

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4085**

BY DELEGATES FOSTER, BIBBY, STEELE, BUTLER,  
WAXMAN, CADLE, J. JEFFRIES, JENNINGS, BARNHART

[Introduced January 10, 2020; Referred to the Committee  
on Education then Finance]

1 A BILL to amend and reenact §18C-7-6 and §18C-7-7 of the Code of West Virginia, 1931, as  
 2 amended, relating to PROMISE Scholarship Program requirements; requiring repayment  
 3 of scholarship if student is not employed in West Virginia following graduation, under  
 4 certain circumstances.

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

**ARTICLE 7. WEST VIRGINIA PROVIDING REAL OPPORTUNITIES FOR MAXIMIZING  
 IN-STATE STUDENT EXCELLENCE SCHOLARSHIP PROGRAM.**

**§18C-7-6. PROMISE Scholarship Program requirements; legislative rule.**

1 (a) A PROMISE scholarship annual award shall meet the following conditions:

2 (1) For a student enrolled in a state institution of higher education, the annual award is  
 3 equal to the lesser of the cost of tuition or \$4,750, except that a student who was awarded and  
 4 used a PROMISE scholarship annual award prior to January 1, 2010, shall continue to receive  
 5 the annual award calculated under the same terms and conditions that applied on the day before  
 6 the effective date of this article;

7 (2) For a student enrolled in an eligible institution other than a state institution of higher  
 8 education, the annual award is equal to, but may not exceed, the lesser of the cost of tuition or  
 9 \$4,750, except that a student who was awarded and used a PROMISE scholarship annual award  
 10 prior to January 1, 2010, shall continue to receive the annual award calculated under the same  
 11 terms and conditions that applied on the day before the effective date of this article;

12 (3) The annual award may exceed \$4,750, if the commission determines that adequate  
 13 funds are available, but in any case may not be greater than the actual cost of tuition;

14 (4) The annual award shall be used by an eligible institution to supplement, but may not  
 15 supplant, a tuition and fee waiver for which the individual is eligible pursuant to §18B-10-5, §18B-  
 16 10-6a, §18B-10-7, or §18B-10-7b of this code.

17 (b) The total cost of all scholarships awarded by the commission in any year may not

18 exceed the amount of funds available to the commission during that fiscal year.

19 (c) In order to be eligible to receive a PROMISE scholarship award, an individual shall:

20 (1) Submit a scholarship award application to the commission:

21 (A) Within two years of completing a secondary education program in a public, private, or  
22 home school or within two years of obtaining a GED or equivalent; or

23 (B) Within seven years of initially entering military service, and within one year of discharge  
24 from military service, if the individual has entered the United States armed services within two  
25 years after completing a secondary education program in a public, private, or home school or  
26 obtaining a GED or equivalent;

27 (2) Apply for and submit a Free Application for Federal Student Aid;

28 (3) Maintain a grade point average of at least 3.0 on a 4.0 grading scale in the required  
29 core and elective course work necessary to prepare students for success in post-secondary  
30 education at the associate and baccalaureate degree levels as determined by the commission, if  
31 the individual has completed not more than one semester or term at an institution of higher  
32 education, excluding credits earned in advanced placement, international baccalaureate, dual  
33 credit, and comparable courses while the student is enrolled in high school;

34 (4) Maintain appropriate academic progress toward the completion of a degree at the  
35 undergraduate education level as determined by the commission if the individual has completed  
36 more than one semester or term at an institution of higher education, excluding credits earned in  
37 advanced placement, international baccalaureate, dual credit and comparable courses while the  
38 student is enrolled in high school;

39 (5) Be a United States citizen or legal immigrant to the United States;

40 (6) Meet additional objective standards the commission considers necessary to promote  
41 academic excellence and to maintain the financial stability of the fund; ~~and~~

42 (7) Enroll in an eligible institution. A student enrolled at an eligible institution who receives  
43 a PROMISE scholarship award may retain and renew the scholarship to complete his or her

44 undergraduate education at that institution or any other eligible institution under the following  
45 circumstances:

46 (A) The institution at which the student is enrolled loses its status as an eligible institution  
47 pursuant to the provisions of §18B-7-3(b)(1) of this code; and

48 (B) The student meets all other renewal requirements of this code and of commission  
49 rules; and

50 (8) For scholarships received after September 1, 2021, agree in writing to repay a  
51 scholarship, if the student is not employed within West Virginia for at least two of the first three  
52 years following graduation.

53 (d) It is the intent of the Legislature that the commission shall strongly encourage  
54 prospective candidates for the PROMISE scholarship to perform at least 20 hours of unpaid  
55 community service while in high school to help prepare them for success in post-secondary  
56 education. The community service may include, but is not limited to, participation with nonprofit,  
57 governmental or community-based organizations designed with any or all of the following  
58 purposes:

59 (1) Improving the quality of life for community residents;

60 (2) Meeting the needs of community residents; or

61 (3) Fostering civic responsibility.

62 (e) The commission shall promulgate a legislative rule in accordance with the provisions  
63 of §29A-3A-1 et seq. of this code.

64 (1) The rule shall include at least the following provisions:

65 (A) The amount of a PROMISE scholarship award in combination with aid from all other  
66 sources may not exceed the cost of education at the institution the recipient is attending. This  
67 provision does not apply to members of the West Virginia National Guard, recipients of an  
68 Underwood-Smith teacher scholarship and recipients of a West Virginia engineering, science and  
69 technology scholarship;

70 (B) Additional objective standards the commission considers necessary:

71 (i) To promote academic excellence;

72 (ii) To maintain the financial stability of the fund; and

73 (iii) To operate the program within the limits of available funds;

74 (C) Provisions for making the highest and best use of the PROMISE Scholarship Program

75 in conjunction with the West Virginia College Prepaid Tuition and Savings Program Act set forth

76 in §18-30-1 et seq. of this code;

77 (D) A provision defining the relationship of PROMISE scholarship awards to all other

78 sources of student financial aid to ensure maximum coordination. The provision shall include the

79 following:

80 (i) Methods to maximize student eligibility for federal student financial aid;

81 (ii) A requirement that PROMISE scholarship awards not supplant tuition and fee waivers;

82 and

83 (iii) Clarification of the relationship between the PROMISE Scholarship Program, tuition

84 savings plans and other state-funded student financial aid programs;

85 (E) A method for awarding scholarships within the limits of available appropriations,

86 including circumstances when program funds are not sufficient to provide awards to all eligible

87 applicants. The commission may not use any of the following methods:

88 (i) Providing for an annual PROMISE scholarship award that is less than the amounts

89 provided for in this section; or

90 (ii) Eliminating any current recipient from eligibility; ~~and~~

91 (F) A method for applicants to appeal determinations of eligibility and renewal; and

92 (G) For scholarships received after September 1, 2021, requiring repayment of the amount

93 of the scholarship if a scholarship recipient is not employed within West Virginia for at least two

94 of the first three years following graduation. The rule shall include provisions to address situations

95 where the student seeks an additional degree or degrees following graduation, situations where

96 the student is unable to find suitable employment in West Virginia after graduation, and other  
97 situations where requiring repayment of the scholarship would be inequitable.

98 (2) The rule may provide for or require the following at the commission’s discretion:

99 ~~(A) Requiring repayment of the amount of the scholarship, in whole or in part, if a~~  
100 ~~scholarship recipient chooses to work outside the state after graduation. The rule may not require~~  
101 ~~a recipient to repay a scholarship, in whole or in part, unless the prospective recipient has been~~  
102 ~~informed of this requirement in writing before initial acceptance of the PROMISE scholarship~~  
103 ~~award~~

104 ~~(B)~~ (A) Targeting a portion of the scholarship funds to be used for applicants enrolled in an  
105 engineering, science, technology or other designated program;

106 ~~(C)~~ (B) Determining what other sources of funding for higher education are to be deducted  
107 from the PROMISE scholarship award; and

108 ~~(D)~~ (C) Providing additional criteria as determined by the commission.

109 (3) The Legislature finds that an emergency exists and, therefore, the commission shall  
110 file a rule to implement the provisions of this section as an emergency rule pursuant to the  
111 provisions of §29A-3A-1 et seq. of this code. The rule is subject to the prior approval of the  
112 Legislative Oversight Commission on Education Accountability.

113 (4) Any rule promulgated by the commission pursuant to previous enactments of this  
114 article in effect on the effective date of the amendment and reenactment of this article in the year  
115 2009 remains in effect until amended, modified, repealed, or replaced by the commission.

**§18C-7-7. West Virginia PROMISE Scholarship Fund continued.**

1 (a) The special revenue fund in the State Treasury designated and known as the  
2 PROMISE Scholarship Fund is continued. The fund consists of moneys from the following  
3 sources:

4 (1) All appropriations to the fund from the West Virginia Lottery, video lottery and taxes on  
5 amusement devices;

- 6 (2) All appropriations by the Legislature for the PROMISE Scholarship Fund;
- 7 (3) Any gifts, grants or contributions received for the PROMISE Scholarship Program; ~~and~~
- 8 (4) All money received by students required, under §18C-7-6 of this code, to repay
- 9 scholarships received; and
- 10 (5) All interest or other income earned from investment of the fund.
- 11 (b) The allocations to the fund are subject to appropriation by the Legislature. Nothing in
- 12 this article requires any specific level of funding by the Legislature nor guarantees nor entitles any
- 13 individual to any benefit or grant of funds.
- 14 (c) For the fiscal year beginning July 1, 2006, it is the intent of the Legislature that the
- 15 aggregate of the amount of moneys transferred to the fund pursuant to §29-22-18a of this code,
- 16 and any other amounts of public moneys that may be transferred to the fund by appropriation of
- 17 the Legislature, shall equal, but may not exceed, \$40 million. For each fiscal year thereafter until
- 18 and including the fiscal year ending June 30, 2009, it is the intent of the Legislature that this
- 19 aggregate be an amount two percent greater than the aggregate established by this subsection
- 20 for the prior fiscal year. For the fiscal year beginning July 1, 2009, it is the intent of the Legislature
- 21 that the aggregate of the amount of moneys transferred to the fund pursuant to §29-22-18a of this
- 22 code and any other amounts of public moneys that may be transferred to the fund by appropriation
- 23 of the Legislature shall equal \$45 million. For the fiscal year beginning July 1, 2010, it is the intent
- 24 of the Legislature that the aggregate of the amount of moneys transferred to the fund shall equal
- 25 \$48 million. For the fiscal year beginning July 1, 2011, and every fiscal year thereafter, it is the
- 26 intent of the Legislature that the aggregate of the amount of moneys transferred to the fund shall
- 27 equal \$47,500,000.
- 28 (d) The commission may expend the moneys in the fund to implement the provisions of
- 29 this article.

NOTE: The purpose of this bill is to require repayment of PROMISE scholarship if student

is not employed in West Virginia following graduation, under certain circumstances.

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