutions of higher education.

(6) Motor pools consisting of motor vehicles for the use of their employees when carrying on the business and affairs of the institutions.

(b) All fees or charges collected for any such special services or programs shall cover the total cost of the service or program.

WV Legislature

## §18B-10-16. Disposition of funds in State Treasury.

Except as may be provided for in any bond resolution in effect, funds in the State Treasury heretofore collected from any of the sources defined in the foregoing sections shall remain in the State Treasury for use by the institution where collected. Any interest revenue generated by a special student fee account shall only be expended at or for the institution where such fee was collected. Exempted schools may transfer and deposit all fees and funds collected under this article into a single special revenue account: Provided, That if the governing board of an exempted school does transfer and deposit all such fees and funds into a single special revenue account, the governing board shall account for each classification of fees and funds separately in their internal accounting system.

WV Legislature