

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2954

**FISCAL
NOTE**

2015 Carryover

(BY DELEGATES MILEY, HORNBUCKLE, BATES,
REYNOLDS, PERRY, MOORE, RODIGHIERO AND PUSHKIN)

[Introduced January 13, 2016; referred to the
Committee on Education then Finance.]

1 A BILL to amend and reenact §18C-7-2, §18C-7-3, §18C-7-6 and §18C-7-7 of the Code of West
 2 Virginia, 1931, as amended; and to amend and reenact §29-22A-10b of said code, all
 3 relating to expanding the promise scholarship to technical and community college
 4 students; providing eligibility requirements; allowing State Board of Education to
 5 promulgate rules for institution eligibility and to otherwise criteria for the program; and
 6 transferring moneys from the Greyhound Breeding Development Fund to fund the new
 7 promise program.

Be it enacted by the Legislature of West Virginia:

1 That §18C-7-2, §18C-7-3, §18C-7-6 and §18C-7-7 of the Code of West Virginia, 1931, as
 2 amended, be amended and reenacted; and that §29-22A-10b of said code be amended and
 3 enacted, all to read as follows:

**CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND
 STATE AID.**

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

§18C-7-2. Legislative findings and purpose.

- 1 (a) The Legislature finds and declares that:
- 2 (1) West Virginia must have an educated work force in order to attract and retain the high
 3 wage, high skill jobs of the twenty-first century;
- 4 (2) A large percentage of West Virginia residents who graduate from the state’s colleges
 5 and universities do not work in the state following graduation;
- 6 (3) The percentage of West Virginia’s adult population over the age of twenty-five with at
 7 least a baccalaureate degree is less than fifteen percent and does not compare favorably with the

8 member states of the Southern Regional Education Board average nor with the national average
9 of twenty-five percent;

10 (4) Because a low percentage of state high school graduates attend college at all in West
11 Virginia, and because of the benefits of encouraging these students to pursue training in a field
12 or skill that will allow them to make higher wages by receiving specialized training in careers
13 where there are current job opportunities in West Virginia that pay a higher living wage, that the
14 Promise Scholarship created pursuant to this article be expanded to assist high school graduates
15 who may not qualify or be interested in perusing a baccalaureate or other four year or longer post-
16 secondary education degree, but does allow them to receive a scholarship to receive an education
17 or training from a technical school or a two year degree from a community college;

18 ~~(4)~~ (5) Higher levels of education attainment result in higher levels of personal income
19 over a lifetime;

20 ~~(5)~~ (6) Students who acquire a baccalaureate degree will earn an estimated \$1 million
21 more over their lifetimes than those who attain only a high school diploma. This translates into an
22 increased tax base and economic development for West Virginia and more discretionary income
23 for its citizens;

24 (7) Students that receive a two year degree or trade certification often earn higher salaries
25 than persons receiving baccalaureate degrees, particularly in trades or careers in which there is
26 a high demand;

27 ~~(6)~~ (8) Students at all education levels should have an incentive to perform at a high
28 academic level;

29 ~~(7)~~ (9) There is a need to provide parents with all tools possible to aid them in helping their
30 children understand the importance of high academic achievement in high school and college;

31 ~~(8)~~ (10) The PROMISE Scholarship Program is highly successful and should be

32 maintained with merit as its strongest component. The merit component:

33 (A) Provides an incentive for students to set high academic standards in high school;

34 (B) Encourages students to increase their high school achievement levels;

35 (C) Encourages students to enroll in more rigorous courses;

36 (D) Effects a culture change in West Virginia towards increased education attainment;

37 (E) Results in improved ACT scores in the state since the inception of the program; and

38 (F) Influences increased numbers of students, including those students who are the
39 highest academic achievers, to remain in West Virginia to attend college.

40 (b) It is the purpose of this article to continue the West Virginia PROMISE Scholarship
41 Program to deal effectively with the findings set forth in this section.

42 (c) Nothing in this article guarantees:

43 (1) A PROMISE scholarship award or any specific amount of a PROMISE scholarship
44 award to any student; or

45 (2) That the requirements necessary for a student to qualify for a PROMISE scholarship
46 will not be changed by legislation or rule before the student is eligible to receive an award.

§18C-7-3. Definitions.

1 (a) *General.* -- For the purposes of this article, terms have the meaning ascribed to them
2 in section two, article one of this chapter, unless the context in which the term is used clearly
3 requires a different meaning or a specific definition is provided in this section.

4 (b) *Definitions.* -- (1) "Eligible institution" means:

5 (A) A state institution of higher education as defined in section two, article one, chapter
6 eighteen-b of this code;

7 (B) Alderson-Broaddus College, Appalachian Bible College, Bethany College, Davis and
8 Elkins College, Mountain State University, Ohio Valley University, the University of Charleston,

9 West Virginia Wesleyan College and Wheeling Jesuit University, all in West Virginia. The board,
10 pursuant to section five of this article, shall promulgate by legislative rule, a list of accredited trade
11 schools, community colleges and other institutions eligible for qualification for a student to attend
12 on a two year trade or community college scholarship. Any institution ~~listed in~~ authorized
13 pursuant to this subdivision ceases to be an eligible institution if it meets either of the following
14 conditions:

15 (i) It loses regional accreditation; or

16 (ii) It changes its status as a private, not-for-profit institution;

17 (C) Any other public or private regionally accredited institution in this state approved by
18 the commission.

19 (2) "Tuition" means the quarter, semester or term charges imposed by an eligible state
20 institution of higher education and, additionally, all mandatory fees required as a condition of
21 enrollment by all students. For the purposes of this article, the following conditions apply:

22 (A) West Virginia University, Potomac State College and West Virginia University Institute
23 of Technology are considered separate institutions for purposes of determining tuition rates; and

24 (B) The tuition amount paid by undergraduate health sciences students at West Virginia
25 University is considered to be the same as the amount of tuition paid by all other West Virginia
26 University undergraduate students.

27 (3) "Enrolled" means either currently enrolled or in the process of enrolling in an eligible
28 institution.

§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 a state community college or trade school the annual award
8 is equal to the lesser of the cost of tuition or \$4,750.

9 ~~(2)~~ (3) For a student enrolled in an eligible institution other than a state institution of higher
10 education, the annual award is equal to, but may not exceed, the lesser of the cost of tuition or
11 \$4,750, except that a student who was awarded and used a PROMISE scholarship annual award
12 prior to January 1, 2010, shall continue to receive the annual award calculated under the same
13 terms and conditions that applied on the day before the effective date of this article;

14 ~~(3)~~ (4) The annual award may exceed ~~\$4,750,~~ the designated amount if the commission
15 determines that adequate funds are available, but in any case, may not be greater than the actual
16 cost of tuition;

17 ~~(4)~~ (5) The annual award shall be used by an eligible institution to supplement, but may
18 not supplant, a tuition and fee waiver for which the individual is eligible pursuant to section five,
19 six-a, seven or seven-b, article ten, chapter eighteen-b of this code.

20 (b) The total cost of all scholarships awarded by the commission in any year may not
21 exceed the amount of funds available to the commission during that fiscal year.

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

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

24 (A) Within two years of graduating from high school or within two years of acquiring a
25 general equivalency degree if provided instruction in the home or other approved place pursuant
26 to subsection (c), section one, article eight, chapter eighteen of this code; or

27 (B) Within seven years of initially entering military service, and within one year of discharge

28 from military service, if the individual has entered the United States armed services within two
29 years after graduating from high school;

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

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

38 (B) For admission for an associate degree or trade school certification, maintain a grade
39 point average of at least 2.5 on a 4.0 grading scale in the required core and elective course work
40 necessary to prepare students for success in post-secondary education at the associate degree
41 or trade school certification as determined by the commission, if the individual has completed not
42 more than one semester or term at an approved trade school or community college or institution
43 of higher education, excluding credits earned in advanced placement, international
44 baccalaureate, dual credit and comparable courses while the student is enrolled in high school;

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

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

51 (6) Meet additional objective standards the commission considers necessary to promote

52 academic excellence and to maintain the financial stability of the fund; and

53 (7) Enroll in an eligible institution. A student enrolled at an eligible institution who
54 receives a PROMISE scholarship award may retain and renew the scholarship to complete his or
55 her undergraduate education at that institution or any other eligible institution under the following
56 circumstances:

57 (A) The institution at which the student is enrolled loses its status as an eligible institution
58 pursuant to the provisions of subdivision (1), subsection (b), section three of this article; and

59 (B) The student meets all other renewal requirements of this code and of commission
60 rules.

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

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

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

69 (3) Fostering civic responsibility.

70 (e) The commission shall promulgate a legislative rule in accordance with the provisions
71 of article three-a, chapter twenty-nine-a of this code.

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

73 (A) The amount of a PROMISE scholarship award in combination with aid from all other
74 sources may not exceed the cost of education at the institution the recipient is attending. This
75 provision does not apply to members of the West Virginia National Guard, recipients of an

76 Underwood-Smith teacher scholarship and recipients of a West Virginia engineering, science and
77 technology scholarship;

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

79 (i) To promote academic excellence;

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

81 (iii) To operate the program within the limits of available funds.

82 (C) Provisions for making the highest and best use of the PROMISE Scholarship Program
83 in conjunction with the West Virginia College Prepaid Tuition and Savings Program Act set forth
84 in article thirty, chapter eighteen of this code;

85 (D) A provision defining the relationship of PROMISE scholarship awards to all other
86 sources of student financial aid to ensure maximum coordination. The provision shall include
87 the following:

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

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

90 and

91 (iii) Clarification of the relationship between the PROMISE Scholarship Program, tuition
92 savings plans and other state-funded student financial aid programs;

93 (E) A method for awarding scholarships within the limits of available appropriations,
94 including circumstances when program funds are not sufficient to provide awards to all eligible
95 applicants. The commission may not use any of the following methods:

96 (i) Providing for an annual PROMISE scholarship award that is less than the amounts
97 provided for in this section; or

98 (ii) Eliminating any current recipient from eligibility; and

99 (F) A method for applicants to appeal determinations of eligibility and renewal.

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

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

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

108 (C) Determining what other sources of funding for higher education are to be deducted
109 from the PROMISE scholarship award; and

110 (D) Providing additional criteria as determined by the commission.

111 (3) The Legislature finds that an emergency exists and, therefore upon passage of this
112 Act by the 2015 West Virginia Legislature, the commission shall file a rule to implement the
113 provisions of this section as an emergency rule pursuant to the provisions of article three-a,
114 chapter twenty-nine-a of this code. The rule is subject to the prior approval of the Legislative
115 Oversight Commission on Education Accountability.

116 (4) Any rule promulgated by the commission pursuant to previous enactments of this
117 article in effect on the effective date of the amendment and reenactment of this article in the year
118 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 interest or other income earned from investment of the fund.

9 (b) The allocations to the fund are subject to appropriation by the Legislature. Nothing in
10 this article requires any specific level of funding by the Legislature nor guarantees nor entitles any
11 individual to any benefit or grant of funds.

12 (c) For the fiscal year beginning July 1, 2006, it is the intent of the Legislature that the
13 aggregate of the amount of moneys transferred to the fund pursuant to section eighteen-a, article
14 twenty-two, chapter twenty-nine of this code, and any other amounts of public moneys that may
15 be transferred to the fund by appropriation of the Legislature, shall equal, but may not exceed,
16 \$40 million. For each fiscal year thereafter until and including the fiscal year ending June 30,
17 2009, it is the intent of the Legislature that this aggregate be an amount two percent greater than
18 the aggregate established by this subsection for the prior fiscal year. For the fiscal year
19 beginning July 1, 2009, it is the intent of the Legislature that the aggregate of the amount of
20 moneys transferred to the fund pursuant to section eighteen-a, article twenty-two, chapter twenty-
21 nine of this code and any other amounts of public moneys that may be transferred to the fund by
22 appropriation of the Legislature shall equal \$45 million. For the fiscal year beginning July 1,
23 2010, it is the intent of the Legislature that the aggregate of the amount of moneys transferred to
24 the fund shall equal \$48 million. For the fiscal year beginning July 1, 2011, and every fiscal year
25 thereafter, it is the intent of the Legislature that the aggregate of the amount of moneys transferred
26 to the fund shall equal \$47,500,000.

27 (d) For the fiscal year beginning July 1, 2015, it is the intent of the Legislature that the
28 aggregate of the amount of moneys transferred to the fund pursuant to section ten-b, article

29 twenty-two-a, chapter twenty-nine of this code, and any other amounts of public moneys that may
30 be transferred to the fund by appropriation of the Legislature, shall be utilized to fund Promise
31 scholarships for students enrolled in a state community college or trade school as established
32 pursuant to the provisions of this article during the 2015 regular legislative session.

33 ~~(d)~~ (e) The commission may expend the moneys in the fund to implement the provisions
34 of this article.

CHAPTER 29. MISCELLANEOUS BOARDS & OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-10b. Distribution of excess net terminal income.

1 (a) For all years beginning on or after July 1, 2001, any amount of net terminal income
2 generated annually by a licensed racetrack in excess of the amount of net terminal income
3 generated by that licensed racetrack during the fiscal year ending on June 30, 2001, shall be
4 divided as follows:

5 (1) The commission shall receive forty-one percent of net terminal income, which the
6 commission shall deposit in the state Excess Lottery Revenue Fund created in section eighteen-
7 a, article twenty-two of this chapter;

8 (2) Until July 1, 2005, eight percent of net terminal income at a licensed racetrack shall be
9 deposited in the special fund established by the licensee and used for payment of regular purses
10 in addition to other amounts provided in article twenty-three, chapter nineteen of this code; on
11 and after July 1, 2005, the rate shall be four percent of net terminal income;

12 (3) The county where the video lottery terminals are located shall receive two percent of
13 the net terminal income: *Provided, That:*

14 (A) Any amount by which the total amount under this section and subdivision (3),

15 subsection (c), section ten of this article is in excess of the two percent received during fiscal year
16 1999 by a county in which a racetrack is located that has participated in the West Virginia
17 Thoroughbred Development Fund since on or before January 1, 1999, shall be divided as follows:

18 (i) The county shall receive fifty percent of the excess amount; and

19 (ii) The municipalities of the county shall receive fifty percent of the excess amount, the
20 fifty percent to be divided among the municipalities on a per capita basis as determined by the
21 most recent decennial United States census of population; and

22 (B) Any amount by which the total amount under this section and subdivision (3),
23 subsection (c), section ten of this article is in excess of the two percent received during fiscal year
24 1999 by a county in which a racetrack other than a racetrack described in paragraph (A) of this
25 proviso is located and where the racetrack has been located in a municipality within the county
26 since on or before January 1, 1999, shall be divided, if applicable, as follows:

27 (i) The county shall receive fifty percent of the excess amount; and

28 (ii) The municipality shall receive fifty percent of the excess amount; and

29 (C) This proviso shall not affect the amount to be received under this subdivision by any
30 county other than a county described in paragraph (A) or (B) of this proviso;

31 (4) One half of one percent of net terminal income shall be paid for and on behalf of all
32 employees of the licensed racing association by making a deposit into a special fund to be
33 established by the Racing Commission to be used for payment into the pension plan for all
34 employees of the licensed racing association;

35 (5) The West Virginia Thoroughbred Development Fund created under section thirteen-b,
36 article twenty-three, chapter nineteen of this code and the West Virginia Greyhound Breeding
37 Development Fund created under section ten of said article shall receive an equal share of a total
38 of not less than one and one half percent of the net terminal income: Provided, That

39 notwithstanding the provisions of this subsection to the contrary, starting the fiscal year that
40 begins July 1, 2014, the share or moneys that have been deposited into the Greyhound Breeding
41 Development Fund shall henceforth be deposited into the West Virginia PROMISE Scholarship
42 Fund established pursuant to section seven, article seven, chapter eighteen-c of this code.

43 (6) The West Virginia Racing Commission shall receive one percent of the net terminal
44 income which shall be deposited and used as provided in section thirteen-c, article twenty-three,
45 chapter nineteen of this code;

46 (7) A licensee shall receive forty-two percent of net terminal income;

47 (8) The tourism promotion fund established in section twelve, article two, chapter five-b of
48 this code shall receive three percent of the net terminal income: *Provided*, That for each fiscal
49 year beginning after June 30, 2004, this three percent of net terminal income shall be distributed
50 pursuant to the provisions of paragraph (B), subdivision (8), subsection (c), section ten of this
51 article;

52 (9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited
53 into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,
54 chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money
55 generated by this subdivision together with the total allocation transferred by the operation of
56 subdivision (9), subsection (c), section ten of this article totals \$11million all subsequent
57 distributions under this subdivision (9) during that fiscal year shall be deposited in the special fund
58 established by the licensee and used for payment of regular purses in addition to other amounts
59 provided in article twenty-three, chapter nineteen of this code;

60 (B) The deposit of the four percent of net terminal income into the Worker's Compensation
61 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to
62 these funds, which shall be deposited in the special fund established by the licensee and used

63 for payment of regular purses in addition to the other amounts provided in article twenty-three,
64 chapter nineteen of this code on and after the first day of the month following the month in which
65 the Governor certifies to the Legislature that: (i) The revenue bonds issued pursuant to article
66 two-d, chapter twenty-three of this code have been retired or payment of the debt service is
67 provided for; and (ii) that an independent certified actuary has determined that the unfunded
68 liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided
69 in its entirety; and

70 (10) (A) One percent of the net terminal income shall be deposited in equal amounts in
71 the capitol dome and improvements fund created under section two, article four, chapter five-a of
72 this code and cultural facilities and capitol resources matching grant program fund created under
73 section three, article one of this chapter; and

74 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for
75 each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall be
76 distributed pursuant to the provisions of subparagraph (ii), paragraph (B), subdivision (9),
77 subsection (c), section ten of this article.

78 (b) The commission may establish orderly and effective procedures for the collection and
79 distribution of funds under this section in accordance with the provisions of this section and section
80 ten of this article.

NOTE: The purpose of this bill is to establish a PROMISE Scholarship for West Virginia residents similar to the one that exists for students working towards a four year baccalaureate degree. Using funds currently derived from winnings for slots at state racetracks, which are currently directed to greyhound breeding and development, the scholarships would be directed to resident students who have maintained at least a 2.5 GPA in high school would be eligible for the scholarship for a two year community college or trade school, in the same amount as currently is available for other Promise Scholar recipients.

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