

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 2738**

5 (By Delegates Perdue, Perry, Fleischauer,  
6 Lawrence, Marshall and Moore)  
7

8 [Passed April 13, 2013; in effect ninety days from passage.]  
9

10 AN ACT to repeal §30-7B-8 of the Code of West Virginia, 1931, as  
11 amended; to amend and reenact §18C-3-2 and §18C-3-3 of said  
12 code; to amend said code by adding thereto a new section,  
13 designated §18C-3-4; and to amend and reenact §30-7B-2, §30-  
14 7B-3, §30-7B-4, §30-7B-5, §30-7B-6, §30-7B-7 and §30-7B-9 of  
15 said code, all relating generally to administration of  
16 financial aid and higher education scholarship programs by the  
17 Higher Education Policy Commission; redesignating the Health  
18 Sciences Scholarship Program as the Health Science Service  
19 Program; expanding program eligibility and award amounts;  
20 redefining medically underserved areas; providing state aid  
21 for certain students pursuing certain degrees; requiring a  
22 service commitment to state and setting forth alternatives to  
23 service; requiring legislative rules and specifying rule  
24 provisions; continuing Center for Nursing and placing it under  
25 supervision of the Higher Education Policy Commission; moving  
26 the Center for Nursing special revenue account to the Higher

1 Education Policy Commission; updating provisions regarding  
2 funding of the special revenue account; updating the powers  
3 and duties of the Center for Nursing; reorganizing the  
4 center's board of directors, updating membership and powers  
5 and duties of the board; authorizing reimbursement for board  
6 members' actual and necessary expenses; requiring annual  
7 reports to the Legislative Oversight Commission on Health and  
8 Human Resources Accountability and the Legislative Oversight  
9 Commission on Education Accountability; providing for  
10 financial aid programs to benefit nurses who teach or practice  
11 in West Virginia; setting out minimum financial aid amounts  
12 for nurses; establishing conditions for receipt of financial  
13 aid for nursing students; providing for reimbursement by  
14 nursing students who fail to meet service requirements for  
15 receipt of financial aid; defining terms; deleting obsolete  
16 language and making technical changes.

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

18 That §30-7B-8 of the Code of West Virginia, 1931, as  
19 amended, be repealed; that §18C-3-2 and §18C-3-3 of said code be  
20 amended and reenacted; that said code be amended by adding thereto  
21 a new section, designated §18C-3-4; and that §30-7B-2, §30-7B-3,  
22 §30-7B-4, §30-7B-5, §30-7B-6, §30-7B-7 and §30-7B-9 of said Code be  
23 amended and reenacted, all to read as follows:

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

25 **ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN AND SCHOLARSHIP**

1           **PROGRAMS.**

2 **§18C-3-2. State aid for students of optometry.**

3           (a) The commission is authorized to enter into contracts with  
4 an educational institution or institutions outside the state that  
5 offer training in optometry, podiatry or veterinary medicine by the  
6 terms of which the commission may obligate itself to pay the  
7 institution, within the limits of any appropriation made for the  
8 purpose, a stated amount per year for each West Virginia student  
9 the institution will agree to accept for training in optometry,  
10 podiatry or veterinary medicine.

11           (b) Each year the commission shall send to any appropriate  
12 institution a certified list of all persons applying to the  
13 commission for training in optometry, podiatry or veterinary  
14 medicine who are bona fide citizens and residents of this state  
15 prior to filing their applications, and who have completed either  
16 within or without the state the course of study required by the  
17 institution as a prerequisite to the study of optometry, podiatry  
18 or veterinary medicine.

19           (c) Upon graduation from an educational institution for study  
20 of optometry, podiatry or veterinary medicine, a person who  
21 receives state aid under this section is required to meet one of  
22 the following conditions:

23           (1) Practice full-time in this state in the field for which he  
24 or she obtained financial aid, one year for each year the student  
25 received financial aid under this section; or

26           (2) Reimburse the commission for the amount received under

1 this section. Repayments, including interest as set by the vice  
2 chancellor for administration, collected from program award  
3 recipients who fail to practice in West Virginia under the terms of  
4 the program award agreement as set forth under this section shall  
5 be returned to the commission for use in the financial aid  
6 programs.

7 (d) The commission shall propose a legislative rule in  
8 accordance with the provisions of article three-a, chapter twenty-  
9 nine-a of this code to implement the provisions of this section.  
10 The rule shall address at least the following items:

- 11 (1) Eligibility and selection criteria;
- 12 (2) Reimbursement and repayment;
- 13 (3) Forgiveness options for death or disability;
- 14 (4) Terms of an agreement to which the student must agree; and
- 15 (5) An appeal process.

16 (e) If considered necessary by the commission, the provisions  
17 of this section may be extended by legislative rule to other  
18 professional degrees which are not provided in the state, but which  
19 are needed to enhance the state's economy.

20 **§18C-3-3. Health sciences service program; establishment;**  
21 **administration; eligibility.**

22 (a) *Legislative findings.* -- The Legislature finds that there  
23 is a critical need for additional practicing health care  
24 professionals in West Virginia. Therefore, there is created a  
25 health sciences service program to be administered by the vice  
26 chancellor for health sciences. The purpose of this program is to

1 provide an incentive for health professional students to complete  
2 their training and provide primary care in underserved areas of  
3 West Virginia.

4 (b) *Establishment of special account.* -- There is continued  
5 a special revolving fund account under the higher education policy  
6 commission in the State Treasury formerly known as the "Health  
7 Sciences Scholarship Fund" and hereafter designated the "Health  
8 Sciences Service Program Fund" to carry out the purposes of this  
9 section. The fund consists of one or more of the following:

10 (1) All unexpended health sciences scholarship funds on  
11 deposit in the State Treasury on the effective date of this  
12 section;

13 (2) Appropriations as may be provided by the Legislature;

14 (3) Repayments, including interest as set by the vice  
15 chancellor for health sciences, collected from program award  
16 recipients who fail to practice or teach in West Virginia under the  
17 terms of the program award agreement as set forth under this  
18 section or the health sciences scholarship program previously  
19 established by this section; or

20 (4) Amounts that may become available from other sources.

21 Balances remaining in the fund at the end of the fiscal year  
22 shall not expire or revert to the general revenue. All costs  
23 associated with the administration of this section shall be paid  
24 from the Health Sciences Service Program Fund under the direction  
25 of the vice chancellor for health sciences.

26 (c) *Eligibility requirements.* --

1 (1) An individual is eligible for consideration for a health  
2 sciences service program award under the following conditions:

3

4 (1) The applicant is a fourth-year medical student at the  
5 Marshall University School of Medicine, West Virginia School of  
6 Osteopathic Medicine or West Virginia University School of Medicine  
7 who has been accepted in a primary care internship/residency  
8 program in West Virginia; or

9 (2) The applicant is enrolled in an approved education program  
10 at a West Virginia institution leading to a degree or certification  
11 in the field of nurse practitioner, nurse midwife, physician  
12 assistant, physical therapist, doctoral clinical psychologist,  
13 licensed independent clinical social worker, or other disciplines  
14 identified as shortage fields by the vice chancellor for health  
15 sciences; and

16 (3) The applicant signs an agreement to practice for at least  
17 two years in an underserved area of West Virginia. An individual  
18 also is eligible for consideration for a health sciences service  
19 program award if the individual is pursuing a master's degree in  
20 nursing and signs an agreement to teach at least two years for a  
21 school of nursing located in West Virginia, as may be determined by  
22 the vice chancellor for health sciences, after receiving her or his  
23 master's degree. When making awards, preference will be given to  
24 West Virginia residents.

25 (d) *Program awards.* -- Program awards shall be in an amount  
26 set by the Higher Education Policy Commission of at least \$20,000

1 for medical students and at least \$10,000 for all others and may be  
2 awarded by the vice chancellor for health sciences, with the advice  
3 of an advisory panel, from the pool of all applicants with a  
4 commitment to practice in an underserved area of West Virginia.  
5 Nothing herein grants or guarantees an applicant any right to a  
6 program award.

7       (e) *Repayment provisions.* -- A program award recipient who  
8 fails to practice in an underserved area of West Virginia within  
9 six months of the completion of his or her training, who fails to  
10 complete his or her training or who fails to complete the required  
11 teaching is in breach of contract and is liable for repayment of  
12 the program award and any accrued interest. The granting or  
13 renewal of a license to practice in West Virginia or to reciprocal  
14 licensure in another state based upon licensure in West Virginia  
15 shall be contingent upon beginning payment and continuing payment  
16 until repayment of the program award and any accrued interest is  
17 complete. No license, renewal or reciprocity shall be granted to  
18 persons whose repayments are in arrears. The appropriate  
19 regulatory board shall inform all other states where a recipient  
20 has reciprocated based upon West Virginia licensure of any refusal  
21 to renew licensure in West Virginia as a result of failure to repay  
22 the program award. This provision shall be explained in bold type  
23 in the program award contract. Repayment terms, not inconsistent  
24 with this section, shall be established by the vice chancellor for  
25 health sciences pursuant to rules as required under subsection (f)  
26 of this section.

1 (f) *Promulgation of rules.* -- The Commission shall propose  
2 rules pursuant to article three-a, chapter twenty nine-a of this  
3 code necessary for the implementation and administration of this  
4 section.

5 (g) *Definitions.* -- For purposes of the repayment provisions  
6 of this section:

7 (1) "Training" means the entire degree program or  
8 certification program for nurse midwives, nurse practitioners,  
9 physician assistants, physical therapists, doctoral clinical  
10 psychologists, licensed independent clinical social workers, and  
11 other disciplines identified as shortage fields by the vice  
12 chancellor. The term also means the completion of a degree program  
13 and includes completion of an approved residency/internship program  
14 for students pursuing a degree in medicine or a degree in  
15 osteopathy.

16 (2) "Underserved area" means any primary care health  
17 professional shortage area located in the state as determined by  
18 the Bureau for Public Health or any additional health professional  
19 shortage area determined by the vice chancellor for health  
20 sciences.

21 **§18C-3-4. Nursing financial aid program; funding; administration;**  
22 **student awards; service requirements.**

23 (a) There is continued in the State Treasury a special revenue  
24 account known as the "Center for Nursing Fund" to be administered  
25 by the commission for the purposes of this section. Balances

1 remaining in the fund at the end of the fiscal year shall not  
2 expire or revert to the general revenue. All costs associated with  
3 the administration of this section shall be paid from the Center  
4 for Nursing Fund under the direction of the Vice Chancellor for  
5 Administration. Administrative costs are to be minimized and the  
6 maximum amount feasible is to be used to fund awards for students  
7 in nursing programs.

8 (b) The account is funded from the following sources:

9 (1) A supplemental licensure fee not to exceed \$10 per year to  
10 be paid by all nurses licensed by the Board of Examiners for  
11 Registered Professional Nurses, pursuant to section eight-a,  
12 article seven, chapter thirty of this code, and the Board of  
13 Examiners for Licensed Practical Nurses, pursuant to section  
14 seven-a, article seven-a, chapter thirty of this code;

15 (2) Repayments, including interest as set by the vice  
16 chancellor for administration, collected from program award  
17 recipients who fail to practice or teach in West Virginia under the  
18 terms of the program award agreement as set forth under this  
19 section; and

20 (3) Other public and private funds.

21 (c) In consultation with the board of directors of the West  
22 Virginia Center for Nursing, established pursuant to article seven-  
23 b, chapter thirty of this code, the commission shall administer a  
24 financial aid program designed to benefit nurses who practice in  
25 hospitals and other health care institutions or teach in state  
26 nursing programs. Awards shall be made as follows, subject to the

1 terms of the rule provided for in this section:

2 (A) An award of at least \$3,000 for a student in an approved  
3 LPN nursing program located in the state. The student shall be  
4 required to practice in West Virginia for at least one year;

5 (B) An award of at least \$7,500 for a student who has  
6 completed half of an approved RN nursing program located in West  
7 Virginia. A recipient shall be required to teach or practice in  
8 West Virginia for at least two years.

9 (C) An award of at least \$15,000 to a student in a nursing  
10 education master's degree program or doctoral student in an  
11 approved nursing program located in West Virginia who shall be  
required to teach in the state for at least two years.

(d) A student who has received financial aid under the  
provisions of this section shall meet one of the following  
conditions:

(1) Fulfill the service requirements provided in this section  
and in any rules pertaining to this program which are duly  
promulgated by the commission; or

(2) Reimburse the commission for the amount received under  
this section together with accrued interest as provided by the  
student agreement.

(e) The commission shall propose legislative rules in  
accordance with the provisions of article three-a, chapter twenty-  
nine-a of this code to implement the provisions of this section.  
The rules shall address at least the following issues:

(1) Eligibility and selection criteria for participation in

the financial aid program;

(2) Terms of a student agreement which the student must execute as a condition of receiving financial aid;

(3) Reimbursement and repayment by students who receive financial aid but fail to fulfill the post-graduation practice requirements;

(4) Forgiveness options for death or disability of a student who received financial aid under this section; and

(5) An appeal process for students who were denied participation or who have been ordered to pay reimbursement and interest for failure to meet the conditions of receiving financial aid.

(f) The commission shall report by the first of December annually to the Legislative Oversight Commission on Health and Human Resources Accountability and the Legislative Oversight Commission on Education Accountability on the number of students who have received awards and on all other matters relevant to the provisions of this section.

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

### **ARTICLE 7B. CENTER FOR NURSING.**

#### **§30-7B-2. Definitions.**

As used in this article, the following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(a) "Annual turnover rate" means the number of nurses who

leave an organization in a year divided by the average number of nurses employed in that year;

(b) "Board" means the Board of Directors for the West Virginia Center for Nursing.

(c) "Center" means the West Virginia Center for Nursing.

(d) "Direct patient care" means health care that provides for the physical, emotional, diagnostic or rehabilitative needs of a patient, or health care that involves examination, treatment or preparation for diagnostic tests or procedures.

(e) "Hard to fill vacancy" means recruitment difficulties experienced which include, but are not limited to, lack of applicants, applicants who lack the proper qualifications, competition and undesirable hours.

(f) "Vacancy rate" means the number of vacant budgeted nursing positions divided by the total number of budgeted nursing positions at a point in time.

**§30-7B-3. West Virginia Center for Nursing.**

(a) The West Virginia Center for Nursing is continued to address the issues of recruitment and retention of nurses in West Virginia.

(b) The Higher Education Policy Commission shall provide suitable office space for the center and shall provide staff support as necessary. The commission also shall share statistics and other pertinent information with the center and shall work cooperatively to assist it to achieve its objectives.

**§30-7B-4. Center's powers and duties.**

The center has the following responsibilities:

(a) Establish a statewide strategic plan to address the nursing shortage in West Virginia;

(b) Establish and maintain a database of statistical information regarding nursing supply, demand and turnover rates in West Virginia and projections regarding future needs:

(1) The center shall collect data from employers annually and shall collaborate with employers and other state agencies to develop the best method for data collection.

(2) The data shall include vacancy rates, annual turnover rate and statistics regarding hard to fill vacancies for all levels of nurses.

(3) Employers of nurses who are surveyed shall provide data by the deadline established by the center;

(4) The center shall report data in aggregate form by workforce region and shall use the data to plan strategically for recruitment and retention initiatives by region.

(5) Data received under this section that contains information identifying specific patients or health care facilities is confidential, is not subject to disclosure and may not be released unless all identifying information is removed.

(c) Establish and maintain a website to disseminate information about the center, its mission, educational opportunities and financial aid available in West Virginia;

(d) Evaluate capacity for expansion of nursing programs, including the availability of faculty, clinical laboratories,

computers and software, library holdings and supplies; and

(e) The center has the authority to perform other activities necessary or expedient to accomplish the purposes and implement the provisions of this article.

**§30-7B-5. Board of directors.**

(a) The center is governed by a board consisting of the following members:

(1) Two representatives from the West Virginia Board of Examiners for Registered Professional Nurses, as follows:

(A) One representing a bachelor and higher degree program; and

(B) One representing an associate degree program;

(2) One representative from the West Virginia Board of Examiners for Licensed Practical Nurses;

(3) One representative from the West Virginia Nurses Association;

(4) One nurse representing a rural health care facility;

(5) One director of nursing;

(6) One health care administrator;

(7) One registered professional staff nurse engaged in direct patient care;

(8) One licensed practical nurse engaged in direct patient care;

(9) Two lay citizen members as required by section four-a, article one, chapter thirty of this code;

(10) Two ex officio, non-voting members, as follows:

(A) The Secretary of the Department of Health and Human

Resources or his or her designee; and

(B) A representative from the Workforce Development Office.

(b) After the initial terms expire, terms are four years and no member may serve more than two consecutive terms.

(c) The board shall elect annually from its voting members a president and a secretary as required by section three, article one, chapter thirty of this code. A majority of the appointed members constitutes a quorum.

(d) In the case of a vacancy, the Governor has thirty days to fill the vacancy or the Board of Examiners for Registered Professional Nurses shall appoint a member to serve on the board.

(e) The members of the board who are in office on the effective date of this section, unless sooner removed, shall continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(f) Each member of the board is entitled to receive reimbursement for expenses in accordance with article one, chapter thirty of this code and section seven of this article.

**§30-7B-6. Powers and duties of the board of directors.**

(a) The board has the following powers and duties:

(1) Determine policy for the operation of the center to accomplish the purposes of this article; and

(2) Advise the Higher Education Policy Commission on matters pertaining to the administration of the nursing financial aid program established pursuant to section four, article three, chapter eighteen-c of this code.

(b) The board shall rely upon the staff of the Higher Education Policy Commission to provide administrative and professional support as needed.

**§30-7B-7. Reimbursement for expenses.**

(a) Members of the board shall serve without compensation, but may be reimbursed for actual and necessary expenses incurred for each day or portion thereof in which they are engaged in the discharge of official duties. Reimbursements are made in a manner consistent with guidelines of the travel management office of the Department of Administration.

(b) The Higher Education Policy Commission shall provide for members' reimbursement from the funds accrued in the Center for Nursing Fund revenue account.

**§30-7B-9. Reports.**

The center shall report by December 1 of each year to the Legislative Oversight Commission on Health and Human Resources Accountability and the Legislative Oversight Commission on Education Accountability on its progress in developing a statewide strategic plan to address the nursing shortage in West Virginia and on any other issues the board considers relevant to the practice of nursing in this state. Additionally, the board shall provide drafts of legislation needed to implement recommendations of the center's strategic plan.