

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 598

By Senator Rucker

[Originating in the Committee on School Choice;

reported January 31, 2024]

1 A BILL to amend and reenact §18-5G-3 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §18-8-1 and §18-8-12; to amend and reenact §18-9A-25 of said code; to
3 amend and reenact §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7,
4 §18-31-8, §18-31-10, and §18-31-11 of said code; and to amend said code by adding
5 thereto two new sections, designated §18-31-2a and §18-31-14, all relating generally to
6 the Hope Scholarship Program; allowing charter schools to charge Hope Scholarship
7 students for classes the students enroll in at the charter school; providing that
8 microschoools and learning pods have the authority to issue secondary school diplomas;
9 providing that the annual Hope Scholarship Program appropriation calculation will be
10 based on the estimated number of participating students instead of the number of
11 participating students in the prior year; providing that Hope Scholarship students have
12 certain educational privileges made available to other nonpublic school students; clarifying
13 reporting requirements of Hope Scholarship Students to the State Board of Education,
14 county superintendents, and county boards of education; clarifying that Hope Scholarship
15 funds may only be utilized for expenses incurred in a kindergarten through secondary
16 school education; specifying that a microschoool can be a participating school; permitting
17 the State Treasurer to appear by designee at Hope Scholarship Board meetings; modifying
18 the composition of members to the Hope Scholarship Board; modifying definitions;
19 requiring parental agreement to include provisions requiring parents to notify the board if a
20 student reenrolls in public school or graduates from a secondary school program; clarifying
21 that all records and personally identifying information of a Hope Scholarship student,
22 applicant, or parent is confidential and not subject to disclosure pursuant to the West
23 Virginia Freedom of Information Act; clarifying that a kindergarten-level applicant's Hope
24 Scholarship participation does not commence if the student does not begin kindergarten-
25 level education that school year; establishing a year-round application and awards
26 process; clarifying annual renewal process for Hope Scholarship parents and students;

27 clarifying that a public charter school may invoice a Hope Scholarship student for
28 educational services; clarifying that the Hope Scholarship Board may take issues involving
29 Hope Scholarship students in charter schools to the West Virginia Professional Charter
30 School Board; authorizing the Hope Scholarship Board to request certain information from
31 county superintendents and county boards of education; modifying qualifying expenses for
32 Hope Scholarship accounts; requiring education service providers conducting background
33 screenings of employees and other persons in contact with students to certify screening
34 results to the board; clarifying that providers may not assess increased or additional fees
35 against Hope Scholarship students based on participation in the program; and adding
36 reporting requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5G. PUBLIC CHARTER SCHOOLS.

§18-5G-3. Public charter school criteria, governance structure and statutory compliance requirements; applicable federal and state laws.

1 (a) Public charter schools authorized pursuant to this article shall meet the following
2 general criteria:

3 (1) Are part of the state's system of public schools and are subject to general supervision
4 by the West Virginia Board of Education for meeting the student performance standards required
5 of other public school students under §18-2E-5(d) and (e) of this code;

6 (2) Are subject to the oversight of the school's authorizer for operating in accordance with
7 its approved charter contract and for meeting the terms and performance standards established
8 in the charter contract;

9 (3) Are not home school-based;

10 (4) Are not affiliated with or espouse any specific religious denomination, organization,
11 sect, or belief and do not promote or engage in any religious practices in their educational
12 program, admissions, employment policies, or operations;

13 (5) Are not affiliated with any organized group whose espoused beliefs attack or malign an
14 entire class of people, typically for immutable characteristics, as identified through listings of such
15 groups as may be made by the U. S. Department of Justice, the Federal Bureau of Investigation,
16 or officials having similar jurisdiction in this state;

17 (6) Are public schools to which parents or legal guardians choose to send their child or
18 children;

19 (7) Do not charge tuition, except as permitted in accordance with §18-31-8(f) of this code,
20 and may only charge such fees as may be imposed by noncharter public schools in this state; and

21 (8) Have no requirements that would exclude any child from enrollment who would not be
22 excluded at a noncharter public school.

23 (b) A public charter school authorized pursuant to this article shall be governed by a board
24 that meets the requirements established in §18-5G-7 of this code and:

25 (1) Has autonomy over key decisions, including, but not limited to, decisions concerning
26 finance, personnel, scheduling, curriculum, and instruction except as provided in this article;

27 (2) Has no power to levy taxes;

28 (3) Operates in pursuit of a specific set of educational objectives as defined in its charter
29 contract;

30 (4) Provides a program of public education that:

31 (A) Includes one or more of the following: Prekindergarten and any grade or grades from
32 kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit,
33 advanced placement, internship, and industry or workforce credential programs that the public
34 charter school chooses to incorporate into its programs;

35 (B) May include in its mission a specific focus on students with special needs, including,
36 but not limited to, at-risk students, English language learners, students with severe disciplinary
37 problems at a noncharter public school, or students involved with the juvenile justice system; and

38 (C) May include a specific academic approach or theme including, but not limited to,
39 approaches or themes such as STEM education, mastery-based education, early college, or fine
40 and performing arts;

41 (5) Provides programs and services to a student with a disability in accordance with the
42 student's individualized education program and all federal and state laws, regulations, rules and
43 policies. A charter school shall deliver the services directly or contract with a county board or
44 another provider to deliver the services as set forth in its charter contract;

45 (6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic
46 interscholastic leagues, competitions, awards, scholarships, and recognition programs for
47 students, educators, administrators, and schools to the same extent as noncharter public schools;

48 (7) Employs its own personnel as employees of the public charter school and is ultimately
49 responsible for processing employee paychecks, managing its employees' participation in the
50 applicable retirement system, and managing its employees' participation in insurance plans:
51 *Provided*, That nothing in this subdivision prohibits the public charter school from contracting with
52 another person or entity to perform services relating to managing its employees' participation in
53 the retirement system or insurance plan. A county board may not require any employee of its
54 school system to be employed in a public charter school. A county board may not harass, threaten,
55 discipline, discharge, retaliate, or in any manner discriminate against any school system employee
56 involved directly or indirectly with an application to establish a public charter school as authorized
57 under this section. All personnel in a public charter school who were previously employed by the
58 county board shall continue to accrue seniority with the county board in the same manner that they
59 would accrue seniority if employed in a noncharter public school in the county for purposes of
60 employment in noncharter public schools; and

61 (8) Is responsible for establishing a staffing plan that includes the requisite qualifications
62 and any associated certification and/or licensure necessary for teachers and other instructional
63 staff to be employed at the public charter school and for verifying that these requirements are met.

64 (c) A public charter school authorized pursuant to this article is exempt from all statutes
65 and rules applicable to a noncharter public school or board of education except the following:

66 (1) All federal laws and authorities applicable to noncharter public schools in this state
67 including, but not limited to, the same federal nutrition standards, the same civil rights, disability
68 rights and health, life and safety requirements applicable to noncharter public schools in this state;

69 (2) The provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and
70 the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings;

71 (3) The same immunization requirements applicable to noncharter public schools;

72 (4) The same compulsory school attendance requirements applicable to noncharter public
73 schools;

74 (5) The same minimum number of days or an equivalent amount of instructional time per
75 year as required of noncharter public school students under §18-5-45 of this code;

76 (6) The same student assessment requirements applicable to noncharter public schools in
77 this state, but only to the extent that will allow the state board to measure the performance of public
78 charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public
79 charter school from establishing additional student assessment measures that go beyond state
80 requirements;

81 (7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-
82 2-5h of this code;

83 (8) Use of the electronic education information system established by the West Virginia
84 Department of Education for the purpose of reporting required information;

85 (9) Reporting information on student and school performance to parents, policy-makers,
86 and the general public in the same manner as noncharter public schools utilizing the electronic
87 format established by the West Virginia Department of Education. Nothing precludes a public
88 charter school from utilizing additional measures for reporting information on student and school
89 performance that go beyond state requirements;

90 (10) All applicable accounting and financial reporting requirements as prescribed for public
91 schools, including adherence to generally accepted accounting principles. A public charter school
92 shall annually engage an external auditor to perform an independent audit of the school's
93 finances. The public charter school shall submit the audit to its authorizer and to the state
94 superintendent of schools within nine months of the end of the fiscal year for which the audit is
95 performed;

96 (11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that
97 would be required if the person was employed in a noncharter public school, unless a criminal
98 history check has already been completed for that staff person pursuant to that section.
99 Governing board members and other public charter school personnel are subject to criminal
100 history record checks and fingerprinting requirements applicable to noncharter public schools in
101 this state. Contractors and service providers or their employees are prohibited from making direct,
102 unaccompanied contact with students and from access to school grounds unaccompanied when
103 students are present if it cannot be verified that the contractors, service providers or employees
104 have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

105 (12) The same zoning rules for its facilities that apply to noncharter public schools in this
106 state;

107 (13) The same building codes, regulations and fees for its facilities that apply to noncharter
108 public schools in this state, including any inspections required for noncharter public schools under
109 this chapter and the West Virginia State Fire Marshal for inspection and issuance of a certificate of
110 occupancy for any facility used by the public charter school; and

111 (14) The same student transportation safety laws applicable to public schools when
112 transportation is provided.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.
§18-8-1. Compulsory school attendance; exemptions.

1 (a) Exemption from the requirements of compulsory public school attendance established
2 in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth
3 in this section. Each cause or condition set forth in this section is subject to confirmation by the
4 attendance authority of the county. A child who is exempt from compulsory school attendance
5 under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a
6 status offender as defined by §49-1-202 of this code.

7 (b) A child is exempt from the compulsory school attendance requirement set forth in §18-
8 8-1a of this code if the requirements of this subsection, relating to instruction in a private,
9 parochial, or other approved school, are met. The instruction shall be in a school approved by the
10 county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all
11 private, parochial, or other schools approved pursuant to this subsection, it is the duty of the
12 principal or other person in control, upon the request of the county superintendent, to furnish to the
13 county board such information and records as may be required with respect to attendance,
14 instruction, and progress of students enrolled.

15 (c) A child is exempt from the compulsory school attendance requirement set forth in §18-
16 8-1a of this code if the requirements of either subdivision (1) or subdivision (2) of this subsection,
17 both relating to home instruction, are met.

18 (1) The instruction shall be in the home of the child or children or at some other place
19 approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of
20 this code. If the request for home instruction is denied by the county board, good and reasonable
21 justification for the denial shall be furnished in writing to the applicant by the county board. The
22 instruction shall be conducted by a person or persons who, in the judgment of the county
23 superintendent and county board, are qualified to give instruction in subjects required to be taught
24 in public elementary schools in the state. The person or persons providing the instruction, upon
25 request of the county superintendent, shall furnish to the county board information and records as
26 may be required periodically with respect to attendance, instruction, and progress of students

27 receiving the instruction. The state board shall develop guidelines for the home schooling of
28 special education students including alternative assessment measures to assure that satisfactory
29 academic progress is achieved.

30 (2) The child meets the requirements set forth in this subdivision: *Provided*, That the county
31 superintendent may, after a showing of probable cause, seek from the circuit court of the county an
32 order denying home instruction of the child. The order may be granted upon a showing of clear and
33 convincing evidence that the child will suffer neglect in his or her education or that there are other
34 compelling reasons to deny home instruction.

35 (A) Upon commencing home instruction under this section the parent of a child receiving
36 home instruction shall present to the county superintendent or county board a notice of intent to
37 provide home instruction that includes the name, address, and age of any child of compulsory
38 school age to be instructed and assurance that the child shall receive instruction in reading,
39 language, mathematics, science, and social studies, and that the child shall be assessed annually
40 in accordance with this subdivision. The person providing home instruction shall notify the county
41 superintendent upon termination of home instruction for a child who is of compulsory attendance
42 age. Upon establishing residence in a new county, the person providing home instruction shall
43 notify the previous county superintendent and submit a new notice of intent to the superintendent
44 of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of
45 intent to provide home instruction shall be given on or before the date home instruction is to begin.

46 (B) The person or persons providing home instruction shall submit satisfactory evidence of
47 a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally
48 accredited institution, or from an institution of higher education that has been authorized to confer
49 a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community
50 and Technical College Education or by the West Virginia Higher Education Policy Commission.

51 (C) Annually, the person or persons providing home instruction shall obtain an academic
52 assessment of the child for the previous school year in one of the following ways:

53 (i) The child receiving home instruction takes a nationally normed standardized
54 achievement test published or normed not more than 10 years from the date of administration and
55 administered under the conditions as set forth by the published instructions of the selected test
56 and by a person qualified in accordance with the test's published guidelines in the subjects of
57 reading, language, mathematics, science, and social studies. The child is considered to have
58 made acceptable progress when the mean of the child's test results in the required subject areas
59 for any single year is within or above the fourth stanine or, if below the fourth stanine, shows
60 improvement from the previous year's results;

61 (ii) The child participates in the testing program currently in use in the state's public
62 schools. The test shall be administered to the child at a public school in the county of residence.
63 Determination of acceptable progress shall be based on current guidelines of the state testing
64 program;

65 (iii) A portfolio of samples of the child's work is reviewed by a certified teacher who
66 determines whether the child's academic progress for the year is in accordance with the child's
67 abilities. The teacher shall provide a written narrative about the child's progress in the areas of
68 reading, language, mathematics, science, and social studies and shall note any areas which, in
69 the professional opinion of the reviewer, show need for improvement or remediation. If the
70 narrative indicates that the child's academic progress for the year is in accordance with the child's
71 abilities, the child is considered to have made acceptable progress; or

72 (iv) The child completes an alternative academic assessment of proficiency that is mutually
73 agreed upon by the parent or legal guardian and the county superintendent.

74 (D) A parent or legal guardian shall maintain copies of each student's Academic
75 Assessment for three years. When the annual assessment fails to show acceptable progress, the
76 person or persons providing home instruction shall initiate a remedial program to foster acceptable
77 progress. The county board upon request shall notify the parents or legal guardian of the child, in
78 writing, of the services available to assist in the assessment of the child's eligibility for special

79 education services. Identification of a disability does not preclude the continuation of home
80 schooling. In the event that the child does not achieve acceptable progress for a second
81 consecutive year, the person or persons providing instruction shall submit to the county
82 superintendent additional evidence that appropriate instruction is being provided.

83 (E) The parent or legal guardian shall submit to the county superintendent the results of the
84 academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June
85 30 of the year in which the assessment was administered.

86 (3) This subdivision applies to both home instruction exemptions set forth in subdivisions
87 (1) and (2) of this subsection. The county superintendent or a designee shall offer such
88 assistance, including textbooks, other teaching materials and available resources, all subject to
89 availability, as may assist the person or persons providing home instruction. Any child receiving
90 home instruction may upon approval of the county board exercise the option to attend any class
91 offered by the county board as the person or persons providing home instruction may consider
92 appropriate subject to normal registration and attendance requirements.

93 (d) A child is exempt from the compulsory school attendance requirement set forth in §18-
94 8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity,
95 are met. Physical or mental incapacity consists of incapacity for school attendance and the
96 performance of school work. In all cases of prolonged absence from school due to incapacity of
97 the child to attend, the written statement of a licensed physician or authorized school nurse is
98 required. Incapacity shall be narrowly defined and in any case the provisions of this article may not
99 allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child
100 otherwise entitled to a free appropriate education.

101 (e) A child is exempt from the compulsory school attendance requirement set forth in §18-
102 8-1a of this code if conditions rendering school attendance impossible or hazardous to the life,
103 health, or safety of the child exist.

104 (f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-

105 1a of this code upon regular graduation from a standard senior high school or alternate secondary
106 program completion as determined by the state board.

107 (g) A child is exempt from the compulsory school attendance requirement set forth in §18-
108 8-1a of this code if the child is granted a work permit pursuant to the subsection. After due
109 investigation the county superintendent may grant work permits to youths under the termination
110 age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A
111 work permit may not be granted on behalf of any youth who has not completed the eighth grade of
112 school.

113 (h) A child is exempt from the compulsory school attendance requirement set forth in §18-
114 8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is
115 expected that the county attendance director will ascertain the facts in all cases of such absences
116 about which information is inadequate and report the facts to the county superintendent.

117 (i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-
118 1a of this code if the requirements of this subsection, relating to destitution in the home, are met.
119 Exemption based on a condition of extreme destitution in the home may be granted only upon the
120 written recommendation of the county attendance director to the county superintendent following
121 careful investigation of the case. A copy of the report confirming the condition and school
122 exemption shall be placed with the county director of public assistance. This enactment
123 contemplates every reasonable effort that may properly be taken on the part of both school and
124 public assistance authorities for the relief of home conditions officially recognized as being so
125 destitute as to deprive children of the privilege of school attendance. Exemption for this cause is
126 not allowed when the destitution is relieved through public or private means.

127 (j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-
128 1a of this code if the requirements of this subsection, relating to church ordinances and
129 observances of regular church ordinances, are met. The county board may approve exemption for
130 religious instruction upon written request of the person having legal or actual charge of a child or

131 children. This exemption is subject to the rules prescribed by the county superintendent and
132 approved by the county board.

133 (k) A child is exempt from the compulsory school attendance requirement set forth in §18-
134 8-1a of this code if the requirements of this subsection, relating to alternative private, parochial,
135 church, or religious school instruction, are met. Exemption shall be made for any child attending
136 any private school, parochial school, church school, school operated by a religious order, or other
137 nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

138 (l) Completion of the eighth grade does not exempt any child under the termination age
139 designated in §18-8-1a of this code from the compulsory attendance provision of this article.

140 (m) A child is exempt from the compulsory school attendance requirements set forth in
141 §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship
142 Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to
143 participate in the Hope Scholarship Program to the ~~county superintendent~~ State Board of
144 Education. ~~The county superintendent shall~~ After notifying the State Treasurer's Office, the State
145 Board shall notify the counties affected and enter the following into the West Virginia Education
146 Information System (WVEIS):

147 (1) The filing of the notice of intent pursuant to this subsection;

148 (2) In the case of a Hope Scholarship recipient who chooses an individualized instructional
149 program, annually, the child's test results or determination that a student is making academic
150 progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4)
151 of this code; and

152 (3) In the case of an eligible recipient enrolling in a participating school, annually, the filing
153 of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.

154 (n) A child is exempt from the compulsory school attendance requirement set forth in §18-
155 8-1a of this code if the child participates in a learning pod or microschool pursuant to this
156 subsection.

157 (1) For the purposes of this subsection:

158 (A) "Learning pod" means a voluntary association of parents choosing to group their
159 children together to participate in their elementary or secondary academic studies as an
160 alternative to enrolling in a public school, private school, homeschool, or microschool, including
161 participation in an activity or service provided to the children in exchange for payment; and

162 (B) "Microschool" means a school initiated by one or more teachers or an entity created to
163 operate a school that charges tuition for the students who enroll and is an alternative to enrolling in
164 a public school, private school, homeschool, or learning pod.

165 (2) Upon beginning participation in a learning pod or microschool pursuant to this
166 subsection, the parent or legal guardian of the child participating shall present to the county
167 superintendent or county board a notice of intent to participate in a learning pod or microschool
168 that includes the name, address, and age of any child of compulsory school age participating and
169 assurance that the child shall receive instruction in reading, language, mathematics, science, and
170 social studies, and that the child shall be assessed annually in accordance with this subsection.
171 The person providing instruction shall notify the county superintendent upon termination of
172 participation in a learning pod or microschool for a child who is of compulsory attendance age.
173 Upon establishing residence in a new county, the person providing instruction shall notify the
174 previous county superintendent and submit a new notice of intent to the superintendent of the new
175 county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to
176 participate in a learning pod or microschool shall be given on or before the date participation is to
177 begin.

178 (3) The person or persons providing instruction shall submit satisfactory evidence of a high
179 school diploma or equivalent, or a post-secondary degree or certificate from a regionally
180 accredited institution, or from an institution of higher education that has been authorized to confer
181 a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community
182 and Technical College Education or by the West Virginia Higher Education Policy Commission.

183 (4) Annually, the person or persons providing instruction shall obtain an academic
184 assessment of the child for the previous school year in one of the following ways:

185 (A) The child participating in a learning pod or microschool takes a nationally normed
186 standardized achievement test published or normed not more than 10 years from the date of
187 administration and administered under the conditions as set forth by the published instructions of
188 the selected test and by a person qualified in accordance with the test's published guidelines in the
189 subjects of reading, language, mathematics, science, and social studies. The child is considered
190 to have made acceptable progress when the mean of the child's test results in the required subject
191 areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows
192 improvement from the previous year's results;

193 (B) The child participates in the testing program currently in use in the state's public
194 schools. The test shall be administered to the child at a public school in the county of residence.
195 Determination of acceptable progress shall be based on current guidelines of the state testing
196 program;

197 (C) A portfolio of samples of the child's work is reviewed by a certified teacher who
198 determines whether the child's academic progress for the year is in accordance with the child's
199 abilities. The teacher shall provide a written narrative about the child's progress in the areas of
200 reading, language, mathematics, science, and social studies and shall note any areas which, in
201 the professional opinion of the reviewer, show need for improvement or remediation. If the
202 narrative indicates that the child's academic progress for the year is in accordance with the child's
203 abilities, the child is considered to have made acceptable progress; or

204 (D) The child completes an alternative academic assessment of proficiency that is mutually
205 agreed upon by the parent or legal guardian and the county superintendent.

206 (5) A parent or legal guardian shall maintain copies of each student's Academic
207 Assessment for three years. When the annual assessment fails to show acceptable progress, the
208 person or persons providing instruction shall initiate a remedial program to foster acceptable

209 progress. The county board upon request shall notify the parents or legal guardian of the child, in
210 writing, of the services available to assist in the assessment of the child's eligibility for special
211 education services. Identification of a disability does not preclude the continuation of participation
212 in a learning pod or microschool. In the event that the child does not achieve acceptable progress
213 for a second consecutive year, the person or persons providing instruction shall submit to the
214 county superintendent additional evidence that appropriate instruction is being provided.

215 (6) The parent, legal guardian, learning pod, or microschool shall submit to the county
216 superintendent the results of the academic assessment of the child with the same frequency
217 prescribed in §18-8-1(c)(2)(E) of this code: *Provided*, That instead of the academic assessment
218 results being submitted individually, the learning pod or microschool may submit the school
219 composite results.

220 (7) The county superintendent or a designee shall offer such assistance, including
221 textbooks, other teaching materials and available resources, all subject to availability, as may
222 assist the person or persons providing instruction. Any child participating in a learning pod or
223 microschool may upon approval of the county board exercise the option to attend any class offered
224 by the county board as the person or persons providing instruction may consider appropriate
225 subject to normal registration and attendance requirements.

226 (8) No learning pod or microschool which meets the requirements of this subsection is
227 subject to any other provision of law relating to education: *Provided*, That any learning pod or
228 microschool which has a student requiring special education instruction must comply with the
229 provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for
230 the protection of that exceptional student.

231 (9) Making learning pods and microschools subject to the home instruction provisions and
232 requirements does not make learning pods and microschools the same as homeschooling.

**§18-8-12. Issuance of a diploma or other appropriate credential by public, private, or home
school, microschool, or learning pod administrator.**

CS for SB 598

1 A person who administers a program of secondary education at a public school, private
2 school, or home school, microschool, learning pod, or individualized instructional program
3 pursuant to the Hope Scholarship Act that meets the requirements of this chapter may issue a
4 diploma or other appropriate credential to a person who has completed the program of secondary
5 education. Such diploma or credential is legally sufficient to demonstrate that the person meets
6 the definition of having a high school diploma or its equivalent. No state agency or institution of
7 higher learning in this state may reject or otherwise treat a person differently solely on the grounds
8 of the source of such a diploma or credential. Nothing in this section prevents an institution, once a
9 student has been fully admitted, from administering placement tests or other assessments to
10 determine the appropriate placement of students into college-level course sequences or to assess
11 the content thereof for the purposes of determining whether a person meets other requirements for
12 a specific program.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.
§18-9A-25. Funding for Hope Scholarship Program.

1 (a) Notwithstanding any other provision of this article to the contrary, for fiscal year 2023
2 and each fiscal year thereafter, in addition to all other amounts required by this article, the
3 Department of Education shall include in its budget request, and the Governor shall include in
4 each budget bill submitted to the Legislature, an appropriation to the Department of Education for
5 the greater of an amount not less than two percent of net public school enrollment adjusted for
6 state aid purposes or the total number of ~~eligible Hope Scholarship applications received by the~~
7 ~~Hope Scholarship Board, if available~~ estimated Hope Scholarship applications for the fiscal year,
8 multiplied by the prior year's statewide average net state aid allotted per pupil. The Hope
9 Scholarship Board shall certify the estimated number of Hope Scholarship applications for the
10 fiscal year to the Department of Education by December 10 of each year. The amount
11 appropriated shall be transferred by the Department of Education to the Hope Scholarship Board

12 to be used solely to meet the Hope Scholarship Program obligations set forth in §18-31-1 *et seq.* of
13 this code except as otherwise provided in this section. The Governor shall also provide in each
14 budget for the reappropriation for expenditure during the ensuing fiscal year the unused
15 accumulated balance in the Hope Scholarship Fund. ~~to the Department of Education that was not~~
16 ~~transferred to the Hope Scholarship Board due to an accumulated balance from prior years as~~
17 ~~provided under subsection (b) of this section.~~

18 (b) ~~Each fiscal year, the amount required to be requested and included in the budget bill for~~
19 ~~appropriation under subsection (a) of this section shall be reduced by the sum of:~~

20 (1) ~~Any unused accumulated amounts transferred to the Hope Scholarship Board for these~~
21 ~~purposes from previous years. and~~

22 (2) ~~Any unused appropriations made to the Department of Education for these purposes~~
23 ~~that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior~~
24 ~~years.~~

25 (b) Each fiscal year, the amount required to be requested and included in the budget bill for
26 appropriation under subsection (a) of this section shall be reduced by an amount equal to the
27 unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from
28 previous years.

ARTICLE 31. HOPE SCHOLARSHIP PROGRAM.
§18-31-2. Definitions.

1 The following words have the meanings ascribed to them unless the context clearly
2 indicates a different meaning:

3 (1) "Account" or "scholarship" means a Hope Scholarship account, awarded pursuant to
4 this article, to which funds are allocated by the board to the parent or parents of an eligible Hope
5 Scholarship student in order to pay qualifying elementary and secondary education expenses to
6 educate the student pursuant to the requirements and conditions of this article;

7 (2) "Board" means the Hope Scholarship Board created pursuant to §18-31-3 of this code;

8 (3) "Curriculum" means a complete course of study for a particular elementary or
9 secondary education content area or grade level, including, but not limited to, textbooks,
10 workbooks, student and teacher curriculum kits, activity, learning or study guides, or any
11 supplemental materials required by the curriculum;

12 (4) "Education service provider" means a person or organization that receives payments
13 from Hope Scholarship accounts to provide educational goods and services to Hope Scholarship
14 students;

15 (5) "Eligible recipient" means a child who:

16 (A) Is a resident of this state; and

17 (B) Is enrolled full-time and attending a public elementary or secondary school program in
18 this state for at least 45 calendar days during an instructional term at the time of application and
19 until an award letter is issued by the board under §18-31-5(c) of this code, or enrolled full-time in a
20 public elementary or secondary school program in this state for the entire instructional term the
21 previous year, or is eligible at the time of application to enroll in a kindergarten program in this state
22 pursuant to §18-8-1a of this code, ~~except that if on July 1, 2024, the participation rate of the~~
23 ~~combined number of students in the Hope Scholarship Program and students eligible who have~~
24 ~~applied to participate in the Hope Scholarship program during the previous school year is less than~~
25 ~~five percent of net public school enrollment adjusted for state aid purposes for the previous school~~
26 ~~year, then, effective July 1, 2026~~ on and after July 1, 2026, a child is considered to meet the
27 requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be
28 enrolled in a kindergarten program or public elementary or secondary school program in this state
29 at the time of application;

30 (6) "Hope scholarship funds" means the moneys deposited in a Hope Scholarship
31 student's account in accordance with the requirements of this article.

32 (7) "Hope scholarship student" means a student who receives a scholarship pursuant to
33 this article;

34 (8) "Individualized Instructional Program (IIP)" means a customized educational
35 experience that takes place either at home or another location. Hope Scholarship students with an
36 IIP are not enrolled in a participating school and shall be governed by the requirements of this
37 article, unless otherwise stated, and not any other compulsory school attendance exemption
38 requirements.

39 ~~(8)~~ (9) "Parent" means a biological parent, legal guardian, custodian, or other person with
40 legal authority to act on behalf of an eligible recipient or Hope Scholarship student;

41 ~~(9)~~ (10) "Participating school" means any private school, microschool, or learning pod as
42 defined in §18-8-1(n)(1)(A) and (B) of this code that provides education to elementary and/or
43 secondary students and has notified the board of its intention to participate in the program and
44 comply with the program's requirements;

45 ~~(10)~~ (11) "Resident school district" means the county school district in which the student
46 resides; and

47 ~~(11)~~ (12) "Treasurer" means the West Virginia State Treasurer.

§18-31-2a. Educational privileges and programs available to Hope Scholarship students.

1 (a) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student
2 that pursues an individualized instructional program is exempt from the requirements of
3 compulsory school attendance pursuant to §18-8-1(m) of this code and shall be subject to the
4 requirements of this article unless otherwise stated: *Provided, That* a Hope Scholarship student
5 that pursues an individualized instructional program shall have the same privileges and access to
6 programs that this code makes available to students exempt from compulsory school attendance
7 pursuant to §18-8-1(c) of this code, including but not limited to:

8 (1) The ability to receive a diploma from the student's secondary educational program
9 administrator, according to the requirements of §18-8-12 of this code;

10 (2) The ability to receive the PROMISE scholarship, according to the requirements of
11 §18C-7-1 et seq. of this code;

8 (5) The Chancellor of Higher Education, or his or her designee;

9 (6) The Director of the Herbert Henderson Office of Minority Affairs, or his or her designee;

10 and

11 (7) ~~Three~~ Five members appointed by the Governor with the advice and consent of the
12 Senate who are parents of Hope Scholarship students, ~~or for the initial appointments of board~~
13 ~~members following the effective date of this article,~~ or parents who intend to apply for the Hope
14 Scholarship on behalf of eligible recipients, to be appointed as follows:

15 (A) Only state residents are eligible for appointment to the board;

16 (B) The parent members shall reside in geographically diverse areas of the state;

17 ~~(C) Members shall be initially appointed to staggered terms as follows:~~

18 ~~(i) One member appointed by the Governor to a one-year term;~~

19 ~~(ii) One member appointed by the Governor to a two-year term; and~~

20 ~~(iii) One member each appointed by the Governor to a three-year term.~~

21 (C) The parent members shall represent a diverse group of Hope Scholarship students or
22 prospective students utilizing different educational options such as homeschooling,
23 microschooling, learning pods, or an individualized instructional program;

24 The Governor shall make appointments necessary to satisfy the requirements of
25 subdivision (7) of this section to staggered terms as determined by the Governor. After the initial
26 staggering of terms, appointed parent board members shall serve for three-year terms and are
27 eligible for reappointment at the expiration of their terms; and

28 (D) If there is a vacancy among appointed members, the vacancy shall be filled by
29 appointment to the unexpired term of a person meeting the requirements of this section by the
30 Governor with the advice and consent of the Senate. Members of the board shall serve until the
31 later of the expiration of the term for which the member was appointed or the appointment of his or
32 her successor.

33 (c) Members of the board shall serve without compensation. The board may reimburse

34 members for all reasonable and necessary expenses, including travel expenses, actually incurred
35 by board members in the conduct of their official duties. Any expense reimbursements shall be
36 made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to
37 state employees.

38 (d) The Treasurer is the chairman and presiding officer of the board. The Treasurer may
39 provide office space and staff to the board upon request of the board.

40 (e) The State Superintendent of Schools may provide staff to the board, upon request of
41 the board.

42 (f) A majority of the members of the board constitutes a quorum for the transaction of the
43 business of the board.

44 (g) Members of the board are subject to the ethical standards and financial disclosure
45 requirements of the West Virginia Governmental Ethics Act in Chapter 6B of this code.

§18-31-4. Powers of the board.

1 The board is authorized to take any action necessary to effectuate the provisions of this
2 article and to successfully administer the Hope Scholarship Program, subject to applicable state
3 and federal law, including, but not limited to the following:

4 (1) Adopt and amend bylaws;

5 (2) Execute contracts and other instruments for necessary goods and services, employ
6 necessary personnel and engage the services of private consultants, actuaries, auditors, counsel,
7 managers, trustees, and any other contractor or professional needed for rendering professional
8 and technical assistance and advice: *Provided*, That election of these services is not subject to the
9 provisions of §5A-3-1 *et seq.* of this code;

10 (3) Implement the program through the use of financial organizations as account
11 depositories and managers;

12 (4) Develop and impose requirements, policies, procedures, and guidelines to implement
13 and manage the program;

14 (5) Determine whether an expenditure of Hope Scholarship funds is or was a qualifying
15 expense to educate a Hope Scholarship student pursuant to §18-31-7 of this code. The board may
16 approve or deny expenditures by a majority vote;

17 (6) Review any appeals made pursuant to §18-31-10(b) and §18-31-10(d) of this code;

18 (7) Establish the method by which moneys in the Hope Scholarship Expense Fund shall be
19 allocated to pay for administrative costs and assess, collect and expend administrative fees,
20 charges, and penalties;

21 (8) Authorize the assessment, collection and retention of fees and charges against the
22 amounts paid into and the earnings on the Hope Scholarship funds by a financial institution,
23 investment manager, fund manager, West Virginia Investment Management Board, West Virginia
24 Board of Treasury Investments, or other professional managing or investing the Hope Scholarship
25 funds and accounts;

26 (9) Invest and reinvest any of the funds and accounts under the board's control with a
27 financial institution, an investment manager, a fund manager, the West Virginia Investment
28 Management Board, West Virginia Board of Treasury Investments, or other professionals
29 investing the funds and accounts: *Provided*, That investments made under this article shall be
30 made in accordance with the provisions of §44-6C-1 *et seq.* of this code; and

31 (10) Solicit and accept gifts, including bequests and other testamentary gifts made by will,
32 trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from
33 any source, or to participate in any other way in any federal, state, or local governmental programs
34 in carrying out the purposes of this article: *Provided*, That the board shall use the property received
35 to effectuate the desires of the donor, and shall convert the property received into cash within 180
36 days of receipt;

37 (11) Take any issues relating to Hope Scholarship student participation in established
38 public charter schools to the West Virginia Professional Charter School Board; and

39 (12) Request such information from the Department of Education and the county boards

40 as is necessary for the completion of the board's responsibilities pursuant to this article.

§18-31-5. Award of Hope Scholarships.

1 (a) The Hope Scholarship Program is established to provide the option for a parent to
2 better meet the individual elementary and secondary education needs of his or her eligible child.
3 The program shall be operational no later than July 1, 2022.

4 (b) The board shall create a standard application form that a parent can submit to establish
5 his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal
6 education savings account to be used for qualifying education expenses on behalf of the eligible
7 recipient as provided for in §18-31-7 of this code. Information about scholarship funds and the
8 application process shall be made available on the board's website.

9 (c) The board shall ~~make such applications available no later than March 1, 2022 and shall~~
10 ~~begin accepting applications immediately thereafter~~ process, accept, and make available Hope
11 Scholarship applications and awards at any time during the calendar year. The board may update
12 the application as needed. The board shall issue an award letter to eligible recipients within 45
13 days of receipt of a completed application and all required documentation.

14 (d) The board shall approve an application for a Hope Scholarship if all of the following
15 circumstances are met:

16 (1) A parent submits an application for a Hope Scholarship in accordance with the
17 legislative rules promulgated by the board;

18 (2) A student on whose behalf the parent is applying is an eligible recipient, as provided for
19 in §18-31-2(5) of this code;

20 (3) The parent signs an agreement with the board, promising to do all of the following:

21 (A) To provide an education for the eligible recipient in at least the subjects of reading,
22 language, mathematics, science, and social studies;

23 (B) To use the Hope Scholarship funds exclusively for qualifying expenses incurred in
24 providing the student an elementary or secondary education as provided for in §18-31-7 of this

25 code;

26 (C) To comply with the rules and requirements of the Hope Scholarship program; ~~and~~

27 (D) To afford the Hope Scholarship student opportunities for educational enrichment such
28 as organized athletics, art, music, or literature; and

29 (E) To notify the Hope Scholarship Board immediately and cease use of Hope Scholarship
30 funds upon the student's reenrollment in a public school or when the student graduates from or
31 otherwise successfully completes a secondary school program; and

32 (4) The board confirms with the West Virginia Department of Education that the student
33 satisfies §18-31-2(5) of this code: *Provided*, That if the department does not reply within 30 days,
34 this criteria is considered satisfied.

35 (e) ~~An application for a Hope Scholarship is~~ All records accepted or maintained by the
36 Board containing personally identifying information of a Hope Scholarship student, applicant, or
37 parent are confidential and not a public record subject to release pursuant to the West Virginia
38 Freedom of Information Act, as codified in §29B-1-1 *et seq.* of this code.

§18-31-6. Funding of Hope Scholarships; program and expense funds.

1 (a) There is hereby created in the State Treasury a special revenue fund designated and
2 known as the West Virginia Hope Scholarship Program Fund. The fund shall be administered by
3 the Treasurer and shall consist of funds transferred by the Department of Education in accordance
4 with §18-9A-25 of this code. All interest and other returns derived from the deposit and investment
5 of moneys in the Hope Scholarship Fund shall be credited to the fund. Any balance, including
6 accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not
7 revert to the General Revenue Fund but shall remain in the fund and be expended as provided by
8 this section.

9 (b) The amount of Hope Scholarship funds made available to an eligible recipient on a
10 yearly basis shall be equal to 100 percent of the prior year's statewide average net state aid share
11 allotted per pupil based on net enrollment adjusted for state aid purposes, subject to the provisions

12 of subsection (c) of this section: *Provided*, That the amount of the funding to an eligible recipient
13 who is awarded a Hope Scholarship account for less than a full fiscal year shall be prorated based
14 on the portion of the fiscal year the eligible recipient is awarded the Hope Scholarship account. On
15 or prior to the submission of the Department of Education's budget request each year, the board
16 shall notify the Department of Education of ~~the total number of eligible Hope Scholarship~~
17 ~~applications received by the board~~ the estimated number of Hope Scholarship applications for the
18 fiscal year, for purposes of facilitating the necessary transfer of moneys pursuant to §18-9A-25 of
19 this code.

20 (c) Expenditures from the Hope Scholarship Fund shall be limited to the purposes set forth
21 in this article: *Provided*, That an amount not to exceed five percent of the fund shall be transferred
22 annually to the West Virginia Hope Scholarship Program Expense Fund established in subsection
23 (h) of this section to cover the annual administrative costs of the Hope Scholarship Program. If the
24 number of Hope Scholarship accounts increases significantly after any fiscal year, the Treasurer
25 may request an appropriation by the Legislature to the West Virginia Hope Scholarship Program
26 Expense Fund in an amount equal to the administrative costs associated with the increase in Hope
27 Scholarship accounts.

28 (d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be
29 subject to the execution of the parental agreement required by §18-31-5 of this code. Upon
30 execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this
31 code, ~~one half of the total annually required deposit shall be made no later than August 15 of every~~
32 ~~year into an eligible recipient's Hope Scholarship account, and one half of the total annually~~
33 ~~required deposit shall be made no later than January 15 of every year~~ the board will complete the
34 total annually required scholarship disbursements by making quarterly electronic deposits of Hope
35 Scholarship funds into an eligible recipient's Hope Scholarship account: *Provided*, That the board
36 shall calculate a prorated amount for the annual Hope Scholarship for any student who becomes
37 eligible during the academic year. Any funds remaining in a Hope Scholarship account at the end

38 of the fiscal year may be carried over to the next fiscal year upon successful renewal of the
39 account.

40 (e) Funds deposited in a student's Hope Scholarship account, other than those funds
41 expended on transportation services pursuant to §18-31-7(11) of this code, do not constitute
42 taxable income to the parent or the Hope Scholarship student.

43 (f) The board shall continue to make deposits into an eligible recipient's Hope Scholarship
44 account in accordance with the provisions of this section unless any of the following conditions
45 have occurred:

46 (1) A parent of an eligible recipient fails to renew a Hope Scholarship account or withdraws
47 from the Hope Scholarship Program;

48 (2) The board determines that a student is no longer eligible for a Hope Scholarship;

49 (3) The board suspends or revokes participation in the Hope Scholarship Program for
50 failure to comply with the requirements of this article;

51 (4) The Hope Scholarship student successfully completes a secondary education program
52 or does not commence kindergarten-level education in the year that eligibility is based on the
53 student's kindergartener status; or

54 (5) The Hope Scholarship student reaches 21 years of age.

55 (g) If any of the conditions in subsection (f) of this section occur, the board shall notify the
56 parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to
57 adequately address the condition or conditions upon which closure is based or does not respond
58 within 30 calendar days of receipt of notice, the board shall close the account and any remaining
59 moneys shall be returned to the state.

60 (h) (1) There is hereby created in the State Treasury a special revenue fund designated
61 and known as the West Virginia Hope Scholarship Program Expense Fund. The account shall
62 consist of moneys received pursuant to this section; moneys, if any, transferred from special
63 revenue funds administered by the Treasurer; or any governmental or private grants and any state

64 general fund appropriations, if any, for the Hope Scholarship Program. All interest and other
65 returns derived from the deposit and investment of moneys in the Hope Scholarship Program
66 Expense Fund shall be credited to the fund. Any balance, including accrued interest and other
67 returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue
68 Fund but shall remain in the fund and be expended as provided by this section.

69 (2) All expenses incurred by the Treasurer or the board in developing and administering
70 the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship
71 Expense Fund.

§18-31-7. Qualifying expenses for Hope Scholarship accounts.

1 (a) Parents of a Hope Scholarship student shall agree to use the funds deposited in their
2 student's Hope Scholarship account only for the following qualifying expenses to educate the
3 student:

4 (1) Ongoing services provided by a public school district pursuant to §18-31-8(f) of this
5 code, including without limitation, individual classes and extracurricular activities and programs;
6 Provided, That notwithstanding §18-5G-3 of this code, a public charter school may invoice a Hope
7 Scholarship student's account for said services;

8 (2) Tuition and fees at a participating school;

9 (3) Tutoring services provided by an individual or a tutoring facility: *Provided*, That such
10 tutoring services are not provided by a member of the Hope Scholarship student's immediate
11 family;

12 (4) Fees for nationally standardized assessments, advanced placement examinations, any
13 examinations related to college or university admission, and tuition and/or fees for preparatory
14 courses for the aforementioned exams;

15 (5) Tuition and fees for programs of study or the curriculum of courses that lead to an
16 industry-recognized credential that satisfies a workforce need;

17 (6) Tuition and fees for nonpublic online learning programs, including, but not limited to,

18 online curriculum courses and tutorial programs;

19 (7) Tuition and fees for alternative education programs;

20 (8) Fees for after-school or summer education programs;

21 (9) Educational services and therapies, including, but not limited to, occupational,
22 behavioral, physical, speech-language, and audiology therapies;

23 (10) Curriculum as defined in §18-31-2 of this code;

24 (11) Instruments or equipment required as part of a music education course or curriculum;

25 ~~(14)~~ (12) Fees for transportation paid to a fee-for-service transportation provider for the
26 student to travel to and from an education service provider; and

27 ~~(12)~~ (13) Any other ~~qualified~~ qualifying expenses as approved by the board established
28 pursuant to §18-31-3 of this code.:Provided, That the board shall adopt rules and procedures for
29 Hope Scholarship students who want to continue to receive services provided by a public school
30 or district.

31 (b) Hope Scholarship funds may only be used for educational purposes in accordance with
32 subsection (a) of this section. Nothing in this section requires that a Hope Scholarship student be
33 enrolled, full- or part-time, in either a private school or nonpublic online school.

34 (c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or
35 student in any manner: Provided, That the board shall adopt procedures for establishing a
36 reimbursement process for any qualifying expenses not available for purchase by a Hope
37 Scholarship parent through the existing online Hope Scholarship Program portal. Any refund or
38 rebate for goods or services purchased with Hope Scholarship funds shall be credited directly to a
39 student's Hope Scholarship account.

40 (d) Nothing in this section prohibits the parents of a Hope Scholarship student from making
41 payments for the costs of educational goods and services not covered by the funds in their
42 student's Hope Scholarship account. However, personal deposits into a Hope Scholarship
43 account are not permitted.

§18-31-8. ~~Renewal~~ Annual continuation of Hope Scholarship accounts; participation in public school system.

1 (a) ~~A parent must renew an eligible recipient's Hope Scholarship on an annual basis. As a~~
2 ~~condition of continued participation in the Hope Scholarship Program from one school to the next,~~
3 ~~a parent must annually meet the following requirements, according to the deadlines and~~
4 ~~procedures established by the Board:~~

5 (1) The parent must submit proof of the student's continued West Virginia residency;

6 (2) The parent must execute the parent agreement with the Board described in §18-31-
7 5(d)(3) of this code ahead of each school year; and

8 (3) The parent must report to the county superintendent of the student's county of
9 residence that the student has complied with all attendance and academic requirements in
10 accordance with subsection (b) of this section for the most recent school year.

11 (b) Notwithstanding any changes in eligibility, effective January 1, 2025, a Hope
12 Scholarship student who has previously qualified for a Hope Scholarship account remains eligible
13 to apply for renewal may continue participation in the program from school year to school year
14 without reapplying for the program until one of the conditions set forth in §18-31-6(f) occurs:
15 *Provided*, That the board shall verify with the Department of Education the following information by
16 July 1 of every year:

17 (1) A list of all active Hope Scholarship Accounts;

18 (2) The resident school district of each Hope Scholarship student;

19 (3) For a Hope Scholarship student who chooses to attend a participating school, annual
20 confirmation of his or her continued attendance at a nonpublic school that complies with all
21 requirements that other nonpublic school students must comply with; and

22 (4) For a Hope Scholarship student who chooses an individualized instructional program:

23 (A) (i) He or she has annually taken a nationally normed standardized achievement test of
24 academic achievement in the subject areas of reading, language, and mathematics, and when

25 available for the student's grade-level, science and social studies;

26 (ii) The mean of the child's overall test results in the subject areas of ~~reading, language,~~
27 ~~mathematics, science, and social studies~~ tested for any single year is within or above the fourth
28 stanine or, if below the fourth stanine, show improvement from the previous year's results; and

29 (iii) The mean of the child's overall test results are reported to the county superintendent; or

30 (B) (i) A certified teacher conducts a review of the student's academic work annually;

31 (ii) The certified teacher determines that the student is making academic progress
32 commensurate with his or her age and ability; and

33 (iii) The certified teacher's determination is reported to the county superintendent.

34 ~~(b)~~ (c) Each county superintendent shall submit the test results and determinations
35 reported to him or her pursuant to subsection (a) of this section to the board and the Department of
36 Education each year on or before June 15.

37 ~~(c)~~ (d) If a parent fails to ~~renew an eligible recipient's Hope Scholarship~~ meet the annual
38 conditions for continued participation in the Hope Scholarship Program described in subsection
39 (a) of this section, the board shall notify the parent that the eligible recipient's account will be
40 closed in 45 calendar days. If a parent ~~chooses not to renew or~~ declines continued participation in
41 the program or does not respond within 30 calendar days of receipt of notice, the board shall close
42 the account and any remaining moneys shall be returned to the state.

43 ~~(d)~~ (e) If an eligible recipient decides to return to the Hope Scholarship Program after failing
44 to ~~renew~~ meet the conditions for continued participation described in subsection (a) of this section,
45 they must reapply.

46 ~~(e)~~ (f) The board, in consultation with the Department of Education, may adopt rules and
47 policies to provide the least disruptive process for Hope Scholarship students who desire to stop
48 receiving Hope Scholarship payments and return full-time to a public school.

49 ~~(f)~~ (g) The board, in consultation with the Department of Education, may adopt rules and
50 policies for Hope Scholarship students who want to continue to receive services provided by a

51 public school or district, including individual classes and extracurricular programs, in combination
52 with an individualized instructional program. The board, in consultation with the Department of
53 Education, shall ensure that any public school or school district providing such services receives
54 the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of
55 total instruction provided to the student by the public school or school district. County boards and
56 charter school governing boards shall charge tuition to Hope Scholarship students who enroll for
57 services in a public school within the county or in a public charter school. Hope Scholarship
58 students who enroll for services part-time in public school shall not be included in net enrollment
59 for state aid funding purposes under §18-9A-2 of this code. Nothing in this subsection prohibits a
60 Hope Scholarship student from using the funds deposited in his or her account on both services
61 provided by a public school or district and other qualifying expenses as provided for in §18-31-7 of
62 this code.

§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.

1 (a) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et*
2 *seq.* of this code for the auditing of individual Hope Scholarship accounts and shall conduct or
3 contract for the random auditing of individual Hope Scholarship accounts as needed to ensure
4 compliance with the requirements of this article and rules promulgated pursuant to this article.

5 (b) As part of the auditing process, the board may remove a parent or eligible recipient from
6 the Hope Scholarship program and close a Hope Scholarship account for failure to comply with the
7 terms of the parental agreement required by §18-31-5 of this code, failure to comply with the
8 applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of
9 Hope Scholarship funds: *Provided*, That the board shall create procedures to ensure that a fair
10 process exists to determine the removal of a parent or eligible recipient from the Hope Scholarship
11 program and a parent or Hope Scholarship student may appeal the decision to make the student
12 ineligible for funds to the board.

13 ~~(c) The board may conduct or contract for the audit of education service providers~~

14 ~~accepting payments from Hope Scholarship accounts, if it determines that the education service~~
15 ~~provider has:~~

16 ~~(1) Intentionally and substantially misrepresented information or failed to refund any~~
17 ~~overpayments in a timely manner; or~~

18 ~~(2) Routinely failed to provide students with promised educational goods or services.~~

19 (c) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 et
20 seq. of this code for the auditing of education service providers and shall conduct or contract for
21 the random auditing of individual providers as needed to ensure compliance with the requirements
22 of this article and rules promulgated pursuant to this article.

23 (d) If the board determines that an education service provider has intentionally and
24 substantially misused Hope Scholarship funds, the board may bar the education service provider
25 from continuing to receive payments. The board shall create procedures to ensure that a fair
26 process exists to determine whether an education service provider may be barred from receiving
27 payment from Hope Scholarship accounts and an education service provider may appeal a
28 decision to bar it from receiving payments to the board. If the board bars an education service
29 provider from receiving payments from Hope Scholarship accounts, it shall notify parents and
30 students of its decision as quickly as possible.

31 (e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it
32 may refer suspected cases to the State Auditor for purposes of investigation, collection, and
33 potential criminal investigation.

§18-31-11. Requirements for and rights of education service providers.

1 (a) To be eligible to accept payments from a Hope Scholarship account, an education
2 service provider shall:

3 (1) Submit notice to the board that they wish to participate in the Hope Scholarship
4 Program;

5 (2) Provide participating parents with a receipt for all qualifying educational expenses for
6 the Hope Scholarship student;

7 (3) Agree not to refund, rebate, or share Hope Scholarship funds with parents or students
8 in any manner, except that funds may be remitted or refunded to a Hope Scholarship account in
9 accordance with §18-31-7(c) of this code;

10 (4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. 1981;

11 (5) ~~Agree to~~ Submit any employee or other person who will have contact with Hope
12 Scholarship students receiving services from the provider to a criminal background check; and
13 certify that said background check does not indicate conviction of a felony involving violence to the
14 person and that the employee or other person is not on a federal or state sex offender registry; and

15 (6) In the case of a participating school, provide notice of each Hope Scholarship student's
16 enrollment annually to the county superintendent of any student for which a student's tuition is
17 being paid through the Hope Scholarship Program.

18 (b) This article does not limit the independence or autonomy of an education service
19 provider or make the actions of an education service provider the actions of the state government.

20 (c) Education service providers shall be given maximum freedom to provide for the
21 educational needs of Hope Scholarship students without governmental control.

22 (d) A participating school or education service provider is not required to alter its creed,
23 practices, admission policy, hiring policy or curriculum in order to accept eligible recipients whose
24 parents pay tuition or fees from a Hope Scholarship account pursuant to this article: Provided,
25 That an education service provider is prohibited from requiring a student or family to pay tuition,
26 costs, or fees above or in addition to the provider's regular tuition or fee schedule based in whole
27 or in part upon a student or family member's participation in the Hope Scholarship program.

28 (e) This article does not expand the regulatory authority of the state, its officers, or any
29 school district to impose any additional regulation of education service providers beyond those
30 necessary to enforce the requirements of the program.

§18-31-14.

Reporting.

- 1 (a) The board shall provide a comprehensive report on the status of the Hope Scholarship
2 Program to the Legislative Oversight Commission on Education Accountability on or before
3 December 31, 2026, and annually on or before December 31 of each year thereafter, addressing
4 the progress of the program throughout the state. As part of the annual report, the board, in
5 collaboration with the state and county boards of education, shall survey participating Hope
6 Scholarship families to determine:
- 7 (1) The types of educational services chosen by Hope Scholarship students;
8 (2) Demographic and geographic data of participating students;
9 (3) Number of students participating with special needs;
10 (4) For Hope Scholarship students who withdrew from a public school, the stated reason
11 for withdrawing;
- 12 (5) County superintendent and Board compliance with Hope Scholarship reporting
13 requirements; and
- 14 (5) Parent satisfaction with the Hope Scholarship Program.
- 15 (b) The board shall use only aggregate, nonidentifying evaluation data when compiling any
16 such public reports.

NOTE: The purpose of this bill is generally relates to the Hope Scholarship Program. The bill provides that microschoools and learning pods have the authority to issue secondary school diplomas. The bill provides that the annual Hope Scholarship Program appropriation calculation will be based on the estimated number of participating students instead of the number of participating students in the prior year. The bill provides that Hope Scholarship students have certain educational privileges made available to other nonpublic school students. The bill provides reporting requirements of Hope Scholarship Students to the State Board of Education, county superintendents and county boards of education. The bill clarifies that Hope Scholarship funds may only be utilized for expenses incurred in a Kindergarten through secondary school education. The bill specifies that a microschoool can be a participating school. The bill permits the State Treasurer to appear by designee at Hope Scholarship Board meetings. The bill modifies the composition of members to the Hope Scholarship Board. The bill modifies definitions. The bill requires parental agreement to include provisions requiring parents to notify the Board if a student reenrolls in public school or graduates from a secondary school program. The bill clarifies that all records and personally identifying information of a Hope Scholarship student, applicant, or parent is confidential and not subject to disclosure pursuant to the West Virginia Freedom of Information Act. The bill clarifies that a kindergarten-level applicant's Hope Scholarship

participation does not commence if the student does not begin kindergarten-level education that school year. The bill establishes a year-round application and awards process. The bill sets forth the annual renewal process for Hope Scholarship parents and students. The bill clarifies that a public charter school may invoice a Hope Scholarship student for educational services. The bill provides that the Hope Scholarship Board may take issues involving Hope Scholarship students in charter schools to the West Virginia Professional Charter School Board. The bill authorizes the Hope Scholarship Board to request certain information from county superintendents and county boards of education. The bill modifies qualifying expenses for Hope Scholarship accounts. The bill requires education service providers conducting background screenings of employees and other persons in contact with students to certify screening results to the board. The bill clarifies that providers may not assess increased or additional fees against Hope Scholarship students based on participation in the program. Finally, the bill adds reporting requirements.

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