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**H. B. 2954**

(By Delegates Miley, Williams, Hornbuckle, Moye, Bates, L. Phillips,  
Reynolds, Perry, Moore, Rodighiero and Pushkin)

[Introduced February 24, 2015; referred to the  
Committee on Education then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §18C-7-2, §18C-7-3, §18C-7-6 and §18C-7-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22A-10b of said code, all relating to expanding the promise scholarship to technical and community college students; providing eligibility requirements; allowing State Board of Education to promulgate rules for institution eligibility and to otherwise criteria for the program; and transferring moneys from the Greyhound Breeding Development Fund to fund the new promise program.

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

That §18C-7-2, §18C-7-3, §18C-7-6 and §18C-7-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §29-22A-10b of said code be amended and enacted, all to read as follows:

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

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

1 **§18C-7-2. Legislative findings and purpose.**

2 (a) The Legislature finds and declares that:

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

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

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

11 (4) Because a low percentage of state high school graduates attend college at all in West  
12 Virginia, and because of the benefits of encouraging these students to pursue training in a field or  
13 skill that will allow them to make higher wages by receiving specialized training in careers where  
14 there are current job opportunities in West Virginia that pay a higher living wage, that the Promise  
15 Scholarship created pursuant to this article be expanded to assist high school graduates who may not  
16 qualify or be interested in perusing a baccalaureate or other four year or longer post-secondary  
17 education degree, but does allow them to receive a scholarship to receive an education or training  
18 from a technical school or a two year degree from a community college;

19 ~~(4)~~ (5) Higher levels of education attainment result in higher levels of personal income over  
20 a lifetime;

21 ~~(5)~~ (6) Students who acquire a baccalaureate degree will earn an estimated \$1 million more  
22 over their lifetimes than those who attain only a high school diploma. This translates into an

1 increased tax base and economic development for West Virginia and more discretionary income for  
2 its citizens;

3 (7) Students that receive a two year degree or trade certification often earn higher salaries  
4 than persons receiving baccalaureate degrees, particularly in trades or careers in which there is a high  
5 demand;

6 ~~(6)~~ (8) Students at all education levels should have an incentive to perform at a high  
7 academic level;

8 ~~(7)~~ (9) There is a need to provide parents with all tools possible to aid them in helping their  
9 children understand the importance of high academic achievement in high school and college;

10 ~~(8)~~ (10) The PROMISE Scholarship Program is highly successful and should be maintained  
11 with merit as its strongest component. The merit component:

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

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

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

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

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

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

19 (b) It is the purpose of this article to continue the West Virginia PROMISE Scholarship  
20 Program to deal effectively with the findings set forth in this section.

21 (c) Nothing in this article guarantees:

22 (1) A PROMISE scholarship award or any specific amount of a PROMISE scholarship award

1 to any student; or

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

4 **§18C-7-3. Definitions.**

5 (a) *General.* -- For the purposes of this article, terms have the meaning ascribed to them in  
6 section two, article one of this chapter, unless the context in which the term is used clearly requires  
7 a different meaning or a specific definition is provided in this section.

8 (b) *Definitions.* --

9 (1) "Eligible institution" means:

10 (A) A state institution of higher education as defined in section two, article one, chapter  
11 eighteen-b of this code;

12 (B) Alderson-Broaddus College, Appalachian Bible College, Bethany College, Davis and  
13 Elkins College, Mountain State University, Ohio Valley University, the University of Charleston,  
14 West Virginia Wesleyan College and Wheeling Jesuit University, all in West Virginia. The board,  
15 pursuant to section five of this article, shall promulgate by legislative rule, a list of accredited trade  
16 schools, community colleges and other institutions eligible for qualification for a student to attend  
17 on a two year trade or community college scholarship. Any institution ~~listed in~~ authorized pursuant  
18 to this subdivision ceases to be an eligible institution if it meets either of the following conditions:

19 (i) It loses regional accreditation; or

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

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

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

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

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

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

11 **§18C-7-6. Promise scholarship program requirements; legislative rule.**

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

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

18 (2) For a student enrolled in a state community college or trade school the annual award is  
19 equal to the lesser of the cost of tuition or \$4,750.

20 ~~(2)~~ (3) For a student enrolled in an eligible institution other than a state institution of higher  
21 education, the annual award is equal to, but may not exceed, the lesser of the cost of tuition or  
22 \$4,750, except that a student who was awarded and used a PROMISE scholarship annual award prior

1 to January 1, 2010, shall continue to receive the annual award calculated under the same terms and  
2 conditions that applied on the day before the effective date of this article;

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

6 ~~(4)~~ (5) The annual award shall be used by an eligible institution to supplement, but may not  
7 supplant, a tuition and fee waiver for which the individual is eligible pursuant to section five, six-a,  
8 seven or seven-b, article ten, chapter eighteen-b of this code.

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

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

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

13 (A) Within two years of graduating from high school or within two years of acquiring a  
14 general equivalency degree if provided instruction in the home or other approved place pursuant to  
15 subsection (c), section one, article eight, chapter eighteen of this code; or

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

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

20 (3) (A) For admission for a baccalaureate degree, maintain a grade point average of at least  
21 3.0 on a 4.0 grading scale in the required core and elective course work necessary to prepare students  
22 for success in post-secondary education at the associate and baccalaureate degree levels as

1 determined by the commission, if the individual has completed not more than one semester or term  
2 at an institution of higher education, excluding credits earned in advanced placement, international  
3 baccalaureate, dual credit and comparable courses while the student is enrolled in high school; or  
4 (B) For admission for an associate degree or trade school certification, maintain a grade point  
5 average of at least 2.5 on a 4.0 grading scale in the required core and elective course work necessary  
6 to prepare students for success in post-secondary education at the associate degree or trade school  
7 certification as determined by the commission, if the individual has completed not more than one  
8 semester or term at an approved trade school or community college or institution of higher education,  
9 excluding credits earned in advanced placement, international baccalaureate, dual credit and  
10 comparable courses while the student is enrolled in high school;

11 (4) Maintain appropriate academic progress toward the completion of a degree at the  
12 undergraduate education level as determined by the commission if the individual has completed  
13 more than one semester or term at an institution of higher education, excluding credits earned in  
14 advanced placement, international baccalaureate, dual credit and comparable courses while the  
15 student is enrolled in high school;

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

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

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

1 (A) The institution at which the student is enrolled loses its status as an eligible institution  
2 pursuant to the provisions of subdivision (1), subsection (b), section three of this article; and

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

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

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

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

11 (3) Fostering civic responsibility.

12 (e) The commission shall promulgate a legislative rule in accordance with the provisions of  
13 article three-a, chapter twenty-nine-a of this code.

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

15 (A) The amount of a PROMISE scholarship award in combination with aid from all other  
16 sources may not exceed the cost of education at the institution the recipient is attending. This  
17 provision does not apply to members of the West Virginia National Guard, recipients of an  
18 Underwood-Smith teacher scholarship and recipients of a West Virginia engineering, science and  
19 technology scholarship;

20 (B) Additional objective standards the commission considers necessary:

21 (i) To promote academic excellence;

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



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

2 (C) Provisions for making the highest and best use of the PROMISE Scholarship Program  
3 in conjunction with the West Virginia College Prepaid Tuition and Savings Program Act set forth  
4 in article thirty, chapter eighteen of this code;

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

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

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

10 and

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

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

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

18 (ii) Eliminating any current recipient from eligibility; and

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

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

21 (A) Requiring repayment of the amount of the scholarship, in whole or in part, if a  
22 scholarship recipient chooses to work outside the state after graduation. The rule may not require

1 a recipient to repay a scholarship, in whole or in part, unless the prospective recipient has been  
2 informed of this requirement in writing before initial acceptance of the PROMISE scholarship  
3 award;

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

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

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

9 (3) The Legislature finds that an emergency exists and, therefore upon passage of this Act  
10 by the 2015 West Virginia Legislature, the commission shall file a rule to implement the provisions  
11 of this section as an emergency rule pursuant to the provisions of article three-a, chapter twenty-nine-  
12 a of this code. The rule is subject to the prior approval of the Legislative Oversight Commission on  
13 Education Accountability.

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

17 **§18C-7-7. West Virginia PROMISE Scholarship Fund continued.**

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

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

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

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

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

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

6 (c) For the fiscal year beginning July 1, 2006, it is the intent of the Legislature that the  
7 aggregate of the amount of moneys transferred to the fund pursuant to section eighteen-a, article  
8 twenty-two, chapter twenty-nine of this code, and any other amounts of public moneys that may be  
9 transferred to the fund by appropriation of the Legislature, shall equal, but may not exceed, \$40  
10 million. For each fiscal year thereafter until and including the fiscal year ending June 30, 2009, it  
11 is the intent of the Legislature that this aggregate be an amount two percent greater than the  
12 aggregate established by this subsection for the prior fiscal year. For the fiscal year beginning July  
13 1, 2009, it is the intent of the Legislature that the aggregate of the amount of moneys transferred to  
14 the fund pursuant to section eighteen-a, article twenty-two, chapter twenty-nine of this code and any  
15 other amounts of public moneys that may be transferred to the fund by appropriation of the  
16 Legislature shall equal \$45 million. For the fiscal year beginning July 1, 2010, it is the intent of the  
17 Legislature that the aggregate of the amount of moneys transferred to the fund shall equal \$48  
18 million. For the fiscal year beginning July 1, 2011, and every fiscal year thereafter, it is the intent  
19 of the Legislature that the aggregate of the amount of moneys transferred to the fund shall equal  
20 \$47,500,000.

21 (d) For the fiscal year beginning July 1, 2015, it is the intent of the Legislature that the  
22 aggregate of the amount of moneys transferred to the fund pursuant to section ten-b, article twenty-

1 two-a, chapter twenty-nine of this code, and any other amounts of public moneys that may be  
2 transferred to the fund by appropriation of the Legislature, shall be utilized to fund Promise  
3 scholarships for students enrolled in a state community college or trade school as established  
4 pursuant to the provisions of this article during the 2015 regular legislative session.

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

7 **CHAPTER 29. MISCELLANEOUS BOARDS & OFFICERS.**

8 **ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

9 **§29-22A-10b. Distribution of excess net terminal income.**

10       (a) For all years beginning on or after July 1, 2001, any amount of net terminal income  
11 generated annually by a licensed racetrack in excess of the amount of net terminal income generated  
12 by that licensed racetrack during the fiscal year ending on June 30, 2001, shall be divided as follows:

13       (1) The commission shall receive forty-one percent of net terminal income, which the  
14 commission shall deposit in the state Excess Lottery Revenue Fund created in section eighteen-a,  
15 article twenty-two of this chapter;

16       (2) Until July 1, 2005, eight percent of net terminal income at a licensed racetrack shall be  
17 deposited in the special fund established by the licensee and used for payment of regular purses in  
18 addition to other amounts provided in article twenty-three, chapter nineteen of this code; on and after  
19 July 1, 2005, the rate shall be four percent of net terminal income;

20       (3) The county where the video lottery terminals are located shall receive two percent of the  
21 net terminal income: *Provided, That:*

22       (A) Any amount by which the total amount under this section and subdivision (3), subsection

1 (c), section ten of this article is in excess of the two percent received during fiscal year 1999 by a  
2 county in which a racetrack is located that has participated in the West Virginia Thoroughbred  
3 Development Fund since on or before January 1, 1999, shall be divided as follows:

4 (i) The county shall receive fifty percent of the excess amount; and

5 (ii) The municipalities of the county shall receive fifty percent of the excess amount, the fifty  
6 percent to be divided among the municipalities on a per capita basis as determined by the most recent  
7 decennial United States census of population; and

8 (B) Any amount by which the total amount under this section and subdivision (3), subsection  
9 (c), section ten of this article is in excess of the two percent received during fiscal year 1999 by a  
10 county in which a racetrack other than a racetrack described in paragraph (A) of this proviso is  
11 located and where the racetrack has been located in a municipality within the county since on or  
12 before January 1, 1999, shall be divided, if applicable, as follows:

13 (i) The county shall receive fifty percent of the excess amount; and

14 (ii) The municipality shall receive fifty percent of the excess amount; and

15 (C) This proviso shall not affect the amount to be received under this subdivision by any  
16 county other than a county described in paragraph (A) or (B) of this proviso;

17 (4) One half of one percent of net terminal income shall be paid for and on behalf of all  
18 employees of the licensed racing association by making a deposit into a special fund to be  
19 established by the Racing Commission to be used for payment into the pension plan for all  
20 employees of the licensed racing association;

21 (5) The West Virginia Thoroughbred Development Fund created under section thirteen-b,  
22 article twenty-three, chapter nineteen of this code and the West Virginia Greyhound Breeding

1 Development Fund created under section ten of said article shall receive an equal share of a total of  
2 not less than one and one half percent of the net terminal income: Provided, That notwithstanding  
3 the provisions of this subsection to the contrary, starting the fiscal year that begins July 1, 2014, the  
4 share or moneys that have been deposited into the Greyhound Breeding Development Fund shall  
5 henceforth be deposited into the West Virginia PROMISE Scholarship Fund established pursuant  
6 to section seven, article seven, chapter eighteen-c of this code.

7 (6) The West Virginia Racing Commission shall receive one percent of the net terminal  
8 income which shall be deposited and used as provided in section thirteen-c, article twenty-three,  
9 chapter nineteen of this code;

10 (7) A licensee shall receive forty-two percent of net terminal income;

11 (8) The tourism promotion fund established in section twelve, article two, chapter five-b of  
12 this code shall receive three percent of the net terminal income: *Provided*, That for each fiscal year  
13 beginning after June 30, 2004, this three percent of net terminal income shall be distributed pursuant  
14 to the provisions of paragraph (B), subdivision (8), subsection (c), section ten of this article;

15 (9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited into  
16 the Workers' Compensation Debt Reduction Fund created in section five, article two-d, chapter  
17 twenty-three of this code: *Provided*, That in any fiscal year when the amount of money generated  
18 by this subdivision together with the total allocation transferred by the operation of subdivision (9),  
19 subsection (c), section ten of this article totals \$11million all subsequent distributions under this  
20 subdivision (9) during that fiscal year shall be deposited in the special fund established by the  
21 licensee and used for payment of regular purses in addition to other amounts provided in article  
22 twenty-three, chapter nineteen of this code;

1           (B) The deposit of the four percent of net terminal income into the Worker's Compensation  
2 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to  
3 these funds, which shall be deposited in the special fund established by the licensee and used for  
4 payment of regular purses in addition to the other amounts provided in article twenty-three, chapter  
5 nineteen of this code on and after the first day of the month following the month in which the  
6 Governor certifies to the Legislature that: (i) The revenue bonds issued pursuant to article two-d,  
7 chapter twenty-three of this code have been retired or payment of the debt service is provided for;  
8 and (ii) that an independent certified actuary has determined that the unfunded liability of the Old  
9 Fund, as defined in chapter twenty-three of this code, has been paid or provided in its entirety; and

10           (10) (A) One percent of the net terminal income shall be deposited in equal amounts in the  
11 capitol dome and improvements fund created under section two, article four, chapter five-a of this  
12 code and cultural facilities and capitol resources matching grant program fund created under section  
13 three, article one of this chapter; and

14           (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for  
15 each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall be  
16 distributed pursuant to the provisions of subparagraph (ii), paragraph (B), subdivision (9), subsection  
17 (c), section ten of this article.

18           (b) The commission may establish orderly and effective procedures for the collection and  
19 distribution of funds under this section in accordance with the provisions of this section and section  
20 ten of this article.

NOTE: The purpose of this bill is to establish a PROMISE Scholarship for West Virginia residents similar to the one that exists for students working towards a four year baccalaureate degree. Using funds currently derived from winnings for slots at state racetracks, which are currently directed to greyhound breeding and development, the scholarships would be directed to resident students who have maintained at least a 2.5 GPA in high school would be eligible for the scholarship for a two year community college or trade school, in the same amount as currently is available for other Promise Scholar recipients.

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