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## HOUSE BILL NO. 2337

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on February 7, 2019)

(Patron Prior to Substitute—Delegate Landes)

A BILL to amend and reenact § 23.1-307 of the Code of Virginia, relating to governing boards of public institutions of higher education; tuition and mandatory fee rates; report.

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-307 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-307. Public institutions of higher education; tuition and fees.

A. The governing board of each public institution of higher education shall continue to fix, revise, charge, and collect tuition, fees, rates, rentals, and other charges for the services, goods, or facilities furnished by or on behalf of such institution and may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such facility.

B. Except to the extent included in the institution's six-year plan as provided in subsection C, if the total of an institution's tuition and educational and general fees for any fiscal year for Virginia students exceeds the difference for such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303 and (ii) the sum of the tuition and educational and general fees for non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304, the institution shall forgo new state funding at a level above the general funds received by the institution during the 2011-2012 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide increased financial aid to maintain affordability for students from low-income and middle-income families. This limitation shall not apply to any portion of tuition and educational and general fees for Virginia students allocated to student financial aid, an institution's share of state-mandated salary or fringe benefit increases, increases in funds other than state general funds for the improvement of faculty salary competitiveness above the level included in the calculation in clause (i) of subsection B of § 23.1-303, the institution's progress towards achieving any financial incentive pursuant to § 23.1-305, unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or other items directly attributable to an institution's unique mission and contributions.

C. Nothing in subsection B shall prohibit an institution from including in its six-year plan required by § 23.1-306 (i) new programs or initiatives including quality improvements or (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, that will cause the total of the institution's tuition and educational and general fees for any fiscal year for Virginia students to exceed the difference for such fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303, and (b) the sum of the tuition and educational and general fees for the institution's non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304.

D. At a meeting preceding the meeting described in subsection E, the governing board of each public institution of higher education shall provide and discuss:

1. The factors that such board expects will influence the rate of (i) undergraduate tuition and mandatory education and general fees, including general funds provided pursuant to the general appropriation act and any other applicable market-based factor, for the succeeding academic year and (ii) undergraduate mandatory non-education and general fees, including all applicable market-based factors, for the succeeding academic year; and

2. a. A projected range of the percentage increase and dollar amount increase in the rate of undergraduate tuition and mandatory education and general fees for the succeeding academic year;

b. A projected range of the percentage increase and dollar amount increase in the rate of undergraduate mandatory non-education and general fees for the succeeding academic year; and

c. If applicable market-based factors would support an increase that is greater than the ranges described in subdivisions a and b, the maximum percentage increase and dollar increase that could be supported.

E. At a meeting preceding the meeting at which the governing board of each public institution sets the rate of undergraduate tuition and mandatory fees for the succeeding academic year, such board shall permit members of the public to comment in person and directly to the board on the information provided and discussed by the board pursuant to subsection D, subject to any reasonable limitations on such comment that the governing board may impose pursuant to board policies. Such policies may

60 *include (i) reasonable limits on individual public comment and total time reserved for public comment*  
61 *and (ii) additional electronic means for members of the public to communicate with the governing*  
62 *board.*

63 *F. No governing board of any public institution of higher education shall approve an increase in*  
64 *undergraduate tuition or and mandatory fees without providing students and the public a projected range*  
65 *of the planned increase, an explanation of the need for the increase, and notice of the date and location*  
66 *of any vote on such increase at least 30 days prior to such vote.*

67 *G. Prior to any vote referenced in subsection F, the governing board of each public institution of*  
68 *higher education shall permit public comment on the proposed increase at a meeting, as that term is*  
69 *defined in § 2.2-3701, of the governing board. Each such governing board shall establish policies for*  
70 *such public comment, which may include reasonable time limitations.*

71 *H. At any meeting at which the governing board approves an increase in undergraduate tuition and*  
72 *mandatory fees, the governing board shall provide an explanation of any deviation from the projections*  
73 *provided and discussed pursuant to subdivision D 2.*

74 *1. The Council shall submit to the Governor and the Chairmen of the House Committee on*  
75 *Appropriations, the House Committee on Education, the Senate Committee on Education and Health,*  
76 *and the Senate Committee on Finance no later than the first day of each regular session of the General*  
77 *Assembly an annual report that contains an assessment of:*

78 *1. The factors provided and discussed by each governing board pursuant to subdivision D 1; and*

79 *2. The projected ranges and market-based factors provided and discussed by each governing board*  
80 *pursuant to subdivision D 2.*

81 *J. The Council shall submit to the Governor and the Chairmen of the House Committee on*  
82 *Appropriations, the House Committee on Education, the Senate Committee on Education and Health,*  
83 *and the Senate Committee on Finance no later than August 1 an annual report that contains:*

84 *1. Any comment provided by members of the public pursuant to subsection E; and*

85 *2. Any explanation, made pursuant to subsection H, of a deviation from the projections provided and*  
86 *discussed pursuant to subdivision D 2.*