

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### Senate Bill 79

FISCAL  
NOTE

BY SENATORS BOSO, STOLLINGS, AND SWOPE

[Introduced January 9, 2019; Referred  
to the Committee on Education; and then to the Committee  
on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-  
3 2L-8, §18-2L-9, §18-2L-10, §18-2L-11, and §18-2L-12; and to amend said code by adding  
4 thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, and §18C-9-  
5 5, all relating generally to the establishment of the Katherine Johnson Academy as magnet  
6 school programs at colleges and universities in West Virginia; defining terms; creating a  
7 board of trustees to govern the Katherine Johnson Academy; providing for membership of  
8 the board of trustees, the selection of a chair, terms of the trustees, duties and  
9 responsibilities, setting of meetings, and establishing trustees to serve without  
10 compensation; authorizing the board of trustees to perform certain duties; providing for  
11 the appointment of a president; providing for collaboration agreements for the  
12 establishment of magnet school programs; providing for restrictions on the amount that  
13 may be charged for tuition, fees, room, board, and books; authorizing the establishment  
14 of residential programs and commuter programs at colleges and universities; establishing  
15 the Academy of Mathematics and Science and the Academy for the Performing Arts;  
16 requiring the board of trustees to select certain host institutions pursuant to a competitive  
17 bidding process; establishing certain minimum eligibility requirements for students;  
18 authorizing a host institution to determine admission and enrollment; requiring students  
19 accepted and admitted into a magnet school program to receive the PROMISE  
20 scholarship; providing for students to receive a scholarship from the Katherine Johnson  
21 Scholarship Fund; providing that no county board or college or university will be required  
22 to participate in this program; requiring the Katherine Johnson Academy, the State Board  
23 of Education, and the Higher Education Policy Commission to promulgate a joint rule for  
24 the administration of the Katherine Johnson Academy; establishing the Katherine Johnson  
25 Scholarship Fund; providing for state and county support for the Katherine Johnson

26 Scholarship Fund based upon per-pupil allocations; defining terms; and providing for  
27 rulemaking.

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

**CHAPTER 18. EDUCATION.**

**ARTICLE 2L. KATHERINE JOHNSON ACADEMY**

**§18-2L-1. Katherine Johnson Academy established.**

1 There is hereby established the Katherine Johnson Academy in recognition of one of West  
2 Virginia’s most outstanding and distinguished citizens whose contributions as a pioneer in the  
3 advancement of science, mathematics, and space travel have been recognized through  
4 numerous honors including the nation’s highest civilian award, the Presidential Medal of Freedom.

**§18-2L-2. Legislative findings; purpose; intent.**

1 The Legislature hereby finds and declares that:

2 (1) A student’s time engaged in learning is maximized when the student is allowed to  
3 progress and acquire competency at a pace that challenges his or her own interest and intellect.

4 (2) Post-secondary option programs, such as magnet or STEM schools, allow students to  
5 take college courses for which they can receive both college credit and credit toward their high  
6 school diploma and that such programs provide high-achieving students the opportunity to  
7 advance, academically, at a pace commensurate with their abilities and ambition.

8 (3) Currently, there are over 4,000 magnet schools in the United States serving over 3.5  
9 million students. Each day, these students are gaining a competitive advantage over students in  
10 West Virginia who have little or no access to such programs.

11 (4) Post-secondary option programs, such as magnet schools, can provide the families of  
12 high-achieving secondary school students the opportunity to save thousands of dollars in future  
13 college costs.

14 (5) In 2017, more than 52,000 Ohio students, including 15 percent of all high school juniors

15 and seniors, earned college credit through the state's post-secondary option program, saving their  
16 families more than \$120 million in future college costs.

17 (6) The purpose for the establishment of the Katherine Johnson Academy is to provide  
18 high-achieving students in West Virginia the opportunity to engage in an accelerated and  
19 exceptionally challenging academic experience through the establishment of magnet school  
20 programs at four-year colleges and universities throughout West Virginia.

21 (7) It is the Legislature's intent that the academy's magnet school programs established  
22 under this article be both specialized and generalized and both resident- and commuter-based in  
23 order to provide students and parents with greater choice and colleges and universities greater  
24 flexibility in establishing the programs they host.

### **§18-2L-3. Definitions.**

1 The following words used in this chapter and in any proceedings pursuant thereto have  
2 the meanings ascribed to them unless the context clearly indicates a different meaning:

3 "Academy" means the Katherine Johnson Academy created under this article.

4 "Academy board" means the Board of Trustees of the Katherine Johnson Academy.

5 "Academy program" means a magnet school program offered by the academy and hosted  
6 by a college or university pursuant to a collaboration agreement.

7 "Books" means both printed and electronic books required for a course;

8 "Chancellor" means the Chancellor of Higher Education for the State of West Virginia.

9 "Collaboration agreement" means an agreement by and among the academy board, state  
10 board, the commission, a college or university's governing board and a county board, where  
11 necessary, that sets forth the terms and conditions by which a college or university will host an  
12 academy program.

13 "College or university" means both public and private four-year colleges and universities  
14 that maintain a physical campus with residential facilities for students.

15 "Commission" means the Higher Education Policy Commission of West Virginia.

16 “County board” means the county board of education.

17 “County per pupil allocation” means the per pupil state aid allocation provided under the  
18 state aid formula for the county in which the student is enrolled in a secondary school.

19 “Generalized program” means a curriculum that offers a broad base of courses.

20 “Host institution” means a college or university in West Virginia that operates an academy  
21 program pursuant to a collaboration agreement.

22 “Local secondary school” means a public, private, or parochial school consisting, at least,  
23 of grades 10 through 12 in a county in which a student resides or a home school where a student  
24 has achieved a grade equivalency of grade 10, 11, or 12.

25 “Magnet school” means a public school with a rigorous and challenging curriculum that  
26 greatly exceeds the state’s minimum requirements and is intended to attract high-achieving  
27 students from across the boundaries of traditional school districts. The curriculum for a magnet  
28 school program may be specialized, such as a STEM school, or generalized.

29 “President” means the President of the Katherine Johnson Academy.

30 “Public school student” means any student currently enrolled in a public school including  
31 a residential academy program.

32 “Specialized program” means a curriculum that provides a focus on a particular area of  
33 academic interest.

34 “State” means the State of West Virginia.

35 “Standard rate” means the amount per credit hour assessed by a college or university for  
36 an in-state student who is enrolled as an undergraduate student at that college, but who is not  
37 participating in any program established under this article.

38 “State aid formula” means the State’s Public School Support Program established under  
39 §18-9A-1 et seq. of this code.

40 “State board” means the West Virginia Board of Education.

41 “State per pupil allocation” means the average per pupil state aid allocation for all pupils

42 in the state under the state aid formula.

43 “Trustee” means a member of the Board of Trustees of the Katherine Johnson Academy.

**§18-2L-4. Board of Trustees.**

1 (a) A board of trustees shall serve as the governing board and policy-making authority for  
2 the academy.

3 (b) Membership. – The board of trustees shall consist of five voting trustees appointed by  
4 the Governor with the advice and consent of the Senate. At least one trustee shall reside in each  
5 of the state’s congressional districts.

6 (1) Two of the five trustees of the initial academy board shall be appointed for two-year  
7 terms beginning July 1, 2019, and expiring June 30, 2021.

8 (2) Three of the five trustees of the initial academy board shall be appointed to four-year  
9 terms beginning July 1, 2019, and expiring June 30, 2023.

10 (3) Upon expiration of the terms of the trustees to the initial academy board, all trustees  
11 shall be appointed to four-year terms to commence on July 1 and end on June 30 of the fourth  
12 year.

13 (4) No trustee shall be appointed to serve more than two consecutive terms.

14 (5) The State Superintendent and the Chancellor of Higher Education shall serve as  
15 nonvoting ex-officio trustees of the academy board.

16 (c) Chair. – The academy board shall elect a trustee from among the voting trustees to  
17 serve as chair for a term of two years. No trustee may be elected chair for more than two  
18 consecutive terms.

19 (d) Powers. – The academy board shall be authorized to:

20 (1) Serve as a bridge between the state board and higher education by encouraging and  
21 facilitating the creation of academy programs on the campuses of colleges and universities  
22 throughout West Virginia;

23 (2) Establish standards of performance and accountability for the academy programs;

24 (3) Provide the Governor, the Legislature, the state board, the commission, participating  
 25 colleges and universities, and the public with annual reports on the academic and financial  
 26 performance of the academy programs based on established standards: *Provided*, That the  
 27 reports shall not violate any federal or state law as it relates to student confidentiality;

28 (4) Approve any contracts or other agreements required by law or necessary to fulfill the  
 29 purposes of this article;

30 (5) Promulgate rules for the governance of the academy; and

31 (6) Perform all other necessary duties and responsibilities required by law or inherent to  
 32 such a governing board.

33 (e) *Meetings.* – The academy board shall meet quarterly on a date and at a time and place  
 34 determined by the chair. The chair or three of the five trustees shall be authorized to call a special  
 35 meeting upon 14 days' written notice to all trustees and the academy's president.

36 (f) *Quorum.* – A quorum for the transaction of business is constituted by the attendance of  
 37 three or more voting trustees either in person or by electronic means approved by the academy  
 38 board. All official actions of the academy board shall require a majority vote of those voting  
 39 trustees present and voting.

40 (g) *Compensation.* – Trustees shall serve without compensation: *Provided*, That they may  
 41 be compensated for all reasonable travel and other expenses associated with the performance of  
 42 their duties.

**§18-2L-5. Academy president.**

1 The Governor shall select the president of the academy who shall serve as its chief  
 2 executive officer pursuant to the terms and conditions of a contract for such services: *Provided*,  
 3 That the contract period for such services shall not extend beyond a period of five years.

**§18-2L-6. Collaboration agreements; restrictions.**

1 (a) The rules, procedures, and policies of each host institution shall govern the operation  
 2 of each academy program subject to a collaboration agreement that shall be entered into by and

3 among:

4 (1) The academy board, the state board, the chancellor, and the governing board of the  
5 host institution for residential academy programs; and

6 (2) The academy board, the state board, the chancellor, the governing board of the host  
7 institution and the county board for each secondary school in which a student is enrolled for  
8 commuter-based Academy programs.

9 (b) All collaboration agreements shall be subject by law to the following restrictions:

10 (1) The charges for tuition, fees, room, board, and books for academy programs may not  
11 exceed the standard rate charged to full-time, in-state students attending the host institution;

12 (2) The annual charges for tuition, fees and books for any individual student enrolled in an  
13 academy program may not exceed the total amount of the PROMISE scholarship; and

14 (3)(A) For a residential program, the state per pupil allocation; or

15 (B) For a commuter program, the county per pupil allocation.

**§18-2L-7. Establishment of residential and commuter-based programs.**

1 The academy is authorized to establish both residential and commuter-based programs.

2 For the purposes of this article:

3 “Commuter program” is defined as:

4 (A) A program that attracts students from an area within reasonable proximity to the  
5 campus, thus commuting to and from the host institution for instruction;

6 (B) Students are enrolled in both a local secondary school and the host institution;

7 (C) Students receive both college credit and credit towards their high school diploma for  
8 courses successfully completed; and

9 (D) Students who satisfy their secondary school requirements receive their high school  
10 diploma from the local secondary school in which they are enrolled.

11 “Residential program” is defined as:

12 (A) An academy program that attracts students from throughout the state, thus requiring



13 students to live on campus: *Provided*, That the host institution may waive such requirement for  
 14 students who live within a reasonable distance from the campus and are able of traveling to and  
 15 from the campus;

16 (B) Students are enrolled in both the academy, as a diploma granting public school, and  
 17 the host institution;

18 (C) Students receive both college credit and credit towards their high school diploma for  
 19 courses successfully completed; and

20 (D) Students who satisfy their secondary school requirements receive their high school  
 21 diploma from the academy.

**§18-2L-8. Academy of Mathematics and Science and Academy for the Performing Arts**  
**established; determination of host institution.**

1 The Academy of Mathematics and Science and the Academy for the Performing Arts are  
 2 hereby established as specialized, residential academy programs.

3 The academy board shall determine the host institutions for the Academy of Mathematics  
 4 and Science and the Academy for the Performing Arts through a competitive bidding process.

5 The academy board is authorized to develop the criteria to be considered and the process by  
 6 which the host institutions shall be selected. Such information shall be made available in a timely  
 7 manner to all colleges and universities in West Virginia.

**§18-2L-9. Minimum eligibility requirements.**

1 (a) In order to be eligible for admission and enrollment in an academy program, a student  
 2 must meet the minimum eligibility requirements for the PROMISE scholarship set forth in §18C-  
 3 7-6(c) of this code except for the requirements set forth in §18C-7-6(c)(1) (relating to high school  
 4 graduation) and §18C-7-5(a)(4) of this code.

5 (b) In addition, in order to be eligible for admission and enrollment in an academy program,  
 6 a student must have completed the following core course requirements for secondary school  
 7 students:

8 (1) If the student is entering an academy program at the beginning of the equivalent of his  
9 or her 10th grade year, one core class in English, mathematics, social science, and science;

10 (2) If the student is entering an academy program at the beginning of the equivalent of his  
11 or her 11th grade year, two required core classes in English, mathematics, social science, and  
12 science; or

13 (3) If the student is entering an academy program at the beginning of the equivalent of his  
14 or her 12th grade year, three required core classes in English, mathematics, and social science,  
15 and two required core classes in science.

16 (c) Students enrolled in a required core class necessary to meet the requirements set forth  
17 in this section at the time of his or her application shall not be prohibited from applying for  
18 admission to an academy program but must meet such requirements prior to admission.

19 (d) Nothing in this section shall limit a collaboration agreement from requiring higher  
20 standards for admission to an academy program.

**§18-2L-10. Admission and enrollment.**

1 The host institution shall determine the admission and enrollment of students in an  
2 academy program subject to the terms and conditions of the collaboration agreement and their  
3 own internal admissions policies.

**§18-2L-11. Financial matters; participation not required.**

1 (a) Notwithstanding any eligibility requirement to the contrary, any student accepted and  
2 admitted into any academy program created pursuant to this article shall be awarded a PROMISE  
3 scholarship as established under §18C-7-1 et seq. of this code for the payment of the student's  
4 tuition, fees, and books.

5 (b) In the event the PROMISE scholarship awarded does not provide sufficient funding to  
6 pay for a student's tuition, fees, and books, as determined pursuant to a collaboration agreement,  
7 any public school student accepted and admitted in any academy program shall be entitled to a  
8 scholarship from the Katherine Johnson Academy Fund, established under §18C-9-1 et seq. of

9 this code, in an amount equal to the lesser of the balance of the student's tuition, fees, and books  
 10 or:

11 (1) For a student enrolled in a residential program, the state per pupil allocation; or

12 (2) For a student enrolled in a commuter program, 90 percent of the county per pupil  
 13 allocation.

14 (c) No county board or college or university in West Virginia shall be required to participate  
 15 in any academy programs established under this article.

**§18-2L-12. Joint rule required.**

1 In order to promote the fulfillment of the intent, purposes, and spirit of the Katherine  
 2 Johnson Academy, the academy board, the state board, and the commission shall promulgate a  
 3 joint legislative rule in accordance with §29A-3-1 et seq., §29A-3A-1 et seq., and §29A-3B-1 et  
 4 seq. of this code that provides for, but is not limited to, the appropriate waiver of policies by the  
 5 state board and the commission; the establishment and delivery of the courses and programs  
 6 under this article; the qualifications for teachers and other faculty to provide instruction; criteria  
 7 for determining equivalencies to the minimum standards set forth herein for any student  
 8 homeschooled under exemptions provided in §18-8-1(b) and §18-8-1(k) of this code;  
 9 requirements for the content of any collaboration agreement; the establishment of performance  
 10 measures for purposes of accreditation; and any other rule that may provide additional guidance  
 11 in administering the academy.

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

**ARTICLE 9. THE KATHERINE JOHNSON SCHOLARSHIP FUND.**

**§18C-9-1. Katherine Johnson Scholarship Fund established.**

1 There is hereby established the Katherine Johnson Scholarship Fund, which shall be  
 2 administered by the Board of Trustees of the Katherine Johnson Academy (hereinafter referred  
 3 to as the "academy board") established under §18-2L-1 et seq. of this code.

**§18C-9-2. Purpose.**

1        The purpose of the Katherine Johnson Scholarship Fund is to receive, hold, invest, and  
2 expend both public and private moneys for the purposes of providing scholarships for students  
3 attending the Katherine Johnson Academy pursuant to §18-2L-11(b) of this code.

**§18C-9-3. Definitions.**

1        Words used in this article shall be the same as defined in §18-2L-3 of this code.

**§18C-9-4. Powers of the academy board.**

1        In addition to the powers granted by any other provision of this code, the academy board  
2 has the powers necessary or convenient to carry out the purposes and provisions of this article  
3 including, but not limited to, the following express powers:

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

6        (2) To invest any of the funds received under this article with the West Virginia Investment  
7 Management Board in accordance with the provisions of §12-6-1 et seq. of this code;

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

9        (4) To contract for necessary goods and services, to employ necessary personnel, and to  
10 engage the services of private persons for the administrative and technical assistance in carrying  
11 out the responsibilities of this program;

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

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

**§18C-9-5. State and county support.**

1        Each year, an appropriation shall be made to the department of education for distribution  
2 to the Katherine Johnson Scholarship Fund in an amount equal to the state per pupil allocation

3 times the number of students attending a residential academy program established under §18-  
4 2L-1 *et seq.* of this code.

5 Each year, a county board shall transfer to the Katherine Johnson Scholarship Fund an  
6 amount equal to 90 percent of the county per pupil allocation for the previous fiscal year times the  
7 number of students enrolled in both a local secondary school in their county and a commuter  
8 academy program established under §18-2L-1 *et seq.* of this code.

NOTE: The purpose of this bill is to establish magnet schools on the campuses of colleges and universities throughout West Virginia. The bill creates the Katherine Johnson Academy, which will facilitate the creation of Academy magnet school programs through collaboration agreements by and among the Academy, the State Board of Education, the Higher Education Policy Commission and colleges and universities in West Virginia. Under the collaboration agreements, students attending a magnet school would receive both college credit and credit towards their high school diploma for courses they successfully complete.

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