

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 168

BY DELEGATES SHOTT, HOUSEHOLDER, HARSHBARGER,
HOWELL, COWLES, ESPINOSA, COOPER, D. JEFFRIES,
BIBBY, MANDT, AND WILSON

[Introduced June 17, 2019; Referred
to the Select Committee on Education Reform B]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §11-28-1, §11-28-2, §11-28-3, §11-28-4, §11-28-5, §11-28-6, §11-28-7, §11-
3 28-8, §11-28-9, §11-28-10, §11-28-11, §11-28-12, §11-28-13, §11-28-14, and §11-28-15,
4 all relating to establishing the West Virginia Equal Opportunity Education Scholarship
5 program; providing for definitions; establishing a tax credit for contributions to a
6 scholarship-granting organization; providing for maximum credits to certain contributors;
7 providing for maximum credits toward multi-year contributions; establishing reporting
8 requirements for scholarship-granting organizations; establishing a tax credit for
9 contributions to eligible education improvement grants; providing for maximum credits to
10 certain contributors; providing for maximum credits toward multi-year contributions;
11 establishing a tax credit for contributions to public school districts; providing for maximum
12 credits to certain contributors; providing for maximum credits toward multi-year
13 contributions; establishing accounting requirements for public school districts; establishing
14 tax credits for contributions to eligible public school foundations; providing for maximum
15 credits to certain contributors; providing for maximum credits toward multi-year
16 contributions; establishing reporting requirements for eligible public school foundations;
17 establishing the maximum credits allocable for contributions to scholarship-granting
18 organizations at \$5 million; establishing the maximum credits allocable for contributions to
19 eligible education improvement grant organizations, public school districts, or eligible
20 public school foundations at \$5 million; establishing a \$100,000 tax credit limit for each
21 public school district annually; provides for the Tax Commission to allocate total credits
22 for all contributors; requiring that a scholarship-granting organization or an educational
23 improvement grant organization actually award at least 90 percent of its funds for
24 contributions to be eligible for a tax credit; providing that tax credits earned by a taxpayer
25 cannot be used in a previous taxable year; providing for a method the Tax Commission
26 shall use to allocate eligible tax credits for scholarship-granting organizations; providing

27 for a method the Tax Commission shall use to allocate eligible tax credits for eligible
28 education improvement grant organizations, public school districts, or eligible public
29 school foundations; providing for credits in excess of the cap be carried forward into the
30 next taxable year; providing that the Tax Commission shall publish, on its website, the
31 percentage of a contribution that may be claimed as a credit for any contribution to an
32 authorized entity; requiring the Tax Commission to notify contributors of the percentage of
33 a contribution that can be claimed as a tax credit annually; providing that a taxpayer's tax
34 liability cannot be reduced to less than zero using these credits; providing for carry over
35 of tax credits unable to be utilized by a taxpayer for a maximum of the next three taxable
36 years; establishing requirements for an authorized entity to be eligible to receive
37 contributions for tax credits; requiring organizations to report information to the Tax
38 Commission to remain eligible to receive contributions for tax credits; providing the Tax
39 Commission the ability to create or require certain forms be used to receive information;
40 providing for limitations on the information the Tax Commission may require from
41 authorized entities; providing for additional requirements for scholarship-granting
42 organizations when reporting information to the Tax Commission; and establishing
43 rulemaking authority in the Tax Commission.

Be it enacted by the Legislature of West Virginia:

ARTICLE 28. WEST VIRGINIA EQUAL OPPORTUNITY EDUCATION SCHOLARSHIP

ACT.

§11-28-1. Short title.

1 This article shall be known and may be cited as the West Virginia Equal Opportunity
2 Education Scholarship.

§11-28-2. Definitions.

1 As used in this article:

2 (1) "Eligible student" means a child of school age who is lawfully present in the United
3 States and who is a member of a household in which the total annual income during the preceding
4 tax year does not exceed an amount equal to 300 percent of the income standard used to qualify
5 for a free or reduced-price school lunch or who, during the immediately preceding school year,
6 attended or, by virtue of the location of such student's place of residence, was eligible to attend a
7 public school in this state which has been identified for school improvement as determined by the
8 State Board of Education pursuant to the requirements of the No Child Left Behind Act of 2001,
9 P.L. No. 107-110. Once a student has received an educational scholarship, as defined in
10 subsection 3 of this section, the student and any siblings who are members of the same household
11 shall remain eligible until they graduate from high school or reach 21 years of age, whichever
12 occurs first.

13 (2) "Eligible special needs student" means a child who has been evaluated and determined
14 to be eligible for school district services pursuant to WV 126CSR16, a child of school age who
15 has attended public school in our state with an individualized education program pursuant to the
16 Individuals With Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq., or a child who has
17 been diagnosed by a clinical professional as having a significant disability that will affect learning
18 and who has been approved by the board of a scholarship-granting organization.

19 (3) "Educational scholarships" means:

20 (A) Scholarships to an eligible student of up to \$5,000 or 80 percent of the statewide
21 annual average per-pupil expenditure as determined by the National Center for Education
22 Statistics, U.S. Department of Education, whichever is greater, to cover all or part of the tuition,
23 fees and transportation costs of a qualified school which is accredited by the State Board of
24 Education;

25 (B) Scholarships to an eligible student of up to \$5,000 or 80 percent of the statewide
26 annual average per-pupil expenditure as determined by the National Center for Education
27 Statistics, U.S. Department of Education, whichever is greater, to cover the educational costs of

28 a qualified school which does not charge tuition, which enrolls special populations of students and
29 which is accredited by the State Board of Education; or

30 (C) Scholarships to an eligible special needs student of up to \$25,000 to cover all or part
31 of the tuition, fees, and transportation costs of a qualified school for eligible special needs students
32 which is accredited by the State Board of Education; or

33 (D) Scholarships to a low-income eligible student of up to \$5,000 or 90 percent of the
34 statewide annual average per-pupil expenditure as determined by the National Center for
35 Education Statistics, U.S. Department of Education, whichever is greater, to cover all or part of
36 the tuition, fees, and transportation costs of a qualified school which is accredited by the State
37 Board of Education.

38 (4) "Low-income eligible student" means an eligible student or eligible special needs
39 student who qualifies for a free or reduced-price lunch.

40 (5) "Qualified school" means an early childhood, elementary, or secondary private school
41 in this state, including schools which provide special educational programs for three-year-olds or
42 prekindergarten educational programs for four-year-olds, which:

43 (A) Is accredited by the State Board of Education;

44 (B) Is in compliance with all applicable health and safety laws and codes;

45 (C) Has a stated policy against discrimination in admissions on the basis of race, color,
46 national origin or disability; and

47 (D) Ensures academic accountability to parents and guardians of students through regular
48 progress reports.

49 (6) "Qualified school for eligible special needs students" means an early childhood,
50 elementary, or secondary private school in a county in this state, including schools which provide
51 special educational programs for three-year-olds or prekindergarten educational programs for
52 four-year-olds.

53 (7) "Scholarship-granting organization" means an organization which:

54 (A) Is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal
55 Revenue Code, 26 U.S.C., Section 501(c)(3);

56 (B) Distributes periodic scholarship payments as checks made out to an eligible student's
57 or eligible special needs student's parent or guardian and mailed to the qualified school where
58 the student is enrolled;

59 (C) Spends no more than 10 percent of its annual revenue on expenditures other than
60 educational scholarships as defined in subsection 3 of this section;

61 (D) Spends each year a portion of its expenditures on educational scholarships for low-
62 income eligible students, as defined in subsection 4 of this section, in an amount equal to or
63 greater than the percentage of low-income eligible students in the state;

64 (E) Ensures that scholarships are portable during the school year and can be used at any
65 qualified school that accepts the eligible student or at any qualified school for special needs
66 students that accepts the eligible special needs student;

67 (F) Registers with the West Virginia Tax Commission as a scholarship-granting
68 organization; and

69 (G) Has policies in place to:

70 (i) Carry out criminal background checks on all employees and board members to ensure
71 that no individual is involved with the organization who might reasonably pose a risk to the
72 appropriate use of contributed funds; and

73 (ii) Maintain full and accurate records with respect to the receipt of contributions and
74 expenditures of those contributions and supply such records and any other documentation
75 required by the Tax Commission to demonstrate financial accountability.

76 (8) "Annual revenue" means the total amount or value of contributions received by an
77 organization from taxpayers awarded credits during the organization's fiscal year and all amounts
78 earned from interest or investments.

79 (9) "Public school" means a school funded by local, state, or federal funds that provides
80 education from at least kindergarten to grade 12 to any student within its district;

81 (10) "Eligible public school district" means any public school that is not located within a 10
82 mile radius of a qualified school in this state, or any public school that is located within a 10 mile
83 radius of a qualified school in this state but offers grade-level instruction different from the qualified
84 school or any public school located within a public school district with fewer than 4,500 students
85 district.

86 (11) "Early childhood education program" means a special educational program for eligible
87 special needs students who are three years of age or a prekindergarten educational program
88 provided to children who are at least four years of age but not more than five years of age on or
89 before September 1.

90 (12) "Innovative educational program" means an advanced academic or academic
91 improvement program that is not part of the regular coursework of a public school, but that
92 enhances the curriculum or academic program of the school or provides early childhood education
93 programs to students.

94 (13) "Educational improvement grant" means a grant to an eligible public school to
95 implement an innovative educational program for students, including the ability for multiple public
96 schools to make an application and be awarded a grant to jointly provide an innovative educational
97 program.

98 (14) "Educational improvement grant organization" means an organization which:

99 (A) Is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal
100 Revenue Code, 26 U.S.C., Section 501(c)(3); and

101 (B) Contributes at least 90 percent of its annual receipts as grants to eligible schools for
102 innovative educational programs. For purposes of this subsection, an educational improvement
103 grant organization contributes its annual cash receipts when it expends or otherwise irrevocably

104 encumbers those funds for expenditure during the current fiscal year of the organization or during
105 the next succeeding fiscal year of the organization.

106 (15) "Eligible public school foundation" means a nonprofit entity formed pursuant to West
107 Virginia law but which is exempt from federal income taxation pursuant to either Section 501(c)(3)
108 or Section 509(a) of the Internal Revenue Code of 1986, as amended. Each public school
109 foundation must be approved by the local board of education prior to accepting qualifying
110 donations.

§11-28-3. Tax credits for contributions to scholarship-granting organization; contribution
limits; multi-year credit limits; reporting requirements.

1 (a) There shall be a tax credit for any taxpayer who makes a contribution to an eligible
2 scholarship-granting organization, except as provided in §11-28-8 of this code. The credit shall
3 be equal to 50 percent of the total amount of the contributions made during a taxable year, not to
4 exceed \$1,000 for single individuals; \$2,000 for married individuals filing jointly; or \$100,000 for
5 any taxpayer which is a legal business entity, plus any suspended credits pursuant to §11-28-10
6 of this code: *Provided*, That if total credits claimed pursuant to this section exceed the caps
7 established pursuant to §11-28-7 of this code, the credit shall be equal to the taxpayer's
8 proportionate share of the cap for the taxable years, as determined pursuant to §11-28-10 of this
9 code. For the purpose of this article, a legal business entity means limited and general
10 partnerships, corporations, subchapter S corporations, and limited liability companies.

11 (b) For any taxpayer who makes a contribution to an eligible scholarship-granting
12 organization and makes a written commitment to contribute the same amount for an additional
13 year, the credit for the first year and the additional year shall be equal to 75 percent of the total
14 amount of the contribution made during a taxable year, not to exceed the amounts established in
15 subsection (a) of this section for the taxable year in which the credit provided in this subsection is
16 claimed. The taxpayer shall provide evidence of the written commitment to the West Virginia Tax
17 Commission at the time of filing the refund claim.

18 (c) The credits authorized pursuant to the provisions of this subsection shall be allocable
19 to the partners, shareholders, members, or other equity owners of a taxpayer that is authorized
20 to be treated as a legal business entity for purposes of federal income tax reporting for the taxable
21 year for which the tax credits authorized by this subsection are claimed on the applicable return,
22 together with required schedules, forms or reports of the partners, shareholders, members, or
23 other equity owners of the taxpayer. Tax credits allocated to such equity owners shall be limited
24 in amount for the income tax return of a natural person or persons based upon the limitation of
25 the total credit amount to the entity from which the tax credits have been allocated and shall not
26 be limited to \$1,000 for single individuals or \$2,000 for married persons filing jointly.

27 (d) On or before December 31, 2020, and once every four years thereafter, all scholarship-
28 granting organizations shall submit to the West Virginia Tax Commission, the Governor, the
29 President of the Senate, and the Speaker of the House of Delegates, an audited financial
30 statement for the organization along with information detailing the benefits, success, or failure of
31 the program. The Tax Commission shall publish and make publicly available on its website the
32 financial statement and information submitted pursuant to this subsection.

§11-28-4. Tax credits for contributions to eligible education improvement grant organization; contribution limits; multi-year credit limits.

1 (a) There shall be a tax credit for any taxpayer who makes a contribution to an eligible
2 education improvement grant organization, except as provided in §11-28-8 of this code. The credit
3 shall be equal to 50 percent of the total amount of the contributions made during a taxable year,
4 not to exceed \$1,000 for single individuals; \$2,000 for married individuals filing jointly; or \$100,000
5 for any taxpayer which is a legal business entity, plus any suspended credits pursuant to §11-28-
6 10 of this code: *Provided*, That if total credits claimed pursuant to this section exceed the caps
7 established pursuant to §11-28-7 of this code, the credit shall be equal to the taxpayer's
8 proportionate share of the cap for the taxable years, as determined pursuant to §11-28-10 of this
9 code.

10 (b) For any taxpayer who makes a contribution to an eligible education improvement grant
11 organization and makes a written commitment to contribute the same amount for an additional
12 year, the credit for the first year and the additional year shall be equal to 75 percent of the total
13 amount of the contribution made during a taxable year, not to exceed the amounts established in
14 subsection (a) of this section for the taxable year in which the credit provided in this subsection is
15 claimed. The taxpayer shall provide evidence of the written commitment to the West Virginia Tax
16 Commission at the time of filing the refund claim.

17 (c) The credits authorized pursuant to the provisions of this subsection shall be allocable
18 to the partners, shareholders, members, or other equity owners of a taxpayer that is authorized
19 to be treated as a legal business entity for purposes of federal income tax reporting for the taxable
20 year for which the tax credits authorized by this subsection are claimed on the applicable return,
21 together with required schedules, forms or reports of the partners, shareholders, members, or
22 other equity owners of the taxpayer. Tax credits allocated to such equity owners shall be limited
23 in amount for the income tax return of a natural person or persons based upon the limitation of
24 the total credit amount to the entity from which the tax credits have been allocated and shall not
25 be limited to \$1,000 for single individuals or \$2,000 for married persons filing jointly.

§11-28-5. Tax credits for contributions to public school districts; contribution limits; multi-
year credit limits; accounting requirements.

1 (a) On or after the effective date of this article, there shall be a credit for any taxpayer who
2 makes a contribution to an eligible public school district. The credit shall be equal to 50 percent
3 of the total amount of contributions made during a taxable year, not to exceed \$1,000 for single
4 individuals; \$2,000 for married individuals filing jointly; or \$100,000 for any taxpayer which is a
5 legal business entity: *Provided*, That if total credits claimed pursuant to this section exceed the
6 caps established pursuant to §11-28-7 of this code, the credit shall be equal to the taxpayer's
7 proportionate share of the cap for the taxable years, as determined pursuant to §11-28-10 of this
8 code.

9 **(b) For any taxpayer who makes a contribution to an eligible public school district and**
10 **makes a written commitment to contribute the same amount for an additional year, the credit for**
11 **the first year and the additional year shall be equal to 75 percent of the total amount of the**
12 **contribution made during a taxable year, not to exceed the amounts established in §11-28-6 of**
13 **this code for the taxable year in which the credit provided in this subsection is claimed. The**
14 **taxpayer shall provide evidence of the written commitment to the West Virginia Tax Commission**
15 **at the time of filing the refund claim.**

16 **(c) The credits authorized pursuant to the provisions of this subsection shall be allocable**
17 **to the partners, shareholders, members, or other equity owners of a taxpayer that is authorized**
18 **to be treated as a legal business entity for purposes of federal income tax reporting for the taxable**
19 **year for which the tax credits authorized by this subsection are claimed on the applicable return,**
20 **together with required schedules, forms or reports of the partners, shareholders, members, or**
21 **other equity owners of the taxpayer. Tax credits allocated to such equity owners shall be limited**
22 **in amount for the income tax return of a natural person or persons based upon the limitation of**
23 **the total credit amount to the entity from which the tax credits have been allocated and shall not**
24 **be limited to \$1,000 for single individuals or \$2,000 for married persons filing jointly.**

25 **(d) Each eligible public school district to which contributions have been made, for purposes**
26 **of the tax credit authorized by this section, shall annually account for all revenue and expenditures**
27 **through West Virginia OASIS.**

§11-28-6. Tax credits for contributions to eligible public school foundation; contribution
limits; multi-year credit limits; reporting requirements.

1 **(a) On or after the effective date of this article, there shall be a credit for any taxpayer who**
2 **makes a contribution to an eligible public school foundation. The credit shall be equal to 50**
3 **percent of the total amount of contributions made during a taxable year, not to exceed \$1,000 for**
4 **single individuals; \$2,000 for married individuals filing jointly; or \$100,000 for any taxpayer which**
5 **is a legal business entity: *Provided*, That if total credits claimed pursuant to this section exceed**

6 the caps established pursuant to §11-28-7 of this code, the credit shall be equal to the taxpayer's
7 proportionate share of the cap for the taxable years, as determined pursuant to §11-28-10 of this
8 code.

9 (b) For any taxpayer who makes a contribution to an eligible public school foundation and
10 makes a written commitment to contribute the same amount for an additional year, the credit for
11 the first year and the additional year shall be equal to 75 percent of the total amount of the
12 contribution made during a taxable year, not to exceed the amounts established in §11-28-7 of
13 this code for the taxable year in which the credit provided in this subsection is claimed. The
14 taxpayer shall provide evidence of the written commitment to the West Virginia Tax Commission
15 at the time of filing the refund claim.

16 (c) The credits authorized pursuant to the provisions of this subsection shall be allocable
17 to the partners, shareholders, members, or other equity owners of a taxpayer that is authorized
18 to be treated as a legal business entity for purposes of federal income tax reporting for the taxable
19 year for which the tax credits authorized by this subsection are claimed on the applicable return,
20 together with required schedules, forms or reports of the partners, shareholders, members, or
21 other equity owners of the taxpayer. Tax credits allocated to such equity owners shall be limited
22 in amount for the income tax return of a natural person or persons based upon the limitation of
23 the total credit amount to the entity from which the tax credits have been allocated and shall not
24 be limited to \$1,000 for single individuals or \$2,000 for married persons filing jointly.

25 (d) On or before December 31, 2020, and once every four years thereafter, all scholarship-
26 granting organizations shall submit to the West Virginia Tax Commission, the Governor, the
27 President of the Senate, and the Speaker of the House of Delegates, an audited financial
28 statement for the organization along with information detailing the benefits, success, or failure of
29 the program. The Tax Commission shall publish and make publicly available on its website the
30 financial statement and information submitted pursuant to this subsection.

§11-28-7. Total credits authorized state-wide.

1 Except as otherwise provided pursuant to §11-28-10 of this code, for tax years 2019 and
2 thereafter:

3 (1) The total credits authorized pursuant to §11-28-3 of this code for all taxpayers shall not
4 exceed \$5 million annually;

5 (2) The total credits authorized pursuant to §11-28-4, §11-28-5, and, §11-28-6 of this code
6 for all taxpayers shall not exceed \$5 million annually and shall be limited to \$100,000 of credits
7 per public school district annually; and

8 (3) The cap on total credits provided for in this section shall be allocated by the Tax
9 Commission as provided in §11-28-10 of this code.

§11-28-8. Eligibility for tax credits on contributions.

1 For credits claimed for eligible contributions made during tax year 2019 and thereafter, a
2 credit shall not be allowed by the West Virginia Tax Commission for contributions made to a
3 scholarship-granting organization or an educational improvement grant organization if that
4 organization's percentage of funds actually awarded is less than 90 percent. For purposes of this
5 section, the "percentage of funds actually awarded" shall be determined by deciding the total
6 amount of funds actually awarded as educational scholarships or educational improvement grants
7 over the most recent 24 months by the total amount available to award as educational
8 scholarships or educational improvement grants over the most recent 24 months.

§11-28-9. Limitations on claiming tax credits.

1 Any tax credits which are earned by a taxpayer pursuant to this article prior to its effective
2 date may not be claimed for any period prior to the taxable year beginning January 1, 2019. No
3 credits which accrue prior to the effective date of this article may be used to file an amended tax
4 return for any taxable year prior to the taxable year beginning January 1, 2019.

§11-28-10. Total credits authorized; establishing a proportionate share to maximize credits
authorized; credits permitted to carry into the next year; Tax Commission to publish
the credit percentage on its website.

1 Total credits authorized by this article shall be allocated as follows:

2 (1) By January 10 of the year immediately following the calendar year, a scholarship-
3 granting organization, an educational improvement grant organization, a public school district or
4 an eligible public school foundation which accepts contributions pursuant to this section shall
5 provide information to the Tax Commission, in the form and manner prescribed by the
6 Commissioner, information on each contribution accepted during such taxable year. At least once
7 each taxable year, the entity making the report shall notify each contributor that West Virginia law
8 provides for a total, statewide cap on the amount of income tax credits allowed annually;

9 (2)(A) If the Tax Commission determines the total combined credits claimed for
10 contributions made to scholarship-granting organizations during the most recently completed
11 calendar year by all taxpayers are in excess of the statewide caps provided in §11-28-7 of this
12 code, the Tax Commission shall first allocate any amount of credits not claimed for contributions
13 made to organizations authorized pursuant to §11-28-4, §11-28-5, and §11-28-6 of this code, then
14 shall determine the percentage of the contribution which establishes the proportionate share of
15 the credit which may be claimed by any taxpayer so that the total maximum credits authorized by
16 this section are not exceeded.

17 (B) If the Tax Commission determines the total combined credits claimed for contributions
18 made to organizations authorized pursuant to §11-28-4, §11-28-5, and §11-28-6 of this code
19 during the most recently completed calendar year by all taxpayers are in excess of the statewide
20 caps provided in §11-28-7 of this code, the Tax Commission shall first allocate any amount of
21 credits not claimed for contributions made to scholarship-granting organizations, then shall
22 determine the percentage of the contribution which establishes the proportionate share of the
23 credit which may be claimed by any taxpayer so that the maximum credits authorized by this
24 section are not exceeded.

25 (C) Beginning for the tax year 2019, credits earned, but not allowed due to the application
26 of statewide caps provided in §11-28-7 of this code will be considered suspended and authorized
27 to be used in the next immediate tax year and applied to the next year's statewide cap; and

28 (3) The Tax Commission shall publish the percentage of the contribution which may be
29 claimed as a credit by contributors for the most recently completed calendar year on the Tax
30 Commission website no later than February 15 of each calendar year for contributions made the
31 previous year. Each organization pursuant to §11-28-3, §11-28-4, §11-28-5, and §11-28-6 of this
32 code shall notify contributors of that amount annually.

§11-28-11. Reduction of tax liability.

1 No tax credits authorized by this section shall be used to reduce the tax liability of the
2 taxpayer to less than zero.

§11-28-12. Tax credits not used are permitted to be carried over into subsequent tax year.

1 Any credits authorized by this article allowed but not used in any tax year may be carried
2 over, in order, to each of the three years following the year of qualification.

§11-28-13. Requirements for organizations to be eligible to receive contributions for tax
credits; requiring organizations to report information to the Tax Commission to
remain eligible; Tax Commission to provide report forms; limitations on information
required by the Tax Commission.

1 (a) In order to qualify under this section, each organization pursuant to §11-28-4 and §11-
2 28-6 of this code shall submit an application with information to the West Virginia Tax Commission
3 on a form prescribed by the Tax Commission that:

4 (1) Enables the Tax Commission to confirm that the organization is a nonprofit entity
5 exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section
6 501(c)(3) or Section 509(a); and

7 (2) Describes the proposed innovating education program or programs supported by the
8 organization.

9 (b) The Tax Commission shall review and approve or disapprove the application, in
10 consultation with the Board of Education.

11 (c) In order to maintain eligibility under this section, an organization pursuant to §11-28-4
12 and §11-28-6 of this code shall annually report the following information to the Tax Commission
13 by September 1 of each year:

14 (1) The name of the innovating educational program or programs and the total amount of
15 the grant or grants made to those programs during the immediately preceding school year;

16 (2) A description of how each grant was utilized during the immediately preceding school
17 year and a description of any demonstrated or expected innovative educational improvements;

18 (3) The names of the public school and school districts where innovative educational
19 programs that received grants during the immediately preceding school year were implemented;

20 (4) Where the organization collects information on a county-by-county basis; and

21 (5) The total number and total amount of grants made during the immediately preceding
22 school year for innovative educational programs at public school by each county in which the
23 organization made grants.

24 (d) The information required under subsection (c) of this section shall be submitted on a
25 form provided by the Tax Commission. No later than May 1 of each year, the Tax Commission
26 shall annually distribute sample forms together with the forms on which the reports are required
27 to be made to each approved organization.

28 (e) The Tax Commission shall not require any other information be provided by an
29 organization, except as expressly authorized in this section.

§11-28-14. Additional information requirements for scholarship-granting organizations.

1 (a) Beginning in 2021 for the 2020-2021 academic year, in order to maintain registration,
2 a scholarship-granting organization shall annually report to the Tax Commission, by September
3 1 of each year, the following information regarding the educational scholarships funded by the
4 organization in the previous academic year:

5 (1) The name and address of the scholarship-granting organization;

6 (2) The names of the qualifying schools that received funding for educational scholarships,
7 the total amount of funds paid to each qualifying school, and the total number of scholarship
8 recipients enrolled in each qualifying school;

9 (3) The total number and total dollar amount of contributions received during the previous
10 academic year;

11 (4) The total number and total dollar amount of educational scholarships awarded and
12 funded during the previous academic year;

13 (5) The total number, total dollar amount, and percentage of educational scholarships
14 awarded and funded during the previous academic year, disaggregated into the following
15 categories:

16 (A) Students who qualify for the federal free and reduced-price lunch program;

17 (B) Students who, during the immediately preceding school year, attended or were eligible,
18 by virtue of the residence of the student, to attend a public school in the state which was identified
19 for school improvement by the State Board of Education;

20 (C) Eligible special needs students; and

21 (D) Students who were first-time recipients of a scholarship, including information about
22 the type of public or private school the student was enrolled in during the entire previous academic
23 year;

24 (6) The percentage of the total amount of education scholarship expenditures spent on
25 low-income eligible students;

26 (7) The percentage of annual revenue received by the organization from donations that
27 qualify for tax credits pursuant to this section, which was not expended on scholarships; and

28 (8) Disaggregated data reported under this subsection shall be reported in accordance
29 with The Family Educational Rights and Privacy Act of 1974 (FERPA) 20 U.S.C., Section 1232g.

30 (b) The Tax Commission shall publish and make available on its website:

31 (1) The information submitted by the scholarship-granting organization pursuant to
32 subsection (a) of this section;

33 (2) A list of participating schools; and

34 (3) All other application information submitted to the Tax Commission by a scholarship-
35 granting organization, except that information which would violate the privacy of an individual.

36 (c) A scholarship-granting organization shall annually submit verification to the Tax
37 Commission that the organization still meets the criteria set forth in §11-28-2 of this code.

§11-28-15. Rulemaking authority.

1 In consultation with the Board of Education, the Tax Commission shall promulgate rules
2 pursuant to §29A-3-1 et seq. of this code to implement the provisions of this article. The rules
3 shall include procedures for the registration of a scholarship-granting organization, and
4 educational improvement grant organization, or a public school foundation for purposes of
5 determining if the organization meets the requirements of this article or for the revocation of the
6 registration of any such organization, if applicable, and for notice as required in §11-28-10 of this
7 code.

NOTE: The purpose of this bill is to create the West Virginia Equal Opportunity Education Scholarship program to provide tax credits for eligible contributions made to an authorized scholarship-granting organization, an educational improvement grant organization, public school district, and public school foundation that assists students in paying for education related expenses.

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