

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

**Introduced**

### **House Bill 2279**

**FISCAL  
NOTE**

BY DELEGATES BATES AND MALLOW

[Introduced February 10, 2021; Referred  
to the Committee on Education then Finance]

1 A BILL to repeal §18B-10-7b of the Code of West Virginia, 1931, as amended; to amend said  
 2 code by adding thereto a new section, designated §12-4-14c; and to amend said code by  
 3 adding thereto a new article, designated §18C-7a-1, §18C-7a-2, §18C-7a-3, §18C-7a-4,  
 4 and §18C-7A-5, all relating to establishing a higher education scholarship program for  
 5 foster children; directing a portion of the proceeds of any opioid settlement award to be  
 6 placed in a special account to be administered by the State Auditor for award money to  
 7 be placed in a special account, with excess subject to appropriation of the Legislature,  
 8 after assuring sufficient moneys are available to fund the scholarship program; authorizing  
 9 the State Auditor to promulgate necessary rules; repealing a section of the code providing  
 10 tuition waivers for foster children; requiring reports on needed funds to fully fund  
 11 scholarship program by the Higher Education Policy Commission; providing for title,  
 12 findings and purpose of the article; granting powers and duties to the Higher Education  
 13 Policy Commission including rulemaking to administer the program; providing conditions  
 14 and terms of scholarship program; and providing a special revenue account to be  
 15 administered by the commission to pay for scholarships.

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

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

### **ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

#### **§12-4-14c. Opioid Settlement Trust Fund to pay for “Invest to Foster Success” Scholarship program.**

1 (a) Proceeds from any settlement received from any lawsuit initiated by the State Attorney  
 2 General shall be deposited in the “Promise for Foster-care Students Fund” and allocated as  
 3 needed by the Higher Education Policy Commission sufficient to pay the costs of each eligible  
 4 foster student’s post-secondary education or training costs and expenses for a period of up to  
 5 four years.

6           (b) The Higher Education Policy Commission shall annually project, a five year cost  
 7 estimate, how much funds from the settlement trust fund shall be reserved to preserve the  
 8 financial solvency to assure funds are available to provide scholarships to all eligible students.  
 9 Excess proceeds may be appropriated by the Legislature pursuant to §12-3-1 of this code, in  
 10 excess of the amounts determined by the Higher Education Policy Commission sufficient to  
 11 maintain sufficient funding to provide scholarships as provided in §18C-7a-1 et seq. of this code.

12           (c) The State Auditor shall administer the distribution of moneys deposited into the fund,  
 13 as established pursuant to §18C-7A-4 of this code, and may promulgate emergency and  
 14 legislative rules in accordance with §29A-3-1 et seq. of this code, necessary to implement and  
 15 administer the fund.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF HIGHER EDUCATION.**

#### **§18B-10-7b. Tuition waivers for high school graduates in foster care.**

1           [Repealed]

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

### **ARTICLE 7A. INVEST TO FOSTER SUCCESS.**

#### **§18C-7A-1. Title.**

1           This article shall be known as and may be cited as the “Investing in West Virginia Students  
 2 that received Foster-care Services (Invest to Foster Success) Scholarship program.”

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

1           (a) The Legislature finds that the state has a duty to its most vulnerable and challenged  
 2 members of our community, our children who have been placed in the state foster-care system,  
 3 who through no fault of their own are placed in an economic and social disadvantage to other  
 4 children who receive support and encouragement from their families, and once they become of

5 age, the state has a moral duty as former *parens patriae* to these children placed under state  
6 supervision, to advance the interests of these children as they come of age, and the state has a  
7 duty to provide assistance to these children to help them become contributing members of our  
8 society.

9 (b) The purpose of this article is to provide full scholarships for post-secondary education  
10 degrees and certifications for children that have been placed in the care and custody of the state  
11 through the foster-care system, to remove barriers for these children to obtain a post-secondary  
12 education, and provide a successful transition into the workforce that many of these children  
13 would never otherwise have the opportunity to receive.

**§18C-7A-3. Powers and duties of the West Virginia Higher Education Policy Commission**  
**regarding the “Invest to Foster Success” Scholarship.**

1 (a) Powers of commission. — In addition to the powers granted by any other provision of  
2 this code, the Higher Education Policy Commission has the powers necessary or convenient to  
3 carry out the purposes and provisions of this article; and all applicable provisions relating to  
4 administering the provisions of §18B-7-1 *et seq.* of this code that do not conflict with the provisions  
5 of this article.

6 (b) Beginning with incoming freshmen in the 2021 fall semester or term, who graduate  
7 from high school or pass the GED examination while in the legal custody of the State Department  
8 of Health and Human Resources are eligible for a full scholarship. The student must be in foster  
9 care or other residential care for at least one year prior to the waiver award. If the foster care or  
10 other residential care is provided in another state, the student must first be returned to this state  
11 for waiver award eligibility.

12 (c) To be eligible for a waiver award, a student must first: (1) Apply to and be accepted at  
13 the institution; and (2) apply for other student financial assistance, other than student loans, in  
14 compliance with federal financial aid rules, including the federal Pell grant. A scholarship is  
15 contingent upon the student continuing to meet the academic progress standards established by

16 the institution.

**§18C-7A-4. Invest to Foster Success Scholarship.**

1 (a) (1) The annual award may not exceed the actual cost of tuition, fees, and room and  
2 board as established for the university or college or a state institution offering community and  
3 technical college education programs as defined in §18B-1-2 of this code on annual basis which  
4 reflects the costs for attendance at the school in which the student is or is to be enrolled, with the  
5 award to be paid to that institution for distribution.

6 (2) The annual scholarship award shall be used by an eligible institution to supplement,  
7 but may not supplant, a tuition and fee waiver for which the individual is eligible pursuant to §18B-  
8 10-7 of this code, or any other financial aid available.

9 (b) The commission shall propose rules for legislative approval in accordance with the  
10 provisions of §29A-3A-1 et seq. of this code and may promulgate emergency rules pursuant to  
11 the provisions of §29A-3A-16 of this code. The rules shall include at least the following provisions:

12 (1) The amount of a scholarship award in combination with aid from all other sources may  
13 not exceed the cost of attendance at the institution the recipient is attending;

14 (2) A provision defining the relationship of scholarship awards to all other sources of  
15 student financial aid to ensure maximum coordination;

16 (3) Provision of methods to maximize student eligibility for federal and any other available  
17 student financial aid;

18 (4) Clarification of the relationship between the scholarship program, tuition savings plans  
19 and other state-funded student financial aid programs; and

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

**§18C-7A-5. “Invest to Foster Success” Scholarship Fund established.**

1 There is hereby established in the State Treasury a nonexpiring special revenue fund  
2 designated the “Invest in Foster Success” Scholarship Fund to be administered by the Vice  
3 Chancellor for Administration of the Higher Education Policy Commission, solely for the purposes

- 4 provided in this article. All earnings shall accrue to and be retained by the fund unless otherwise  
5 provided in this article. The fund shall receive funding from the Opioid Settlement Trust Fund  
6 established pursuant to §12-4-14b of this code and may receive contributions from public or  
7 private sources. No payments of awards from the Invest in Foster Success Scholarship Fund may  
8 be made until funds are available.

NOTE: The purpose of this bill is to create a full scholarship program for college and trade school students who have been placed in the state foster care system. The bill establishes a trust fund for moneys collected from opioid law suit settlement awards received by the state; authorizes the State Auditor to administer the Opioid Settlement Trust Fund in coordination with the Higher Education Policy Commission; to project costs to assure moneys available to fully fund the scholarships; repeals existing law for tuition waivers for foster children; provides necessary rulemaking authority; and establishes a special revenue account for administration by the Higher Education Policy Commission for the benefit of foster care children.

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