WEST VIRGINIA CODE CHAPTER 18C ARTICLE 7

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§18C-7-1. Title.

This article shall be known and may be cited as the "West Virginia providing real opportunities for maximizing in-state student excellence (PROMISE) scholarship program".

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

(a) The Legislature finds and declares that:

(1) West Virginia must have an educated work force in order to attract and retain the high wage, high skill jobs of the twenty-first century;

(2) A large percentage of West Virginia residents who graduate from the state's colleges and universities do not work in the state following graduation;

(3) The percentage of West Virginia's adult population over the age of twenty-five with at least a baccalaureate degree is less than fifteen percent and does not compare favorably with the member states of the Southern Regional Education Board average nor with the national average of twenty-five percent;

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

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

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

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

(8) The PROMISE Scholarship Program is highly successful and should be maintained with merit as its strongest component. The merit component:

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

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

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

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

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

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

(b) It is the purpose of this article to continue the West Virginia PROMISE Scholarship

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Program to deal effectively with the findings set forth in this section.

(c) Nothing in this article guarantees:

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

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

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§18C-7-3. Definitions.

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

(b) Definitions. — (1) "Eligible institution" means:

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

(B) Appalachian Bible College, Bethany College, Davis and Elkins College, the University of Charleston, West Virginia Wesleyan College, and Wheeling University, all in West Virginia. Any institution listed in this subdivision ceases to be an eligible institution if it meets either of the following conditions:

(i) It loses regional accreditation; or

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

(C) West Virginia Junior College and Salem University; and

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

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

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

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

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

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§18C-7-4. Dissolution of the PROMISE Scholarship Board; transfer of funds.

(a) The West Virginia PROMISE Scholarship Board is hereby dissolved.

(b) All funds administered by the former PROMISE Scholarship Board shall be administered by the Higher Education Policy Commission.

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§18C-7-5. Powers and duties of the West Virginia Higher Education Policy Commission regarding the PROMISE Scholarship.

(a) Powers of commission. — In addition to the powers granted by any other provision of this code, the commission has the powers necessary or convenient to carry out the purposes and provisions of this article including, but not limited to, the following express powers:

(1) To promulgate legislative rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to effectuate the purposes of this article;

(2) To invest any of the funds of the West Virginia PROMISE Scholarship Fund established in section seven of this article with the West Virginia Investment Management Board in accordance with the provisions of article six, chapter twelve of this code. Any investments made pursuant to this article shall be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in conducting an enterprise of a like character and with like aims. Fiduciaries shall diversify plan investments to the extent permitted by law to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so;

(3) To execute contracts and other necessary instruments;

(4) To impose reasonable requirements for residency for students applying for the PROMISE scholarship. Except as provided in section four, article one of this chapter, a student shall have met the following requirements to be eligible:

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

(B) Received instruction in the home or other approved place pursuant to subsection (c), section one, article eight, chapter eighteen of this code for the two years immediately preceding application;

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

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

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

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(7) To define the terms and conditions under which scholarships are awarded with the minimum requirements being set forth in section six of this article; and

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

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

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

(2) To operate the program as a merit-based program;

(3) To adjust academic eligibility requirements should projections indicate that available funds will not be sufficient to cover future costs; and

(4) To maintain contact with graduates who have received PROMISE scholarships and to provide a written statement of intent to recipients who are selected to receive a PROMISE scholarship notifying them that acceptance of the scholarship entails a responsibility to supply the following:

(A) Information requested by the commission to determine the number and percentage of recipients who shall:

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

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

(iii) Enroll in post-graduate education programs;

(B) For PROMISE scholars who enroll in post-graduate education programs, the name of the state in which each post-graduate institution is located; and

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

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§18C-7-6. PROMISE Scholarship Program requirements; legislative rule.

(a) A PROMISE scholarship annual award shall meet the following conditions:

(1) For a student enrolled in a state institution of higher education, the annual award is equal to the lesser of the cost of tuition or $4,750, except that a student who was awarded and used a PROMISE scholarship annual award prior to January 1, 2010, shall continue to receive the annual award calculated under the same terms and conditions that applied on the day before the effective date of this article;

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

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

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

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

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

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

(A) Within two years of completing a secondary education program in a public, private, or home school or within two years of obtaining a GED or equivalent; or

(B) Within seven years of initially entering military service, and within one year of discharge from military service, if the individual has entered the United States armed services within two years after completing a secondary education program in a public, private, or home school or obtaining a GED or equivalent;

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

(3) Maintain an overall grade point average of at least 3.0 on a 4.0 grading scale in the required course work necessary to prepare students for success in post-secondary education at the associate and baccalaureate degree levels as determined by the commission, if the individual has completed not more than one semester or term at an institution of higher education, excluding credits earned in advanced placement, international baccalaureate,

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dual credit, and comparable courses while the student is enrolled in high school;

(4) Maintain appropriate academic progress toward the completion of a degree at the undergraduate education level as determined by the commission if the individual has completed more than one semester or term at an institution of higher education, excluding credits earned in advanced placement, international baccalaureate, dual credit and comparable courses while the student is enrolled in high school; school: *Provided*, That a recipient of the PROMISE scholarship award who does not meet the requirements of this subdivision and loses the award may petition the institution to reinstate the award upon successfully reattaining the credit hour and minimum overall grade point qualifications set out in the commission's rule governing eligibility for receipt of the PROMISE scholarship: *Provided, however*, That a student who has lost the PROMISE scholarship award is only eligible to be reinstated one time; if the student becomes ineligible for the PROMISE scholarship award a second time, the student may not again petition the institution for reinstatement of the award nor again be reinstated: *Provided further*, That the student forfeits a term of eligibility for each term in which the student is enrolled to meet the renewal requirements as authorized by this subdivision: *And provided further*, That upon a finding that the student successfully reattained the credit hour and minimum overall grade point qualifications set out in the commission's rule governing eligibility for receipt of the PROMISE scholarship award as required by this subdivision, the institution shall reinstate the award;

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

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

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

(A) The institution at which the student is enrolled loses its status as an eligible institution pursuant to the provisions of §18B-7-3(b)(1) of this code; and

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

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

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

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(2) Meeting the needs of community residents; or

(3) Fostering civic responsibility.

(e) The commission shall promulgate a legislative rule in accordance with the provisions of §29A-3A-1 *et seq*. of this code.

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

(A) The amount of a PROMISE scholarship award in combination with aid from all other sources may not exceed the cost of education at the institution the recipient is attending;

(B) Additional objective standards the commission considers necessary:

(i) To promote academic excellence;

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

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

(C) Provisions for making the highest and best use of the PROMISE Scholarship Program in conjunction with the West Virginia College Prepaid Tuition and Savings Program Act set forth in §18-30-1 *et seq*. of this code;

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

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

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

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

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

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

(ii) Eliminating any current recipient from eligibility; and

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

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

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

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

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

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

(3) Any rule promulgated by the commission pursuant to previous enactments of this article in effect on the effective date of the amendment and reenactment of this article in the year 2009 remains in effect until amended, modified, repealed, or replaced by the commission.

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§18C-7-7. West Virginia PROMISE Scholarship Fund continued.

(a) The special revenue fund in the state Treasury designated and known as the PROMISE Scholarship Fund is continued. The fund consists of moneys from the following sources:

(1) All appropriations to the fund from the West Virginia Lottery, video lottery and taxes on amusement devices;

(2) All appropriations by the Legislature for the PROMISE Scholarship Fund;

(3) Any gifts, grants or contributions received for the PROMISE Scholarship Program; and

(4) All interest or other income earned from investment of the fund.

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

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

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

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§18C-7-8.

Repealed.

Acts, 2009 Reg. Sess., Ch. 84.

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§18C-7-9.

Repealed.

Acts, 2006 Reg. Sess., Ch. 79.

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