

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **ENROLLED**

#### **Committee Substitute**

**for**

#### **House Bill 2001**

BY DELEGATES HANSHAW (MR. SPEAKER), QUEEN,

BARRETT, G. WARD, HOTT, MAYNARD, J. PACK, RILEY, L.

PACK, ROWAN AND WESTFALL

[Passed March 11, 2021; in effect ninety days from passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
2 sections, designated §11-21-12m and §11-21-25; to amend said code by adding thereto  
3 a new section, designated §11-24-10a; to amend said code by adding thereto a new  
4 article, designated §18-30A-1, §18-30A-2, §18-30A-3, §18-30A-4, §18-30A-5, §18-30A-6,  
5 §18-30A-7, §18-30A-8, §18-30A-9, §18-30A-10, §18-30A-11, §18-30A-12, §18-30A-13,  
6 §18-30A-14, §18-30A-15, and §18-30A-16, all relating generally to creating the West  
7 Virginia Jumpstart Savings Program; providing a short title; providing legislative findings;  
8 defining terms; requiring the program to be operable by a certain date; creating the West  
9 Virginia Jumpstart Savings Board; establishing requirements for board membership,  
10 appointment, and procedures; allowing board members to be reimbursed for reasonable  
11 expenses; establishing the powers of the board; authorizing the board to promulgate  
12 legislative rules; establishing the duties and powers of the Treasurer related to the  
13 program; establishing the Jumpstart Savings Trust and Trust Fund and requirements for  
14 said fund; establishing the Jumpstart Savings Expense Fund and establishing  
15 requirements for said fund; authorizing the board to use financial organizations as program  
16 depositories and managers and providing requirements therefor; establishing  
17 requirements for opening a Jumpstart Savings account and making deposits to an  
18 account; authorizing the Treasurer to make a deposit into a newly opened Jumpstart  
19 Savings account when certain conditions are met; providing requirements for distributions  
20 from an account; specifying when a distributee is entitled to tax benefits; providing that a  
21 change in account beneficiary is not a distribution if the new beneficiary is a family member  
22 of the previous beneficiary; providing when expenditures of account distributions are  
23 qualified expenses; allowing a personal income tax decreasing modification for certain  
24 contributions to an account and allowing said modification to be carried forward over five  
25 years; allowing a personal income tax decreasing modification for distributions from an  
26 account used for qualified expenses; allowing a personal income tax decreasing

27 modification for a rollover of distributions from a college savings account to a Jumpstart  
28 Savings account; allowing a personal income tax decreasing modification for a rollover of  
29 distributions from a Jumpstart Savings account to a West Virginia ABLE account; allowing  
30 a tax credit against personal income tax or corporate net income tax for certain matching  
31 contributions to accounts of employees; providing reporting and auditing requirements for  
32 the Jumpstart Savings Program; authorizing certain training and educational entities and  
33 employers to share information with the board and the Treasurer related to program  
34 participation; exempting certain personal information regarding program participants from  
35 disclosure under the state's Freedom of Information Act; limiting liability of the Treasurer,  
36 the board, and the state related to the program; and requiring the board to promulgate  
37 certain legislative rules.

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

## **CHAPTER 11. TAXATION.**

### **ARTICLE 21. PERSONAL INCOME TAX.**

#### **§11-21-12m. Additional modifications related to a Jumpstart Savings Account.**

1 (a) *Modification for contributions.* –

2 (1) For taxable years beginning on or after January 1, 2022, in addition to amounts  
3 authorized to be subtracted from federal adjusted gross income pursuant to §11-21-12 of this  
4 code, a modification reducing federal adjusted gross income is hereby authorized in an amount  
5 equal to a West Virginia taxpayer's contribution to a Jumpstart Savings Account for the taxable  
6 year in which the payment is made, in accordance with §18-30A-1 *et seq.* of this code, but only  
7 to the extent the amount is not allowable as a deduction when arriving at the taxpayer's federal  
8 adjusted gross income for the taxable year.

9 (2) The decreasing modification allowed pursuant to this subsection may not exceed  
10 \$25,000 in a single taxable year: *Provided*, That the taxpayer may also elect to carry forward the

11 modification over a period not to exceed five taxable years, beginning in the taxable year in which  
12 the contribution was made.

13 (b) *Modification for distributions.* –

14 (1) For taxable years beginning on or after January 1, 2022, in addition to amounts  
15 authorized to be subtracted from federal adjusted gross income pursuant to §11-21-12 of this  
16 code, a modification reducing federal adjusted gross income is hereby authorized in an amount  
17 equal to the portion of a distribution from a Jumpstart Savings Account received by a distributee  
18 that is used to pay for qualified expenses, as defined in §18-30A-11 of this code. Such decreasing  
19 modification is authorized for the taxable year the distribution is made to the distributee, but only  
20 to the extent the distribution amount is not allowable as a deduction when arriving at the  
21 distributee’s federal adjusted gross income for the taxable year when the distribution was made.  
22 Any decreasing modification applied by a distributee shall be subject to disallowance to the extent  
23 that the distributed moneys are not used to pay for qualified expenses, as defined in §18-30A-11  
24 of this code in the taxable year of receipt of the distribution or the next succeeding taxable year.

25 (2) The decreasing modification allowed pursuant to this subsection may not exceed  
26 \$25,000 for the taxable year.

27 (3) For the purposes of this section, the term “distributee” means the beneficiary or the  
28 owner of a Jumpstart Savings Account who is authorized to receive distributions from the account,  
29 according to §18-30A-1 *et seq.* of this code and the legislative rules and procedures adopted by  
30 the Jumpstart Savings Board.

31 (c) *Modification for rollover of certain distributions.* – In addition to amounts authorized to  
32 be subtracted from federal adjusted gross income pursuant to §11-21-12 of this code, a  
33 modification reducing federal adjusted gross income is hereby authorized for the account owner,  
34 to the extent that the amount is not allowable as a deduction when arriving at the account owner’s  
35 federal adjusted gross income, in the amount as follows:

36 (1) An amount equal to a distribution from a Jumpstart Savings Account received in the  
37 taxable year, if the account owner deposits such amount into a West Virginia ABLE Account within  
38 30 days of receiving the distribution, according to the requirements of §18-30A-1 *et seq.* of this  
39 code; and

40 (2) An amount equal to the portion of a distribution received in the taxable year from a  
41 college savings account, established pursuant to §18-30-1 *et seq.* of this code, if the taxpayer  
42 deposits the amount into a Jumpstart Savings Account within 30 days of receiving the distribution  
43 according to the requirements of §18-30A-1 *et seq.* of this code.

44 (d) Nothing in this section shall be construed to decrease or otherwise impact any person's  
45 federal tax obligations or to authorize any act which violates federal law.

**§11-21-25. Nonrefundable credit for matching contribution to employee's Jumpstart Savings Account.**

1 (a) A nonrefundable credit against the tax imposed by the provisions of this article is  
2 allowed against the tax liability imposed under this article of a qualified employer, for a matching  
3 contribution made to a Jumpstart Savings Account in the taxable year, if the beneficiary of the  
4 account is an employee of the taxpayer and a West Virginia resident, subject to the requirements  
5 of §18-30A-1 *et seq.* and the following:

6 (1) The employer must directly contribute an amount to a Jumpstart Savings Account that  
7 is equal to a contribution made by the employee to such account in the same taxable year.

8 (2) The credit allowed by this section may not exceed \$5,000 per employee per taxable  
9 year.

10 (3) The amount of the credit may not exceed the portion of the contribution that is  
11 attributable to the employer and that would otherwise be derived by the employer as income from  
12 his or her business for the taxable year.

13 (4) The employer may not claim the credit if the employer himself or herself is the account  
14 beneficiary of the account to which the matching contribution was made.

15           (5) An employer may not claim a credit against more than one type of tax for a single  
16 contribution to a Jumpstart Savings Account.

17           (b) The credit provided by this section is only allowed to the extent the amount is not  
18 allowable as a deduction when arriving at the taxpayer's federal adjusted gross income for the  
19 taxable year in which the contribution is made.

20           (c) In order to qualify for the credit provided by this section, an employer must submit any  
21 forms or other information, as required by the West Virginia Jumpstart Savings Board or the State  
22 Treasurer, and the Tax Commissioner, upon making the contribution.

23           (d) *Conduit Entities and Proprietorships Personal Income Taxes.* —

24           (1) If the employer directly contributing an amount to a Jumpstart Savings Account is an  
25 electing small business corporation (as defined in Section 1361 of the United States Internal  
26 Revenue Code of 1986, as amended), a partnership, a limited liability company that is treated as  
27 a partnership for federal income tax purposes, or a sole proprietorship, then credit authorized  
28 pursuant to this section is allowed as a credit against the taxes imposed by this article on the flow  
29 through income of S corporation shareholders, partners, owners, and limited liability company  
30 members derived from such electing small business corporation, partnership, or limited liability  
31 company attributable to business or other activity.

32           (2) If the employer directly contributing an amount to a Jumpstart Savings Account is a  
33 sole proprietor, then credit authorized pursuant to this section is allowed as a credit against the  
34 taxes imposed by this article on the income of the sole proprietor attributable to the business.

35           (3) Electing small business corporations, limited liability companies, partnerships, and  
36 other unincorporated organizations shall allocate the credit allowed by this article among its  
37 partners, owners, shareholders, or members in the same manner as profits and losses are  
38 allocated for the taxable year.

39 (4) No credit is allowed under this section against any employer withholding taxes  
40 imposed by this article.

41 (5) Credit allowed under this section must be used in the tax year in which the contribution  
42 is made. Credit may not be carried back to a prior tax year nor carried forward to a subsequent  
43 tax year. Any amount of unused credit is forfeited.

**ARTICLE 24. CORPORATION NET INCOME TAX.**

**§11-24-10a. Nonrefundable credit for matching contribution to employee's Jumpstart Savings Account.**

1 (a) A nonrefundable credit against the tax imposed by the provisions of this article is  
2 allowed for a matching contribution to a Jumpstart Savings Account made in the taxable year if  
3 the beneficiary of the account is an employee of the taxpayer and a West Virginia resident, subject  
4 to the requirements of §18-30A-1 *et seq.* and the following:

5 (1) The employer must directly contribute an amount to a Jumpstart Savings Account that  
6 is equal to a contribution made by the employee to such account in the same taxable year.

7 (2) The credit allowed by this section may not exceed \$5,000 per employee per taxable  
8 year.

9 (3) An employer may not claim the credit against more than one type of tax for a single  
10 contribution to a Jumpstart Savings Account.

11 (b) The credit provided by this section is only allowed to the extent the amount is not  
12 allowable as a deduction when arriving at the taxpayer's federal adjusted gross income for the  
13 taxable year in which the contribution is made.

14 (c) In order to qualify for the credit provided by this section, an employer must submit any  
15 forms or other information, as required by the West Virginia Jumpstart Savings Board or the State  
16 Treasurer, or the Tax Commissioner, upon making the contribution.

17 (d) *Conduit Entities Corporation Net Income Tax.* —

18 (1) If the employer directly contributing an amount to a Jumpstart Savings Account is an  
19 electing small business corporation (as defined in Section 1361 of the United States Internal  
20 Revenue Code of 1986, as amended), a partnership, or a limited liability company that is treated  
21 as a partnership for federal income tax purposes, then credit authorized pursuant to this section  
22 is allowed as a credit against the taxes imposed by this article on the flow through income of S  
23 corporation shareholders, partners, owners, and limited liability company members derived from  
24 such electing small business corporation, partnership, or limited liability company attributable to  
25 business or other activity.

26 (2) Electing small business corporations, limited liability companies, partnerships, and  
27 other unincorporated organizations shall allocate the credit allowed by this article among its  
28 corporate partners, owners, shareholders, or members in the same manner as profits and losses  
29 are allocated for the taxable year.

30 (3) No credit is allowed under this section against any employer withholding taxes imposed  
31 by this article.

32 (4) The credit allowed under this section must be used in the tax year in which the  
33 contribution is made. Credit may not be carried back to a prior tax year nor carried forward to a  
34 subsequent tax year. Any amount of unused credit is forfeited.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 30A. WEST VIRGINIA JUMPSTART SAVINGS ACT.**

#### **§18-30A-1. Short Title.**

1 This article shall be known, and may be cited as, the “West Virginia Jumpstart Savings  
2 Act”.

#### **§18-30A-2. Findings.**

1 The Legislature recognizes the importance of cultivating an environment in West Virginia  
2 where our tradespersons and entrepreneurs can be successful in their careers and remain in their

3 home state. The Legislature finds that a savings and investment program to assist our citizens  
4 who wish to embark on a new trade or establish a new business within this state, is an investment  
5 in the future of West Virginia and its hardworking citizens.

**§18-30A-3. Definitions.**

1 For the purposes of this article, the following terms shall have the following meanings:

2 (1) "Account owner" means the person who opens and invests money into a Jumpstart  
3 Savings Account, as provided in this article.

4 (2) "Beneficiary" means the person designated as a beneficiary at the time an account is  
5 established, or the individual designated as the beneficiary when the beneficiary is changed.

6 (3) The "board" means the West Virginia Jumpstart Savings Board created in §18-30A-5  
7 of this code.

8 (4) "Contribution" means any amount of money deposited into a Jumpstart Savings  
9 Account according to the procedures established and required by the board or the Treasurer.

10 (5) "Deduction" as used in this article has the same meaning as when used in a  
11 comparable context in the laws of the United States relating to income taxes, unless a different  
12 meaning is clearly required. Deduction means and refers to a deduction allowable under the  
13 federal income tax code for the purpose of determining federal taxable income or federal adjusted  
14 gross income, unless text clearly indicates otherwise.

15 (6) "Distributee" has the same meaning provided in §11-21-12m of this code.

16 (7) "Distribution" means any disbursement from an account.

17 (8) The term "family member", as used to describe a person's relationship to a designated  
18 beneficiary, includes any of the following:

19 (A) The spouse of the beneficiary;

20 (B) A child of the beneficiary or a descendant of the beneficiary's child;

21 (C) A brother, sister, stepbrother, or stepsister of the beneficiary;

22 (D) The father or mother of the beneficiary, or an ancestor of either;

23 (E) A first cousin of the beneficiary;

24 (F) A stepfather or stepmother of the beneficiary;

25 (G) A son or daughter of a brother or sister of the beneficiary;

26 (H) A brother or sister of the father or mother of the beneficiary;

27 (I) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or  
28 sister-in-law of the beneficiary; or

29 (J) The spouse of any person described in paragraphs (A) through (I) of this subdivision.

30 (K) Any term set forth in this subdivision means and includes such term as established  
31 through a lawful adoption, including, but not limited to, adoptions of a child or children, or other  
32 natural person, by a natural person or natural persons who are not the father, mother, or  
33 stepparent of the child or person.

34 (9) "Labor organization" means any organization, agency, association, union, or employee  
35 representation committee of any kind that exists, in whole or in part, to assist employees in  
36 negotiating with employers concerning grievances, labor disputes, wages, rates of pay, or other  
37 terms or conditions of employment.

38 (10) The "program" refers to the Jumpstart Savings Program established by this article.

39 (11) The "Treasurer" refers to the West Virginia State Treasurer or his or her designee.

**§18-30A-4. West Virginia Jumpstart Savings Program established.**

1 The West Virginia Jumpstart Savings Program is hereby established, to be operable on  
2 or before July 1, 2022. The board shall implement and administer the program under the terms  
3 and conditions required by this article.

**§18-30A-5. West Virginia Jumpstart Savings Board; members; terms; compensation;  
proceedings generally.**

1 (a) The West Virginia Jumpstart Savings Program shall be administered by the West  
2 Virginia Jumpstart Savings Board.

3 (b) The board consists of seven members and includes the following:

4 (1) The State Treasurer;

5 (2) The State Superintendent of Schools, or his or her designee;

6 (3) The Chancellor of the West Virginia Community and Technical College System, or his  
7 or her designee;

8 (4) Four members, appointed by the Governor, with knowledge, skill, and experience in  
9 trade occupations or businesses, to be appointed as follows:

10 (A) A member representing a labor organization that represents tradespersons in this  
11 state;

12 (B) A member representing a business or entity offering apprenticeships in this state; and

13 (C) Two private citizens not employed by, or an officer of, the state or any political  
14 subdivision of the state.

15 (c) The members designated in this section to be appointed by the Governor are so  
16 appointed with the advice and consent of the Senate.

17 (d) Only state residents are eligible for appointment to the board.

18 (e) Members appointed by the Governor serve a term of five years and are eligible for  
19 reappointment at the expiration of their terms. If there is a vacancy among appointed members,  
20 the Governor shall appoint a person meeting the requirements of this section to fill the unexpired  
21 term. Members of the board serve until the later of the expiration of the term for which the member  
22 was appointed or the appointment of a successor.

23 (f) Members of the board serve without compensation. The Treasurer may pay all  
24 reasonable expenses, including travel expenses, actually incurred by board members in the  
25 conduct of their official duties. Expense payments are made from the Jumpstart Savings Expense  
26 Account and are made at the same rates and in the same manner as travel reimbursements are  
27 paid to state employees.

28 (g) The Treasurer is the chairman and presiding officer of the board and shall appoint the  
29 employees the board considers advisable or necessary.

30 (h) The board shall adopt bylaws and rules of procedure at its first official meeting. A  
31 majority of the members of the board constitutes a quorum for the transaction of the business of  
32 the board.

**§18-30A-6. Powers of the board.**

1 The board is authorized to take any lawful action necessary to effectuate the provisions of  
2 this article and successfully administer the program, subject to applicable state and federal law,  
3 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, auditors, counsel,  
7 managers, trustees, and any other contractor or professional needed for rendering professional  
8 and technical assistance and advice: *Provided*, That selection of these services is not subject to  
9 the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That all expenditures and  
10 monetary and financial transactions shall be subject to periodic audits by the Office of Chief  
11 Inspector, or the Legislative Auditor, or both;
- 12 (3) Implement the program through use of financial organizations as account depositories  
13 and managers, as provided in §18-30A-9 of this code;
- 14 (4) Develop and impose requirements, policies, procedures, and guidelines to implement  
15 and manage the program;
- 16 (5) Establish the method by which funds shall be allocated to pay for administrative costs  
17 and assess, collect, and expend administrative fees, charges, and penalties;
- 18 (6) Authorize the assessment, collection, and retention of fees and charges against the  
19 amounts paid into and the earnings on the trust funds by a financial institution, investment  
20 manager, fund manager, West Virginia Investment Management Board, the Board of Treasury  
21 Investments, or other professional managing or investing the trust funds and accounts;

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

27 (8) Solicit and accept gifts, including bequests or other testamentary gifts made by will,  
28 trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from  
29 any source, or to participate in any other way in any federal, state, or local governmental programs  
30 in carrying out the purposes of this article: *Provided*, That the board shall use the property  
31 received to effectuate the desires of the donor, and shall convert the property received into cash  
32 within 90 days of receipt; and

33 (9) Propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this  
34 code.

**§18-30A-7. Powers and duties of the Treasurer.**

1 (a) In order to implement and administer the program, the Treasurer shall:

2 (1) Provide support staff and office space for the board;

3 (2) Establish and monitor, at the direction of the board, the methods and processes by  
4 which the funds held in accounts are deposited and distributed;

5 (3) Charge and collect any necessary administrative fees, penalties, and service charges  
6 in connection with any agreement, contract, or transaction relating to the program;

7 (4) Develop marketing plans and promotional material to ensure that potential program  
8 beneficiaries will be aware of the program and the advantages the program offers; and

9 (5) Present the annual evaluations and reports required by §18-30A-13 of this code at any  
10 meeting or proceeding of the Legislature or the Office of the Governor upon request.

11 (b) In order to implement and administer the program, the Treasurer may:

12 (1) Collect all necessary information from program account holders and beneficiaries;

13 (2) Create forms necessary for implementation of the program;

14 (3) Propose legislative rules for legislative approval, in accordance with the provisions of  
15 §29A-3-1 *et seq.* of this code, that are necessary to effectuate the provisions and purposes of this  
16 article; and

17 (4) Perform all other lawful actions necessary to effectuate the provisions of this article,  
18 subject to applicable state and federal law.

**§18-30A-8. West Virginia Jumpstart Savings Trust; Trust Fund; and Expense Fund created.**

1 (a) The board shall establish the Jumpstart Savings Program Trust, and a Jumpstart  
2 Savings Program Trust Fund Account, titled the Jumpstart Savings Trust Fund, within the  
3 accounts held by the Treasurer or with a financial institution, an investment manager, a fund  
4 manager, the West Virginia Investment Management Board, the Board of Treasury Investments,  
5 or any other person for the purpose of managing and investing the trust fund. Assets of the  
6 Jumpstart Savings Program Trust are held in trust for account owners and beneficiaries.

7 (b) The Jumpstart Savings Trust Fund shall receive all moneys from account owners on  
8 behalf of beneficiaries or from any other source, public or private. Earnings derived from the  
9 investment of the moneys in the Jumpstart Savings Trust Fund shall remain in the fund, held in  
10 trust in the same manner as contributions, except as refunded, applied for purposes of the  
11 beneficiaries, and applied for purposes of maintaining and administering the program.

12 (c) The corpus, assets, and earnings of the Jumpstart Savings Trust Fund do not constitute  
13 public funds of the state and are available solely for carrying out the purposes of this article. Any  
14 contract entered into by, or any obligation of the board on behalf of and for the benefit of the  
15 program, does not constitute a debt or obligation of the state but is solely an obligation of the  
16 Jumpstart Savings Trust Fund.

17 (d) All interest derived from the deposit and investment of moneys in the Jumpstart  
18 Savings Trust Fund shall be credited to the fund. At the end of any fiscal year, all unexpended

19 and unencumbered moneys in the trust fund may not be credited or transferred to the State  
20 General Fund or to any other fund.

21 (e) In order to fulfill the charitable and public purposes of this article, neither the earnings  
22 nor the corpus of the Jumpstart Savings Trust Fund is subject to taxation by the state or any of  
23 its political subdivisions.

24 (f) Notwithstanding any provision of this code to the contrary, money in the Jumpstart  
25 Savings Trust Fund is exempt from creditor process and not subject to attachment, garnishment,  
26 or other process; is not available as security or collateral for any loan, or otherwise subject to  
27 alienation, sale, transfer, assignment, pledge, encumbrance, or charge; and is not subject to  
28 seizure, taking, appropriation, or application by any legal or equitable process or operation of law  
29 to pay any debt or liability of any account owner, beneficiary, or successor in interest.

30 (g) (1) The Jumpstart Savings Program Expense Fund is hereby established in the State  
31 Treasury.

32 (2) The Jumpstart Savings Expense Fund shall receive all fees, charges, and penalties  
33 collected by the board. Expenditures from the fund are authorized from collections subject to  
34 appropriations made by the Legislature.

35 (3) All expenses incurred by the board or the Treasurer in developing and administering  
36 the program shall be payable from the Jumpstart Savings Expense Fund.

**§18-30A-9. Use of financial organizations as program depositories and managers.**

1 (a) The board may implement the program through use of financial organizations as  
2 account depositories and managers. The board may solicit proposals from financial organizations  
3 to act as depositories and managers of the program. Financial organizations submitting proposals  
4 shall describe the investment instruments which will be held in accounts. The board may select  
5 more than one financial organization and investment instrument for the program. The board shall  
6 select financial organizations to act as program depositories and managers from among the

7 bidding financial organizations that demonstrate the most advantageous combination, both to  
8 potential program participants and this state, based on the following criteria:

9 (1) The financial stability and integrity of the financial organization;

10 (2) The safety of the investment instrument being offered;

11 (3) The ability of the financial organization to satisfy recordkeeping and reporting  
12 requirements;

13 (4) The financial organization's plan for promoting the program and the investment the  
14 organization is willing to make to promote the program;

15 (5) The fees, if any, proposed to be charged to the account owners;

16 (6) The minimum initial deposit and minimum contributions that the financial organization  
17 will require;

18 (7) The ability of the financial organization to accept electronic deposits and withdrawals,  
19 including payroll deduction plans; and

20 (8) Other benefits to the state or its residents included in the proposal, including fees  
21 payable to the state to cover expenses of operation of the program.

22 (b) The board may enter into any contracts with a financial organization necessary to  
23 effectuate the provisions of this article. Any management contract shall include, at a minimum,  
24 terms requiring the financial organization to:

25 (1) Take any action required to keep the program in compliance with requirements of this  
26 article and any other applicable state or federal law;

27 (2) Keep adequate records of each account, keep each account segregated from each  
28 other account, and provide the board with the information necessary to prepare the statements  
29 required by this article and other applicable state and federal laws;

30 (3) Compile, summarize, and total information contained in statements required to be  
31 prepared under this article and applicable state and federal laws and provide such compilations  
32 to the board;

33           (4) Provide the board with access to the books and records of the program manager and  
34 with any other information needed to determine compliance with the contract, this article, and any  
35 other applicable state or federal law;

36           (5) Hold all accounts for the benefit of the account owner or owners;

37           (6) Be audited at least annually by a firm of certified public accountants selected by the  
38 program manager and provide the results of such audit to the board;

39           (7) Provide the board with copies of all regulatory filings and reports made by the financial  
40 organization during the term of the management contract or while the financial organization is  
41 holding any accounts, other than confidential filings or reports that will not become part of the  
42 program. The program manager shall make available for review by the board and the Treasurer  
43 the results of any periodic examination of such manager by any state or federal banking,  
44 insurance, or securities commission, except to the extent that such report or reports may not be  
45 disclosed under law; and

46           (8) Ensure that any description of the program, whether in writing or through the use of  
47 any medium, is consistent with the marketing plan developed pursuant to the provisions of this  
48 article.

49           (c) The board may:

50           (1) Enter into contracts it deems necessary for the implementation of the program;

51           (2) Require that an audit be conducted of the operations and financial position of the  
52 program depository and manager at any time if the board has any reason to be concerned about  
53 the financial position, the record keeping practices, or the status of accounts of such program  
54 depository and manager; and

55           (3) Terminate or decline to renew a management agreement. If the board terminates or  
56 does not renew a management agreement, the board shall take custody of accounts held by such  
57 program manager and shall seek to promptly transfer such accounts to another financial

58 organization that is selected as a program manager or depository and into investment instruments  
59 as similar to the original instruments as possible.

**18-30A-10. Opening a Jumpstart Savings Account; deposits.**

1 (a) Beginning on July 1, 2022, a person may open a Jumpstart Savings Account.

2 (b) To open a Jumpstart Savings Account, the account owner must:

3 (1) Provide all information required by the Treasurer;

4 (2) Make a minimum opening deposit of \$25; and

5 (3) Name a single person as the designated beneficiary: *Provided*, That the designated  
6 beneficiary may be the account owner himself or herself, or another person: *Provided, however*,  
7 That the beneficiary may not be a business, corporation, or enterprise.

8 (c) The Treasurer will deposit \$100 from the Jumpstart Savings Expense Fund into a newly  
9 opened Jumpstart Savings Account if the following criteria are met:

10 (1) The designated beneficiary is a resident of West Virginia; and

11 (2) The account is opened when the designated beneficiary is under 18 years of age; or

12 (3) The account is opened within the 180 days following the date of the designated  
13 beneficiary's enrollment in an apprenticeship or educational program described in  
14 §18-30A-11(c)(1)(A) of this code.

15 (d) Any person may make a contribution to a Jumpstart Savings Account after the account  
16 is opened, subject to applicable state and federal laws.

17 (e) The Treasurer shall prescribe all forms required to open and make deposits to a  
18 Jumpstart Savings Account and make the forms available in a prominent location on the  
19 Treasurer's website.

**§18-30A-11. Distributions; qualified expenses.**

1 (a) A distribution from a Jumpstart Savings Account that was used to pay for qualified  
2 expenses, as defined in subsection (c) of this section, shall establish entitlement of the distributee  
3 to the personal income tax decreasing modification authorized by §11-21-12m(b) of this code,

4 and such decreasing modification may be applied to determine West Virginia adjusted gross  
5 income of the distributee in the taxable year in which such qualified expenses were paid.

6 (b) A change in the designated beneficiary of a Jumpstart Savings Account is not a  
7 distribution for the purposes of this article or §11-21-1 *et seq.* of this code if the new beneficiary  
8 is a family member of the prior beneficiary.

9 (c) *Qualified expenses.* —

10 (1) For the purposes of this article and §11-21-12m of this code, expenditures of  
11 distributions for the following purposes are qualified expenses:

12 (A) The purchase of tools, equipment, or supplies by the beneficiary to be used exclusively  
13 in an occupation or profession for which the beneficiary is required to:

14 (i) Complete an apprenticeship program registered and certified with the United States  
15 Department of Labor, as provided in 29 U.S.C. §50;

16 (ii) Complete an apprenticeship program required by any provision of this code or a  
17 legislative rule promulgated pursuant to this code;

18 (iii) Earn a license or certification from an Advanced Career Education (ACE) career  
19 center; or

20 (iv) Earn an associate degree or certification from a community and technical college.

21 (B) Fees for required certification or licensure for the beneficiary to practice a trade or  
22 occupation described in paragraph (A) of this subdivision in this state; and

23 (C) Costs incurred by the beneficiary that are necessary to establish a business in this  
24 state in which the beneficiary will practice an occupation or profession described in paragraph (A)  
25 of this subdivision, when the costs are exclusively incurred and paid for the purpose of  
26 establishing and operating such business.

27 (2) In no event shall any dues, fees, subscriptions, or any other payments to a labor  
28 organization constitute qualified expenses for the purposes of this article.

**§18-30A-12. State tax benefits related to a Jumpstart Savings Account.**

1 (a) As provided in §11-21-12m, §11-21-25, and §11-24-10a of this code, contributions,  
2 distributions, and employer matching contributions are eligible for specified decreasing  
3 modifications in determining taxable income, or specified tax credits against tax imposed by §11-  
4 21-1 *et seq.* and §11-24-1 *et seq.* of this code.

5 (b) Nothing in this article nor in §11-21-12m, §11-21-25, or §11-24-10a of this code shall  
6 be construed to decrease or otherwise impact any person's federal tax obligations or to authorize  
7 any act which violates federal law.

**§18-30A-13. Reports and account; annual audit.**

1 (a) In addition to any other requirements of this article, the board shall:

2 (1) Prepare and provide an annual summary of information on the financial condition of  
3 the Jumpstart Savings Trust Fund and Expense Fund and statements on the savings program  
4 accounts to the respective account owners; and

5 (2) Prepare, or have prepared, a quarterly report on the status of the program, including  
6 the Jumpstart Savings Trust Fund and Expense Fund, and provide a copy of the report to the  
7 Joint Committee on Government and Finance.

8 (b) All accounts administered under the program, including the Jumpstart Savings Trust  
9 Fund and Expense Fund, are subject to an annual external audit by an accounting firm, selected  
10 by the board, of which all members or partners assigned to head the audit are members of the  
11 American Institute of Certified Public Accountants. The audit shall comply with the requirements  
12 and standards in §5A-2-33 of this code.

**§18-30A-14. Records; confidentiality.**

1 (a) Notwithstanding any other provision of this code, the board and an apprenticeship  
2 provider, training or educational institution, or employer, are authorized to exchange information  
3 regarding participants in the program to carry out the purposes of this article: *Provided*, That the

4 tax information confidentiality provisions of §11-10-5d of this code shall apply to tax returns and  
5 tax return information.

6 (b) Records containing personally identifying information regarding Jumpstart Savings  
7 Account holders and beneficiaries is exempt from disclosure under §29B-1-1 *et seq.* of this code.

**§18-30A-15. Limitation on liability.**

1 Nothing in this article creates any obligation of the board, the Treasurer, the state, or any  
2 agency or instrumentality of the state to guarantee for the benefit of any account holder or  
3 designated beneficiary with respect to the:

- 4 (1) Return of principal;
- 5 (2) Rate of interest or other return on any account; or
- 6 (3) Payment of interest or other return on any account.

**§18-30A-16. Legislative rules required.**

1 Prior to the commencement of the program, the board shall promulgate legislative,  
2 procedural, or emergency rules, or any combination thereof, in accordance with the provisions of  
3 §29A-3-1 *et seq.* of this code, that include at a minimum, the following:

- 4 (1) Requirements for any contract to be entered between the board and an account holder  
5 upon opening a Jumpstart Savings Account to ensure compliance with the requirements of this  
6 article and applicable state and federal laws;
- 7 (2) Examples of qualified expenses, as described in §18-30A-11 of this code; and
- 8 (3) Procedures for opening Jumpstart Savings Accounts, making contributions thereto,  
9 requesting distributions therefrom, and instructions for accessing any necessary forms.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2021.

.....  
*Governor*