

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

House Bill 4945

BY DELEGATES ESPINOSA, HORNBY, CHIARELLI,
HOUSEHOLDER, MAZZOCCHI, W. CLARK, HITE, SMITH,
HARDY, STATLER, AND ELLINGTON

[Passed March 9, 2024; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §18-8-12 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §18-9A-25 of said code; to amend and reenact §18-31-2, §18-31-3,
3 §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-10, and §18-31-11 of said
4 code; and to amend said code by adding thereto two new sections, designated §18-31-2a
5 and §18-31-14, all relating generally to the Hope Scholarship Program; providing that
6 microschoools, learning pods, and individualized instructional programs have the authority
7 to issue secondary school diplomas; providing that the annual Hope Scholarship Program
8 appropriation calculation will be based on the estimated number of participating students
9 instead of the number of participating students in the prior year; defining terms; providing
10 that Hope Scholarship students have certain educational privileges made available to
11 other nonpublic school students; permitting the State Treasurer to appear by designee at
12 Hope Scholarship Board meetings; modifying qualifications for certain Board members for
13 future appointments; clarifying that the Hope Scholarship Board may take issues involving
14 Hope Scholarship students in charter schools to the West Virginia Professional Charter
15 School Board; authorizing the Hope Scholarship Board to request certain information from
16 county superintendents and county boards of education; clarifying that Hope Scholarship
17 funds may only be utilized for expenses incurred in a kindergarten through secondary
18 school education; requiring a year-round application and awards process; requiring
19 parental agreement to include provisions requiring parents to notify the board if a student
20 reenrolls in public school or graduates from a secondary school program; clarifying that
21 all records and personally identifying information of a Hope Scholarship student, applicant,
22 or parent is confidential and not subject to disclosure pursuant to the West Virginia
23 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; clarifying that a public charter school may invoice a Hope
26 Scholarship student for educational services; modifying qualifying expenses for Hope

27 Scholarship accounts; authorizing the Board to adopt rules and procedures regarding
28 Hope Scholarship student receipt of services from a public school or school district;
29 requiring the Board to promulgate legislative rules permitting certain providers to
30 compensate employees who are parents of Hope Scholarship students; authorizing the
31 Board to adopt certain reimbursement procedures; clarifying annual renewal process for
32 Hope Scholarship parents and students; modifying annual academic assessment
33 requirements for certain grade levels; authorizing the Board to propose legislative rules
34 related to audit of education service providers; requiring education service providers
35 conducting background screenings of employees and other persons in contact with
36 students to certify screening results to the board; clarifying that providers may not assess
37 increased or additional fees against Hope Scholarship students based on participation in
38 the program; and adding reporting requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

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

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

11 thereof for the purposes of determining whether a person meets other requirements for a specific
12 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 estimated Hope Scholarship applications for the fiscal
7 year, multiplied by the prior year's statewide average net state aid allotted per pupil. The Hope
8 Scholarship Board shall certify the estimated number of Hope Scholarship applications for the
9 fiscal year to the Department of Education by December 10 of each year. The amount
10 appropriated shall be transferred by the Department of Education to the Hope Scholarship Board
11 to be used solely to meet the Hope Scholarship Program obligations set forth in §18-31-1 *et seq.*
12 of this code except as otherwise provided in this section. The Governor shall also provide in each
13 budget for the reappropriation for expenditure during the ensuing fiscal year the unused
14 accumulated balance in the Hope Scholarship Fund.

15 (b) Each fiscal year, the amount required to be requested and included in the budget bill
16 for appropriation under subsection (a) of this section shall be reduced by an amount equal to the
17 unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from
18 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
20 a 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
22 state 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
25 than five percent of net public school enrollment adjusted for state aid purposes for the previous
26 school year, then, effective July 1, 2026, a child is considered to meet the requirements of this
27 paragraph if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a

28 kindergarten program or public elementary or secondary school program in this state at the time
29 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
36 participating in an IIP are not enrolled in a participating school and shall be governed by the
37 requirements of this article, unless otherwise stated, and not any other compulsory school
38 attendance exemption requirements;

39 (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 (10) "Participating school" means any private school that provides education to elementary
42 and/or secondary students and has notified the board of its intention to participate in the program
43 and comply with the program's requirements;

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

46 (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;

12 (3) The ability to receive a work permit without prior review by a school administrator
13 pursuant to §21-6-3 of this code; and

14 (4) The ability to participate in an ACE program according to the requirements in
15 §18-2E-11 of this code.

16 (b) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student
17 that attends a participating school shall have the same privileges and access to programs
18 available to students exempt from compulsory school attendance pursuant to §18-8-1 of this code
19 by virtue of attendance of a nonpublic school including, but not limited to:

20 (1) The ability to receive a diploma from the student's school administrator according to
21 the requirements of §18-8-12 of this code;

22 (2) The ability to receive the PROMISE scholarship according to the requirements of
23 §18C-7-1 *et. seq.* of this code; and

24 (3) The ability to participate in an ACE program according to the requirements in
25 §18-2E-11 of this code.

26 (c) Nothing in this section may be construed as subjecting homeschool students or
27 nonpublic school students not participating in the Hope Scholarship Program to the requirements
28 of this article.

**§18-31-3. West Virginia Hope Scholarship Board; members; terms; compensation;
proceedings generally.**

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

3 (b) The board shall consist of nine members and include the following:

4 (1) The State Treasurer, or his or her designee;

5 (2) The State Auditor, or his or her designee;

6 (3) The State Attorney General, or his or her designee;

7 (4) The State Superintendent of Schools, or his or her designee;

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 members appointed by the Governor with the advice and consent of the Senate
12 who are parents of Hope Scholarship students, or for the initial appointments of board members
13 following the effective date of this article, parents who intend to apply for the Hope Scholarship
14 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) For appointments made after July 1, 2024, the parent members shall represent
18 parents of students engaged in a diverse range of educational options, such as microschools or
19 other individualized instruction;

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

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

29 (c) Members of the board shall serve without compensation. The board may reimburse
30 members for all reasonable and necessary expenses, including travel expenses, actually incurred
31 by board members in the conduct of their official duties. Any expense reimbursements shall be
32 made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to
33 state employees.

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

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

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

40 (g) Members of the board are subject to the ethical standards and financial disclosure
41 requirements of the West Virginia Governmental Ethics Act in §6B-1-1 *et seq.* 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
9 the 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
16 may 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
19 be 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;

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
35 received to effectuate the desires of the donor, and shall convert the property received into cash
36 within 180 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 process, accept, and make available Hope Scholarship applications
10 and awards at any time during the calendar year. The board may update the application as
11 needed. The board shall issue an award letter to eligible recipients within 45 days of receipt of a
12 completed application and all required documentation.

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

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

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

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

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

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

25 (C) To comply with the rules and requirements of the Hope Scholarship Program;

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

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

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

34 (e) All records accepted or maintained by the board containing personally identifying
35 information of a Hope Scholarship student, applicant, or parent are confidential and not a public
36 record subject to release pursuant to the West Virginia Freedom of Information Act, as codified in
37 §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
8 by 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.
15 On or prior to the submission of the Department of Education's budget request each year, the
16 board shall notify the Department of Education of the estimated number of Hope Scholarship
17 applications for the fiscal year for purposes of facilitating the necessary transfer of moneys
18 pursuant to §18-9A-25 of this code.

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

27 (d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be
28 subject to the execution of the parental agreement required by §18-31-5 of this code. Upon
29 execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this
30 code, one half of the total annually required deposit shall be made no later than August 15 of
31 every year into an eligible recipient's Hope Scholarship account, and one half of the total annually
32 required deposit shall be made no later than January 15 of every year. Any funds remaining in a
33 Hope Scholarship account at the end of the fiscal year may be carried over to the next fiscal year
34 upon successful renewal of the account.

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

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

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

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

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

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

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

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

55 (h)(1) There is hereby created in the State Treasury a special revenue fund designated
56 and known as the West Virginia Hope Scholarship Program Expense Fund. The account shall
57 consist of moneys received pursuant to this section; moneys, if any, transferred from special
58 revenue funds administered by the Treasurer; or any governmental or private grants and any
59 state general fund appropriations, if any, for the Hope Scholarship Program. All interest and other
60 returns derived from the deposit and investment of moneys in the Hope Scholarship Program

61 Expense Fund shall be credited to the fund. Any balance, including accrued interest and other
62 returns, remaining in the fund at the end of each fiscal year shall not revert to the General
63 Revenue Fund but shall remain in the fund and be expended as provided by this section.

64 (2) All expenses incurred by the Treasurer or the board in developing and administering
65 the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship
66 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 the provisions of §18-5G-3 of this code, a public charter school
7 may invoice a Hope 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,
13 any 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 (12) Fees for transportation paid to a fee-for-service transportation provider for the student
26 to travel to and from an education service provider; and

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

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

33 (c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or
34 student in any manner: *Provided*, That the Hope Scholarship Board shall promulgate legislative
35 rules to ensure that an education service provider with 15 or more students can provide
36 compensation to employees of the provider in the provider's regular course of business,
37 notwithstanding the fact that an employee's child receives services from the education service
38 provider.

39 (d) The board may adopt procedures for establishing a reimbursement process for any
40 qualifying expenses not available for purchase by a Hope Scholarship parent through the existing
41 online Hope Scholarship Program portal. Any refund or rebate for goods or services purchased
42 with Hope Scholarship funds shall be credited directly to a student's Hope Scholarship account.

43 (e) Nothing in this section prohibits the parents of a Hope Scholarship student from making
44 payments for the costs of educational goods and services not covered by the funds in their

45 student's Hope Scholarship account. However, personal deposits into a Hope Scholarship
46 account are not permitted.

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

1 (a) Notwithstanding any changes in eligibility, effective January 1, 2025, a Hope
2 Scholarship student may continue participation in the program from school year to school year
3 without reapplying for the program until one of the conditions set forth in §18-31-6(f) occurs:
4 *Provided*, That the board shall verify with the Department of Education the following information
5 by July 1 of every year:

6 (1) A list of all active Hope Scholarship accounts;

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

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

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

12 (A) (i) He or she has annually taken a nationally normed standardized achievement test
13 of academic achievement in the subject areas of reading, language, and mathematics, and when
14 available for the student's grade-level, science and social studies;

15 (ii) The mean of the child's overall test results in the subject areas tested for any single
16 year is within or above the fourth stanine or, if below the fourth stanine, show improvement from
17 the previous year's results; and

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

19 or

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

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

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

24 (b) As a condition of continued participation in the Hope Scholarship Program from one
25 school year to the next, a parent must annually meet the following requirements, according to the
26 deadlines and procedures established by the Board:

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

28 (2) The parent must execute the parent agreement with the Board described in §18-31-
29 5(d)(3) of this code ahead of each school year; and

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

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

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

41 (e) If an eligible recipient decides to return to the Hope Scholarship Program after failing
42 to meet the conditions for continued participation described in subsection (b) of this section, they
43 must reapply.

44 (f) The board, in consultation with the Department of Education, may adopt rules and
45 policies for Hope Scholarship students who want to continue to receive services provided by a
46 public school or district, including individual classes and extracurricular programs, in combination
47 with an individualized instructional program. The board, in consultation with the Department of
48 Education, shall ensure that any public school or school district providing such services receives

49 the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of
50 total instruction provided to the student by the public school or school district. County boards and
51 charter school governing boards shall charge tuition to Hope Scholarship students who enroll for
52 services in a public school within the county or in a public charter school. Hope Scholarship
53 students who enroll for services part-time in public school shall not be included in net enrollment
54 for state aid funding purposes under §18-9A-2 of this code. Nothing in this subsection prohibits a
55 Hope Scholarship student from using the funds deposited in his or her account on both services
56 provided by a public school or district and other qualifying expenses as provided for in §18-31-7
57 of this code.

58 (g) The board, in consultation with the Department of Education, may adopt rules and
59 policies to provide the least disruptive process for Hope Scholarship students who desire to stop
60 receiving Hope Scholarship payments and return full-time to a public school.

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

1 (a) The board may propose legislative rules for approval pursuant to §29A-3-1 *et seq.* of
2 this code for the auditing of individual Hope Scholarship accounts and shall conduct or contract
3 for the random auditing of individual Hope Scholarship accounts as needed to ensure compliance
4 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
6 from the Hope Scholarship Program and close a Hope Scholarship account for failure to comply
7 with the terms of the parental agreement required by §18-31-5 of this code, failure to comply with
8 the applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse
9 of 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 propose legislative rules for approval pursuant to §29A-3-1 *et seq.* of
14 this code for the auditing of education service providers and shall conduct or contract for the
15 random auditing of individual providers as needed to ensure compliance with the requirements of
16 this article and rules promulgated pursuant to this article.

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

25 (e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it
26 may refer suspected cases to the State Auditor for purposes of investigation, collection, and
27 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) Submit any employee or other person who will have contact with Hope Scholarship
12 students receiving services from the provider to a criminal background check and certify that said
13 background check does not indicate conviction of a felony involving violence to the person and
14 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 (6) Parent satisfaction with the Hope Scholarship Program.

15 (b) The board shall use only aggregate, nonidentifying evaluation data when compiling
16 any such public reports.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is this the.....
Day of, 2024.

.....
Governor