

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 242

FISCAL
NOTE

BY SENATORS BALDWIN, BEACH, CAPUTO, IHLENFELD,
JEFFRIES, LINDSAY, PLYMALE, ROMANO, STOLLINGS,
UNGER, AND WOELFEL

[Introduced February 11, 2021; referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to amend and reenact §18C-7-1 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto a new article, designated §18C-10-1, §18C-10-2,
 3 §18C-10-3, §18C-10-4, §18C-10-5, and §18C-10-6, all relating to expiring the PROMISE
 4 Scholarship Program; establishing the Promise for All Scholarship Program; providing
 5 legislative findings and purpose of the new program; defining terms; providing eligibility,
 6 conditions, and limitations for participating in the program; directing the Higher Education
 7 Policy Commission administer the program; providing commission directives and authority
 8 to administer; providing for loss of scholarship if certain conditions are not fulfilled; placing
 9 limitations and conditions on scholarship awards; providing for legislative and emergency
 10 rules; establishing a new fund to hold and invest scholarship moneys; and providing for
 11 funding of program.

Be it enacted by the Legislature of West Virginia:

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

§18C-7-1. Title; provision to expire.

1 This article shall be known and may be cited as the “West Virginia providing real
 2 opportunities for maximizing in-state student excellence (PROMISE) Scholarship Program”.
 3 Except as provided in §18C-8-1 et seq. of this code, the provisions of this article expire and are
 4 no longer in force or effect beginning January 1, 2022.

**ARTICLE 10. WEST VIRGINIA EDUCATE, EMPLOY, AND RETAIN SCHOLARSHIP
 PROGRAM.**

§18C-10-1. Legislative findings and purpose.

1 (a) The Legislature finds and declares that:
 2 (1) West Virginia must have an educated workforce in order to retain and attract high-
 3 wage, high-skill jobs;

4 (2) The population decline of this state in the last several decades has included many
5 West Virginia residents who grew up and were educated in and by the educational system of our
6 state;

7 (3) West Virginia will continue to lose a large percentage of West Virginia residents who
8 graduate from the state’s colleges and universities and do not remain in West Virginia, and new
9 incentives must be created to encourage these graduates to stay and work in West Virginia;

10 (4) The Promise Scholarship has helped many West Virginians’ receive college
11 educations but has not resulted in sufficient retention of these students in-state after graduation;

12 (5) The Promise Scholarship with its high academic standards for eligibility, has assisted
13 students most inclined to attend college and has done nothing to incentivize all other students to
14 attend state colleges and universities, and these students are in the greatest need of assistance
15 and encouragement to pursue a higher education; and

16 (6) That a new approach is needed to stop the brain drain of our state, and rewarding all
17 resident college students who remain in West Virginia after graduation by establishing a new
18 program that provides scholarships for residents who agree to stay and work in West Virginia
19 after graduation is a better solution for West Virginia.

20 (b) It is the purpose of this article to redirect existing PROMISE scholarship funding to the
21 Promise for All Scholarship, established pursuant to this article. These scholarships will be
22 available to all residents who enroll in a state institution and maintain a 2.0 grade-point average
23 during their collegiate career. The scholarships may not exceed \$10,000 each scholastic year
24 and shall provide for no longer than four years for an undergraduate degree and two years for an
25 associate degree, and will be annually proportionally released from repayment for each year the
26 resident remains and works in West Virginia following graduation.

§18C-10-2. Definitions.

1 (a) General. -- For the purposes of this article, terms have the meaning ascribed to them
2 in §18C-1-2 of this code, unless the context in which the term is used clearly requires a different

3 meaning or a specific definition is provided in this section.

4 (b) Definitions – (1) “Enrolled” means either currently enrolled or in the process of enrolling
 5 in an eligible institution.

6 (2) “Eligible institution” means:

7 (A) A state institution of higher education as defined in §18B-1-2 of this code:

8 (B) Alderson-Broaddus College, Appalachian Bible College, Bethany College, Davis and
 9 Elkins College, Ohio Valley University, the University of Charleston, West Virginia Wesleyan
 10 College, and Wheeling Jesuit University, all in West Virginia. Any institution listed in this
 11 subdivision ceases to be an eligible institution if it meets either of the following conditions:

12 (i) It loses regional accreditation; or

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

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

16 (3) “Room and Board” means the annual cost, as established by the accredited institution
 17 as the cost of housing and food while attending as a full-time student.

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

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

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

§18C-10-3. Powers and duties of the West Virginia Higher Education Policy Commission
regarding the West Virginia Educate, Employ and Retain Scholarship Program.

1 (a) Powers of commission. — In addition to the powers granted by any other provision of

2 this code, the commission has the powers necessary or convenient to carry out the purposes and
3 provisions of this article including, but not limited to, the following:

4 (1) To promulgate legislative rules in accordance with the provisions of §29A-3A-1 et seq.
5 of this code to effectuate the purposes of this article;

6 (2) To invest any of the funds of the Promise for All Scholarship Fund established pursuant
7 to §18C-8-6 of this code with the West Virginia Investment Management Board in accordance
8 with the provisions of §12-6-1 et seq. of this code. Any investments made pursuant to this article
9 shall be made with the care, skill, prudence, and diligence under the circumstances then
10 prevailing that a prudent person acting in a like capacity and familiar with such matters would use
11 in conducting an enterprise of a like character and with like aims. Fiduciaries shall diversify plan
12 investments to the extent permitted by law to minimize the risk of large losses, unless under the
13 circumstances it is clearly prudent not to do so;

14 (3) To execute contracts and other necessary instruments;

15 (4) To impose reasonable requirements for residency for students applying for the Promise
16 for All scholarship. Except as provided in §18C-1-4 of this code, a student shall have met the
17 following requirements to be eligible:

18 (A) Completed at least one half of the credits required for high school graduation in a
19 public or private high school in this state; or

20 (B) Received instruction in the home or other approved place pursuant to §18-10-1(c) of
21 this code for the two years immediately preceding application;

22 (C) This subsection does not establish residency requirements for matriculation or fee
23 payment purposes at state institutions of higher education;

24 (5) To contract for necessary goods and services, to employ necessary personnel and to
25 engage the services of private persons for administrative and technical assistance in carrying out
26 the responsibilities of the scholarship program. Any services provided or secured to implement or
27 administer the provisions of this section remain under the direction and authority of the Vice

28 Chancellor for Administration;

29 (6) To solicit and accept gifts, including bequests or other testamentary gifts made by will,
30 trust or other disposition, grants, loans, and other aid from any source and to participate in any
31 federal, state, or local governmental programs in carrying out the purposes of this article;

32 (7) To define the terms and conditions under which scholarships are awarded with the
33 minimum requirements being set forth in §18C-10-6 of this code; and

34 (8) To establish other policies, procedures, and criteria necessary to implement and
35 administer the provisions of this article.

36 (b) Duties of commission. — In addition to any duty required by any other provision of this
37 code, the commission has the following responsibilities:

38 (1) To operate the program in a fiscally responsible manner and within the limits of
39 available funds;

40 (2) To maintain contact with students and graduates who have received Promise for All
41 scholarships and to provide a written statement of intent notifying them that acceptance of the
42 scholarship entails a responsibility to comply with the following:

43 (i) Continue to live in West Virginia after graduation;

44 (ii) Obtain employment in West Virginia after graduation;

45 (iii) To repay the scholarship as a loan if the graduate leaves West Virginia or fails to
46 graduate within required time periods;

47 (iv) For Promise for All recipients who enroll in post-graduate education programs, the
48 name of the state in which each post-graduate institution is located; and

49 (v) Any other relevant information the commission reasonably requests to implement the
50 provisions of this subdivision.

§18C-10-4. Promise for All program requirements.

1 (a) A Promise for All award recipients shall meet the following conditions:

2 (1) For a student enrolled in a state institution of higher education or other eligible

3 institution, the annual award shall only be given to eligible students enrolled in a state institution
4 of higher education and shall not exceed the annual estimated cost of tuition, room, and board
5 except that a student who was awarded and used a PROMISE scholarship annual award prior to
6 January 1, 2021, shall continue to receive the annual award calculated under the same terms and
7 conditions that applied on the day before the effective date of this article: *Provided, That eligible*
8 students attending less than full time shall only be eligible for awards for tuition and any other
9 qualifications, conditions, or limitations as established by commission rules;

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

13 (b) The total cost of all awards granted by the commission in any year may not exceed the
14 amount of funds available to the commission during the fiscal year, but in no case may be more
15 than \$10,000 in one scholastic year.

16 (c) In order to be eligible to receive a Promise for All award an individual shall:

17 (1) Submit an award application to the commission:

18 (A) Within two years of graduating from high school or within two years of acquiring a
19 general equivalency degree if provided instruction in the home or other approved place pursuant
20 to §18-8-1(c) of this code; or

21 (B) Within seven years of initially entering military service, and within one year of discharge
22 from military service, if the individual has entered the United States armed services within two
23 years after graduating from high school;

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

25 (3) Maintain appropriate academic progress toward the completion of a degree at the
26 undergraduate education level as determined by the commission if the individual has completed
27 more than one semester or term at an institution of higher education, excluding credits earned in
28 advanced placement, international baccalaureate, dual credit, and comparable courses while the

29 student is enrolled in high school and graduate;

30 (4) Be a United States citizen or legal immigrant to the United States;

31 (5) Meet additional objective standards the commission considers necessary to promote
32 academic excellence and to maintain the financial stability of the fund; and

33 (6) Enroll in an eligible institution. A student enrolled at an eligible institution who receives
34 a Promise for All award may retain and renew the scholarship to complete his or her
35 undergraduate education at that institution or any other eligible institution under the following
36 circumstances:

37 (A) The institution at which the student is enrolled loses its status as an eligible institution
38 as defined in §18C-10-2 of this code; and

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

41 (d) Upon the withdrawal of the student from an eligible institution before completing
42 program requirements and failure to timely enroll in another eligible institution, or upon graduation,
43 failure to remain in the state or gain full-time employment within a reasonable period of time as
44 established by the commission, the recipient shall be required to repay the state the amount of
45 the scholarship, and the scholarship shall be treated as, and administered pursuant to the
46 Guaranteed Student Loan Program, as established in §18C-2-1 et seq. of this code.

47 (e) It is the intent of the Legislature that the commission shall strongly encourage
48 prospective candidates for the Promise for All award to perform at least 20 hours of unpaid
49 community service while in high school to help prepare them for success in post-secondary
50 education. The community service may include, but is not limited to, participation with nonprofit,
51 governmental, or community-based organizations designed with any or all of the following
52 purposes:

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

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

55 (3) Fostering civic responsibility.

§18C-10-5. Legislative rules.

1 (a) The commission shall promulgate legislative rules in accordance with the provisions of
2 §29A-3A-1 et seq. of this code, which shall include:

3 (1) The amount of a Promise for All award in combination with aid from all other sources
4 may not exceed the cost of education at the institution the recipient is attending. This provision
5 does not apply to members of the West Virginia National Guard, recipients of an Underwood-
6 Smith teacher scholarship, and recipients of a West Virginia engineering, science and technology
7 scholarship;

8 (2) Additional objective standards the commission considers necessary:

9 (A) To promote academic excellence;

10 (B) To maintain the financial stability of the fund; and

11 (C) To operate the program within the limits of available funds.

12 (3) Provisions for making the highest and best use of the Promise for All Program in
13 conjunction with the West Virginia College Prepaid Tuition and Savings Program Act set forth in
14 §18-30-1 et seq. of this code;

15 (4) A provision defining the relationship of Promise for All scholarships to all other sources
16 of student financial aid to ensure maximum coordination. The provision shall include the following:

17 (A) Methods to maximize student eligibility for federal student financial aid;

18 (B) A requirement that Promise for All Awards not supplant tuition and fee waivers; and

19 (C) Clarifications as needed of the relationship between the Promise for All Program,
20 tuition savings plans, and other state-funded student financial aid programs.

21 (5) A method for making Promise for All awards within the limits of available
22 appropriations, including circumstances when program funds are not sufficient to provide awards
23 to all eligible applicants. The commission may not use any of the following methods:

24 (A) Providing for an annual Promise for All award that is less than the amounts provided

25 in this section; or

26 (B) Eliminating any current recipient from eligibility; and

27 (C) A method for applicants to appeal determinations of eligibility and renewal.

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

29 (1) Requiring repayment of the amount of the scholarship, in whole or in part, if a
30 scholarship recipient chooses to work outside the state after graduation or fails within a
31 reasonable period to obtain full-time employment in the state. The rule may not require a recipient
32 to repay an award, in whole or in part, unless the prospective recipient has been informed of this
33 requirement in writing before initial acceptance of the award. The commission may grant
34 extensions or make other exceptions regarding scholarship repayment by persons who did not
35 graduate or otherwise failed to fulfill the requirements for discharge or repayment of scholarship
36 funds when undue hardship to the recipient will occur;

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

39 (3) Determining what other sources of funding for higher education are to be deducted
40 from the Promise for All award; and

41 (4) Providing additional criteria as determined by the commission.

42 (c) The Legislature finds that an emergency exists and, therefore, the commission shall
43 file any rule to implement the provisions of this section as an emergency rule pursuant to the
44 provisions of §29A-3A-1 et seq. of this code necessary to have the program fully operational for
45 the 2021 school year.

§18C-10-6. Promise for All Award Fund created.

1 (a) The special revenue fund in the State Treasury designated and known as the Promise
2 for All Award Fund is created. The fund consists of moneys from the following sources:

3 (1) All appropriations to the fund from the West Virginia Lottery, video lottery, and taxes
4 on amusement devices previously dedicated to the PROMISE scholarship program;

- 5 (2) All remaining appropriations by the Legislature for the PROMISE Scholarship Fund not
6 needed to fulfill current Promise Scholarship awards as provided pursuant to this article;
- 7 (3) All appropriations by the Legislature for the Promise for All Award Fund;
- 8 (4) Any gifts, grants, or contributions received for the Promise for All Award Program; and
- 9 (5) All interest or other income earned from investment of the fund.
- 10 (b) The allocations to the fund are subject to appropriation by the Legislature. Nothing in
11 this article requires any specific level of funding by the Legislature nor guarantees nor entitles any
12 individual to any benefit or grant of funds.
- 13 (c) The commission may expend the moneys in the fund to implement the provisions of
14 this article.

NOTE: The purpose of this bill is to create a new scholarship available to all West Virginians upon graduation from high school that remain in West Virginia to pursue an associate or bachelor's degree of \$10,000 per year. The only academic requirement is that the person have a 2.0 GPA, and graduate in no more than four years for an undergraduate degree or two and a half years for an associate degree; if the recipient, after graduation, stays and has full-time employment in West Virginia, repayment is forgiven on a year-to-year basis; if the person does not graduate or leaves the state after graduation, or fails to get a full-time job, the scholarships are converted to student loans and must be repaid.

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