

1 **Senate Bill No. 429**

2 (By Senators Hall, Unger, Jenkins, Wells, Klempa and Sypolt)

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4 [Introduced February 4, 2011; referred to the Committee on
5 Education; and then to the Committee on Finance.]
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7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §18-19A-1, §18-19A-2,
12 §18-19A-3, §18-19A-4 and §18-19A-5, all relating to providing
13 educational scholarships for the children of war veterans;
14 defining terms; establishing types of scholarships; setting
15 forth what is included in the scholarships; setting forth the
16 categories of eligibility for the scholarships; providing that
17 the West Virginia Division of Veterans' Affairs shall
18 administer the scholarship program; and granting the West
19 Virginia Division of Veterans' Affairs rule-making authority.

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

21 That the Code of West Virginia, 1931, as amended, be amended
22 by adding thereto a new article, designated §18-19A-1, §18-19A-2,
23 §18-19A-3, §18-19A-4 and §18-19A-5, all to read as follows:

24 **ARTICLE 19A. SCHOLARSHIPS FOR CHILDREN OF WAR VETERANS.**

25 **§18-19A-1. Purpose.**

1 In appreciation for the service and sacrifices of West
2 Virginia's war veterans and as evidence of this state's concern for
3 their children, there is hereby continued a revised program of
4 scholarships for these children as set forth in this article.

5 **§18-19A-2. Definitions.**

6 As used in this article the terms defined in this section have
7 the following meaning:

8 (1) "Active federal service" means full-time duty in the Armed
9 Forces other than active duty for training. However, if disability
10 or death occurs while on active duty for training as a direct
11 result of armed conflict or while engaged in extra-hazardous
12 service, including such service under conditions simulating war,
13 such active duty for training shall be considered as active federal
14 service.

15 (2) "Armed forces" means the Army, Navy, Marine Corps, Air
16 Force and Coast Guard, including their reserve components.

17 (3) "Child" means a person: under twenty-five years of age at
18 the time of application for a scholarship; who is a domiciliary of
19 West Virginia and is a resident of West Virginia when applying for
20 a scholarship; who has completed high school or its equivalent
21 prior to receipt of a scholarship awarded under this article; who
22 has complied with the requirements of the Selective Service System,
23 if applicable; and who further meets one of the following
24 requirements:

25 (A) A person whose veteran parent was a legal resident of West

1 Virginia at the time of the veteran's entrance into that period of
2 service in the Armed Forces during which eligibility is established
3 under section four of this article;

4 (B) A veteran's child who was born in West Virginia and has
5 been a resident of West Virginia continuously since birth:
6 *Provided*, That the requirement in the preceding sentence as to
7 birth in West Virginia may be waived by the West Virginia Division
8 of Veterans' Affairs if it is shown to the satisfaction of the
9 division that the child's mother was a native-born resident of West
10 Virginia and was such resident at the time of her marriage to the
11 veteran and was outside the state temporarily at the time of the
12 child's birth, following which the child was returned to West
13 Virginia within a reasonable period of time where the child has
14 since lived continuously; and

15 (C) A person meeting either of the requirements set forth in
16 paragraphs (A) or (B) of this subdivision, and who was legally
17 adopted by the veteran prior to the person's reaching the age of
18 fifteen years.

19 (4) "Period of war" and "wartime" means any of the periods or
20 circumstances as defined below:

21 (A) World War I, meaning (i) the period beginning on April 6,
22 1917 and ending on November 11, 1918; and (ii) in the case of a
23 veteran who served with the United States Armed Forces in Russia,
24 the period beginning on April 6, 1917 and ending on April 1, 1920;

25 (B) World War II, meaning the period beginning on December 7,

1 1941 and ending on December 31, 1946;

2 (C) Korean Conflict, meaning the period beginning on June 27,
3 1950 and ending on January 31, 1955;

4 (D) Vietnam era, meaning the period beginning on August 5,
5 1964, and ending on May 7, 1975;

6 (E) Persian Gulf War, meaning the period beginning on August
7 2, 1990, and ending on the date prescribed by Presidential
8 proclamation or concurrent resolution of the United States
9 Congress; and

10 (F) Any period of service in the Armed Forces during which the
11 veteran parent of an applicant for a scholarship under this article
12 suffered death or disability as a direct result of armed conflict
13 or while engaged in extra-hazardous service, including such service
14 under conditions simulating war.

15 (5) "Private educational institution" means any junior
16 college, senior college or university which is operated and
17 governed by private interests not under the control of the federal,
18 state or any local government, which is located within the State of
19 West Virginia, which does not operate for profit, whose curriculum
20 is primarily directed toward the awarding of associate,
21 baccalaureate or graduate degrees.

22 (6) "State educational institution" means any institution of
23 higher education defined in section two, article one, chapter
24 eighteen-b of this code.

25 (7) "Veteran" means a person who served as a member of the

1 Armed Forces of the United States in active federal service during
2 a period of war and who was separated from the Armed Forces under
3 conditions other than dishonorable. A person who was separated from
4 the Armed Forces under conditions other than dishonorable and whose
5 death or disability was incurred as a direct result of armed
6 conflict or while engaged in extra-hazardous service, including
7 such service under conditions simulating war, shall also be deemed
8 a "veteran" and such death or disability shall be considered
9 wartime service-connected.

10 **§18-19A-3. Scholarship.**

11 (a) A scholarship granted pursuant to this article shall
12 consist of the following benefits in either a state or private
13 educational institution:

14 (1) With respect to state educational institutions, unless
15 expressly limited elsewhere in this article, a scholarship shall
16 consist of:

17 (A) Tuition at the state educational institution;

18 (B) A standard board allowance;

19 (C) A standard room allowance; and

20 (D) Matriculation and other institutional fees required to be
21 paid as a condition to remaining in the institution and pursuing
22 the course of study selected.

23 (2) With respect to private educational institutions, a
24 scholarship shall consist of a monetary allowance as prescribed in
25 paragraph (D), subdivision (1) of this subsection.

1 (3) Only one scholarship may be granted pursuant to this
2 article with respect to each child and it may not extend for a
3 longer period than four academic years, which years, however, need
4 not be consecutive.

5 (4) No educational assistance may be afforded a child under
6 this article after the end of an eight-year period beginning on the
7 date the scholarship is first awarded. Those persons who have been
8 granted a scholarship under this article prior to the effective
9 date of this act are entitled to the remainder of their period of
10 scholarship eligibility if used prior to August 1, 2015. Whenever
11 a child is enrolled in an educational institution and the period of
12 entitlement ends while enrolled in a term, quarter or semester,
13 such period shall be extended to the end of such term, quarter or
14 semester, but not beyond the entitlement limitation of four
15 academic years.

16 (5) A scholarship awarded to a student under this section may
17 not exceed the cost of attendance at the state educational
18 institution at which the student is enrolled. If a student, who is
19 eligible for a scholarship under this section, also receives a
20 scholarship or other grant covering the cost of attendance at the
21 state educational institution for which the scholarship is awarded,
22 then the amount of the scholarship shall be reduced by an
23 appropriate amount determined by the state educational institution
24 at which the student is enrolled. The scholarship shall be reduced
25 so that the sum of all grants and scholarship aid covering the cost

1 of attendance received by the student, including the scholarship
2 under this section, does not exceed the cost of attendance for the
3 state educational institution at which the student is enrolled.

4 (b) If a child is awarded a scholarship under this article,
5 the West Virginia Division of Veterans' Affairs shall notify the
6 recipient by May 1 of the year in which the recipient enrolls in
7 college.

8 **§18-19A-4. Classes of eligibility under which scholarships may be**
9 **awarded.**

10 A child, as defined in this article, who falls within the
11 provisions of any eligibility class described in this section
12 shall, upon proper application, be considered for a scholarship,
13 subject to the provisions and limitations set forth for the class
14 under which he is considered:

15 (1) Class I-A. Under this class a scholarship shall be awarded
16 to any child whose veteran parent:

17 (A) Was killed in action or died from wounds or other causes
18 not due to his own willful misconduct while a member of the armed
19 forces during a period of war; or

20 (B) Has died of service-connected injuries, wounds, illness or
21 other causes incurred or aggravated during wartime service in the
22 Armed Forces, as rated by the United States Department of Veterans
23 Affairs.

24 (2) Class I-B. Under this class a limited scholarship
25 providing only those benefits set forth in paragraphs (A) and (D),

1 subdivision (1), subsection (a), section three of this article and
2 subdivision (2), subsection (a), section three of this article,
3 shall be awarded to any child whose veteran parent, at the time the
4 benefits pursuant to this article are sought to be availed of, is
5 or was at the time of his death receiving compensation for a
6 wartime service-connected disability of one hundred percent as
7 rated by the United States Department of Veterans Affairs:
8 *Provided*, That if the veteran parent of a recipient under this
9 class dies of his wartime service-connected condition before the
10 recipient has utilized all of his scholarship eligibility time,
11 then the West Virginia Division of Veterans' Affairs shall amend
12 the recipient's award from Class I-B to Class I-A for the remainder
13 of the recipient's eligibility time. The effective date of such an
14 amended award shall be determined by the West Virginia Division of
15 Veterans' Affairs, but, in no event shall it predate the date of
16 the veteran parent's death.

17 (3) Class II. Under this class a scholarship may be awarded to
18 not more than one hundred children yearly, each of whose veteran
19 parent, at the time the benefits pursuant to this article are
20 sought to be availed of:

21 (A) Is or was at the time of his death receiving compensation
22 for a wartime service-connected disability of twenty percent or
23 more, but less than one hundred percent, as rated by the United
24 States Department of Veterans Affairs; or

25 (B) Was awarded a Purple Heart for wounds received as a result

1 of an act of any opposing armed force, as a result of an
2 international terrorist attack, or as a result of military
3 operations while serving as part of a peacekeeping force.

4 (4) Class III: Under this class a scholarship may be awarded
5 to not more than one hundred children yearly, each of whose veteran
6 parent, at the time the benefits pursuant to this article are
7 sought to be availed of:

8 (A) Is or was at the time of his death drawing pension for
9 permanent and total disability, nonservice-connected, as rated by
10 the United States Department of Veterans Affairs;

11 (B) Is deceased and who does not fall within the provisions of
12 any other eligibility class described elsewhere in this section; or

13 (C) Served in a combat zone, or waters adjacent to a combat
14 zone, or any other campaign, expedition, or engagement for which
15 the United States Department of Defense authorizes a campaign badge
16 or medal, who does not fall within the provisions of any other
17 class described elsewhere in this section.

18 (5) Class IV. Under this class a scholarship shall be awarded
19 to any child whose parent, while serving honorably as a member of
20 the Armed Forces of the United States in active federal service
21 during a period of war, as defined in section two of this article,
22 was listed by the United States Government as missing in action,
23 captured in line of duty by a hostile force or forcibly detained or
24 interned in line of duty by a foreign government or power.

25 **§18-19A-5. Administration; rule-making.**

1 (a) The administration of the scholarship program is vested in
2 the West Virginia Division of Veterans' Affairs. The division shall
3 determine the eligibility of applicants, select the scholarship
4 recipients, establish the effective date of scholarships, and may
5 suspend or revoke scholarships if it is determined that the
6 recipient does not comply with the registration requirements of the
7 Selective Service System or does not maintain an adequate academic
8 status. The division is authorized to propose legislative rules
9 for legislative approval in accordance with chapter twenty-nine-a
10 of this code to implement the provisions of this article.

NOTE: The purpose of this bill is to provide educational scholarships for the children of war veterans. The bill defines terms and establishes the types of scholarships. The bill sets forth what is included in the scholarships and the categories of eligibility for the scholarships. The bill provides that the West Virginia Division of Veterans' Affairs shall administer the scholarship program. The bill also grants the West Virginia Division of Veterans' Affairs with rule-making authority.

This article is new; therefore, strike-throughs and underscoring have been omitted.