

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 598**

By Senators Rucker, Roberts, and Karnes

[Introduced January 30, 2024; referred  
to the Committee on School Choice; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §18-8-1 and §18-8-12 of the Code of West Virginia, 1931, as  
2 amended; to amend and reenact §18-9A-25 of said code; to amend and reenact §18-31-2,  
3 §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-10, and §18-31-11  
4 of said code; and to amend said code by adding thereto two new sections, designated  
5 §18-31-2a and §18-31-14, all relating generally to the Hope Scholarship Program;  
6 providing that microschoools and learning pods have the authority to issue secondary  
7 school diplomas; providing that the annual Hope Scholarship Program appropriation  
8 calculation will be based on the estimated number of participating students instead of the  
9 number of participating students in the prior year; providing that Hope Scholarship  
10 students have certain educational privileges made available to other nonpublic school  
11 students; clarifying reporting requirements of Hope Scholarship Students to the State  
12 Board of Education, county superintendents and county boards of education; clarifying that  
13 Hope Scholarship funds may only be utilized for expenses incurred in a kindergarten  
14 through secondary school education; specifying that a microschool can be a participating  
15 school; permitting the State Treasurer to appear by designee at Hope Scholarship Board  
16 meetings; modifying the composition of members to the Hope Scholarship Board;  
17 modifying definitions; requiring parental agreement to include provisions requiring parents  
18 to notify the Board if a student reenrolls in public school or graduates from a secondary  
19 school program; clarifying that all records and personally identifying information of a Hope  
20 Scholarship student, applicant, or parent is confidential and not subject to disclosure  
21 pursuant to the West Virginia Freedom of Information Act; clarifying that a kindergarten-  
22 level applicant's Hope Scholarship participation does not commence if the student does  
23 not begin kindergarten-level education that school year; establishing a year-round  
24 application and awards process; clarifying annual renewal process for Hope Scholarship  
25 parents and students; clarifying that a public charter school may invoice a Hope  
26 Scholarship student for educational services; clarifying that the Hope Scholarship Board

27 may take issues involving Hope Scholarship students in charter schools to the West  
 28 Virginia Professional Charter School Board; authorizing the Hope Scholarship Board to  
 29 request certain information from county superintendents and county boards of education;  
 30 modifying qualifying expenses for Hope Scholarship accounts; requiring education service  
 31 providers conducting background screenings of employees and other persons in contact  
 32 with students to certify screening results to the board; clarifying that providers may not  
 33 assess increased or additional fees against Hope Scholarship students based on  
 34 participation in the program; and adding reporting requirements.

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

**ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**  
**§18-8-1. Compulsory school attendance; exemptions.**

1 (a) Exemption from the requirements of compulsory public school attendance established  
 2 in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth  
 3 in this section. Each cause or condition set forth in this section is subject to confirmation by the  
 4 attendance authority of the county. A child who is exempt from compulsory school attendance  
 5 under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a  
 6 status offender as defined by §49-1-202 of this code.

7 (b) A child is exempt from the compulsory school attendance requirement set forth in §18-  
 8 8-1a of this code if the requirements of this subsection, relating to instruction in a private,  
 9 parochial, or other approved school, are met. The instruction shall be in a school approved by the  
 10 county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all  
 11 private, parochial, or other schools approved pursuant to this subsection, it is the duty of the  
 12 principal or other person in control, upon the request of the county superintendent, to furnish to the  
 13 county board such information and records as may be required with respect to attendance,  
 14 instruction, and progress of students enrolled.

15 (c) A child is exempt from the compulsory school attendance requirement set forth in §18-

16 8-1a of this code if the requirements of either subdivision (1) or subdivision (2) of this subsection,  
17 both relating to home instruction, are met.

18 (1) The instruction shall be in the home of the child or children or at some other place  
19 approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of  
20 this code. If the request for home instruction is denied by the county board, good and reasonable  
21 justification for the denial shall be furnished in writing to the applicant by the county board. The  
22 instruction shall be conducted by a person or persons who, in the judgment of the county  
23 superintendent and county board, are qualified to give instruction in subjects required to be taught  
24 in public elementary schools in the state. The person or persons providing the instruction, upon  
25 request of the county superintendent, shall furnish to the county board information and records as  
26 may be required periodically with respect to attendance, instruction, and progress of students  
27 receiving the instruction. The state board shall develop guidelines for the home schooling of  
28 special education students including alternative assessment measures to assure that satisfactory  
29 academic progress is achieved.

30 (2) The child meets the requirements set forth in this subdivision: *Provided*, That the county  
31 superintendent may, after a showing of probable cause, seek from the circuit court of the county an  
32 order denying home instruction of the child. The order may be granted upon a showing of clear and  
33 convincing evidence that the child will suffer neglect in his or her education or that there are other  
34 compelling reasons to deny home instruction.

35 (A) Upon commencing home instruction under this section the parent of a child receiving  
36 home instruction shall present to the county superintendent or county board a notice of intent to  
37 provide home instruction that includes the name, address, and age of any child of compulsory  
38 school age to be instructed and assurance that the child shall receive instruction in reading,  
39 language, mathematics, science, and social studies, and that the child shall be assessed annually  
40 in accordance with this subdivision. The person providing home instruction shall notify the county  
41 superintendent upon termination of home instruction for a child who is of compulsory attendance

42 age. Upon establishing residence in a new county, the person providing home instruction shall  
43 notify the previous county superintendent and submit a new notice of intent to the superintendent  
44 of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of  
45 intent to provide home instruction shall be given on or before the date home instruction is to begin.

46 (B) The person or persons providing home instruction shall submit satisfactory evidence of  
47 a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally  
48 accredited institution, or from an institution of higher education that has been authorized to confer  
49 a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community  
50 and Technical College Education or by the West Virginia Higher Education Policy Commission.

51 (C) Annually, the person or persons providing home instruction shall obtain an academic  
52 assessment of the child for the previous school year in one of the following ways:

53 (i) The child receiving home instruction takes a nationally normed standardized  
54 achievement test published or normed not more than 10 years from the date of administration and  
55 administered under the conditions as set forth by the published instructions of the selected test  
56 and by a person qualified in accordance with the test's published guidelines in the subjects of  
57 reading, language, mathematics, science, and social studies. The child is considered to have  
58 made acceptable progress when the mean of the child's test results in the required subject areas  
59 for any single year is within or above the fourth stanine or, if below the fourth stanine, shows  
60 improvement from the previous year's results;

61 (ii) The child participates in the testing program currently in use in the state's public  
62 schools. The test shall be administered to the child at a public school in the county of residence.  
63 Determination of acceptable progress shall be based on current guidelines of the state testing  
64 program;

65 (iii) A portfolio of samples of the child's work is reviewed by a certified teacher who  
66 determines whether the child's academic progress for the year is in accordance with the child's  
67 abilities. The teacher shall provide a written narrative about the child's progress in the areas of

68 reading, language, mathematics, science, and social studies and shall note any areas which, in  
69 the professional opinion of the reviewer, show need for improvement or remediation. If the  
70 narrative indicates that the child's academic progress for the year is in accordance with the child's  
71 abilities, the child is considered to have made acceptable progress; or

72 (iv) The child completes an alternative academic assessment of proficiency that is mutually  
73 agreed upon by the parent or legal guardian and the county superintendent.

74 (D) A parent or legal guardian shall maintain copies of each student's Academic  
75 Assessment for three years. When the annual assessment fails to show acceptable progress, the  
76 person or persons providing home instruction shall initiate a remedial program to foster acceptable  
77 progress. The county board upon request shall notify the parents or legal guardian of the child, in  
78 writing, of the services available to assist in the assessment of the child's eligibility for special  
79 education services. Identification of a disability does not preclude the continuation of home  
80 schooling. In the event that the child does not achieve acceptable progress for a second  
81 consecutive year, the person or persons providing instruction shall submit to the county  
82 superintendent additional evidence that appropriate instruction is being provided.

83 (E) The parent or legal guardian shall submit to the county superintendent the results of the  
84 academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June  
85 30 of the year in which the assessment was administered.

86 (3) This subdivision applies to both home instruction exemptions set forth in subdivisions  
87 (1) and (2) of this subsection. The county superintendent or a designee shall offer such  
88 assistance, including textbooks, other teaching materials and available resources, all subject to  
89 availability, as may assist the person or persons providing home instruction. Any child receiving  
90 home instruction may upon approval of the county board exercise the option to attend any class  
91 offered by the county board as the person or persons providing home instruction may consider  
92 appropriate subject to normal registration and attendance requirements.

93 (d) A child is exempt from the compulsory school attendance requirement set forth in §18-

94 8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity,  
95 are met. Physical or mental incapacity consists of incapacity for school attendance and the  
96 performance of school work. In all cases of prolonged absence from school due to incapacity of  
97 the child to attend, the written statement of a licensed physician or authorized school nurse is  
98 required. Incapacity shall be narrowly defined and in any case the provisions of this article may not  
99 allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child  
100 otherwise entitled to a free appropriate education.

101 (e) A child is exempt from the compulsory school attendance requirement set forth in §18-  
102 8-1a of this code if conditions rendering school attendance impossible or hazardous to the life,  
103 health, or safety of the child exist.

104 (f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-  
105 1a of this code upon regular graduation from a standard senior high school or alternate secondary  
106 program completion as determined by the state board.

107 (g) A child is exempt from the compulsory school attendance requirement set forth in §18-  
108 8-1a of this code if the child is granted a work permit pursuant to the subsection. After due  
109 investigation the county superintendent may grant work permits to youths under the termination  
110 age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A  
111 work permit may not be granted on behalf of any youth who has not completed the eighth grade of  
112 school.

113 (h) A child is exempt from the compulsory school attendance requirement set forth in §18-  
114 8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is  
115 expected that the county attendance director will ascertain the facts in all cases of such absences  
116 about which information is inadequate and report the facts to the county superintendent.

117 (i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-  
118 1a of this code if the requirements of this subsection, relating to destitution in the home, are met.  
119 Exemption based on a condition of extreme destitution in the home may be granted only upon the

120 written recommendation of the county attendance director to the county superintendent following  
121 careful investigation of the case. A copy of the report confirming the condition and school  
122 exemption shall be placed with the county director of public assistance. This enactment  
123 contemplates every reasonable effort that may properly be taken on the part of both school and  
124 public assistance authorities for the relief of home conditions officially recognized as being so  
125 destitute as to deprive children of the privilege of school attendance. Exemption for this cause is  
126 not allowed when the destitution is relieved through public or private means.

127 (j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-  
128 1a of this code if the requirements of this subsection, relating to church ordinances and  
129 observances of regular church ordinances, are met. The county board may approve exemption for  
130 religious instruction upon written request of the person having legal or actual charge of a child or  
131 children. This exemption is subject to the rules prescribed by the county superintendent and  
132 approved by the county board.

133 (k) A child is exempt from the compulsory school attendance requirement set forth in §18-  
134 8-1a of this code if the requirements of this subsection, relating to alternative private, parochial,  
135 church, or religious school instruction, are met. Exemption shall be made for any child attending  
136 any private school, parochial school, church school, school operated by a religious order, or other  
137 nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

138 (l) Completion of the eighth grade does not exempt any child under the termination age  
139 designated in §18-8-1a of this code from the compulsory attendance provision of this article.

140 (m) A child is exempt from the compulsory school attendance requirements set forth in  
141 §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship  
142 Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to  
143 participate in the Hope Scholarship Program to the ~~county superintendent~~ State Board of  
144 Education. ~~The county superintendent shall~~ After notifying the State Treasurer's Office, the State  
145 Board shall notify the counties affected and enter the following into the West Virginia Education



146 Information System (WVEIS):

147 (1) The filing of the notice of intent pursuant to this subsection;

148 (2) In the case of a Hope Scholarship recipient who chooses an individualized instructional  
149 program, annually, the child's test results or determination that a student is making academic  
150 progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4)  
151 of this code; and

152 (3) In the case of an eligible recipient enrolling in a participating school, annually, the filing  
153 of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.

154 (n) A child is exempt from the compulsory school attendance requirement set forth in §18-  
155 8-1a of this code if the child participates in a learning pod or microschool pursuant to this  
156 subsection.

157 (1) For the purposes of this subsection:

158 (A) "Learning pod" means a voluntary association of parents choosing to group their  
159 children together to participate in their elementary or secondary academic studies as an  
160 alternative to enrolling in a public school, private school, homeschool, or microschool, including  
161 participation in an activity or service provided to the children in exchange for payment; and

162 (B) "Microschool" means a school initiated by one or more teachers or an entity created to  
163 operate a school that charges tuition for the students who enroll and is an alternative to enrolling in  
164 a public school, private school, homeschool, or learning pod.

165 (2) Upon beginning participation in a learning pod or microschool pursuant to this  
166 subsection, the parent or legal guardian of the child participating shall present to the county  
167 superintendent or county board a notice of intent to participate in a learning pod or microschool  
168 that includes the name, address, and age of any child of compulsory school age participating and  
169 assurance that the child shall receive instruction in reading, language, mathematics, science, and  
170 social studies, and that the child shall be assessed annually in accordance with this subsection.

171 The person providing instruction shall notify the county superintendent upon termination of

172 participation in a learning pod or microschool for a child who is of compulsory attendance age.  
173 Upon establishing residence in a new county, the person providing instruction shall notify the  
174 previous county superintendent and submit a new notice of intent to the superintendent of the new  
175 county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to  
176 participate in a learning pod or microschool shall be given on or before the date participation is to  
177 begin.

178 (3) The person or persons providing instruction shall submit satisfactory evidence of a high  
179 school diploma or equivalent, or a post-secondary degree or certificate from a regionally  
180 accredited institution, or from an institution of higher education that has been authorized to confer  
181 a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community  
182 and Technical College Education or by the West Virginia Higher Education Policy Commission.

183 (4) Annually, the person or persons providing instruction shall obtain an academic  
184 assessment of the child for the previous school year in one of the following ways:

185 (A) The child participating in a learning pod or microschool takes a nationally normed  
186 standardized achievement test published or normed not more than 10 years from the date of  
187 administration and administered under the conditions as set forth by the published instructions of  
188 the selected test and by a person qualified in accordance with the test's published guidelines in the  
189 subjects of reading, language, mathematics, science, and social studies. The child is considered  
190 to have made acceptable progress when the mean of the child's test results in the required subject  
191 areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows  
192 improvement from the previous year's results;

193 (B) The child participates in the testing program currently in use in the state's public  
194 schools. The test shall be administered to the child at a public school in the county of residence.  
195 Determination of acceptable progress shall be based on current guidelines of the state testing  
196 program;

197 (C) A portfolio of samples of the child's work is reviewed by a certified teacher who

198 determines whether the child's academic progress for the year is in accordance with the child's  
199 abilities. The teacher shall provide a written narrative about the child's progress in the areas of  
200 reading, language, mathematics, science, and social studies and shall note any areas which, in  
201 the professional opinion of the reviewer, show need for improvement or remediation. If the  
202 narrative indicates that the child's academic progress for the year is in accordance with the child's  
203 abilities, the child is considered to have made acceptable progress; or

204 (D) The child completes an alternative academic assessment of proficiency that is mutually  
205 agreed upon by the parent or legal guardian and the county superintendent.

206 (5) A parent or legal guardian shall maintain copies of each student's Academic  
207 Assessment for three years. When the annual assessment fails to show acceptable progress, the  
208 person or persons providing instruction shall initiate a remedial program to foster acceptable  
209 progress. The county board upon request shall notify the parents or legal guardian of the child, in  
210 writing, of the services available to assist in the assessment of the child's eligibility for special  
211 education services. Identification of a disability does not preclude the continuation of participation  
212 in a learning pod or microschool. In the event that the child does not achieve acceptable progress  
213 for a second consecutive year, the person or persons providing instruction shall submit to the  
214 county superintendent additional evidence that appropriate instruction is being provided.

215 (6) The parent, legal guardian, learning pod, or microschool shall submit to the county  
216 superintendent the results of the academic assessment of the child with the same frequency  
217 prescribed in §18-8-1(c)(2)(E) of this code: *Provided*, That instead of the academic assessment  
218 results being submitted individually, the learning pod or microschool may submit the school  
219 composite results.

220 (7) The county superintendent or a designee shall offer such assistance, including  
221 textbooks, other teaching materials and available resources, all subject to availability, as may  
222 assist the person or persons providing instruction. Any child participating in a learning pod or  
223 microschool may upon approval of the county board exercise the option to attend any class offered

224 by the county board as the person or persons providing instruction may consider appropriate  
225 subject to normal registration and attendance requirements.

226 (8) No learning pod or microschool which meets the requirements of this subsection is  
227 subject to any other provision of law relating to education: *Provided*, That any learning pod or  
228 microschool which has a student requiring special education instruction must comply with the  
229 provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for  
230 the protection of that exceptional student.

231 (9) Making learning pods and microschools subject to the home instruction provisions and  
232 requirements does not make learning pods and microschools the same as homeschooling.

**§18-8-12. Issuance of a diploma or other appropriate credential by public, private, ~~or~~ home school, microschool, or learning pod administrator.**

1 A person who administers a program of secondary education at a public school, private  
2 school, ~~or~~ home school, microschool, learning pod, or individualized instructional program  
3 pursuant to the Hope Scholarship Act that meets the requirements of this chapter may issue a  
4 diploma or other appropriate credential to a person who has completed the program of secondary  
5 education. Such diploma or credential is legally sufficient to demonstrate that the person meets  
6 the definition of having a high school diploma or its equivalent. No state agency or institution of  
7 higher learning in this state may reject or otherwise treat a person differently solely on the grounds  
8 of the source of such a diploma or credential. Nothing in this section prevents an institution, once a  
9 student has been fully admitted, from administering placement tests or other assessments to  
10 determine the appropriate placement of students into college-level course sequences or to assess  
11 the content thereof for the purposes of determining whether a person meets other requirements for  
12 a specific program.

**ARTICLE 9A. PUBLIC SCHOOL SUPPORT.  
§18-9A-25. Funding for Hope Scholarship Program.**

1 (a) Notwithstanding any other provision of this article to the contrary, for fiscal year 2023

2 and each fiscal year thereafter, in addition to all other amounts required by this article, the  
3 Department of Education shall include in its budget request, and the Governor shall include in  
4 each budget bill submitted to the Legislature, an appropriation to the Department of Education for  
5 the greater of an amount not less than two percent of net public school enrollment adjusted for  
6 state aid purposes or the total number of ~~eligible Hope Scholarship applications received by the~~  
7 ~~Hope Scholarship Board, if available~~ estimated Hope Scholarship applications for the fiscal year,  
8 multiplied by the prior year's statewide average net state aid allotted per pupil. The Hope  
9 Scholarship Board shall certify the estimated number of Hope Scholarship applications for the  
10 fiscal year to the Department of Education by December 10 of each year. The amount  
11 appropriated shall be transferred by the Department of Education to the Hope Scholarship Board  
12 to be used solely to meet the Hope Scholarship Program obligations set forth in §18-31-1 *et seq.* of  
13 this code except as otherwise provided in this section. The Governor shall also provide in each  
14 budget for the reappropriation for expenditure during the ensuing fiscal year the unused  
15 accumulated balance in the Hope Scholarship Fund. ~~to the Department of Education that was not~~  
16 ~~transferred to the Hope Scholarship Board due to an accumulated balance from prior years as~~  
17 ~~provided under subsection (b) of this section.~~

18 (b) ~~Each fiscal year, the amount required to be requested and included in the budget bill for~~  
19 ~~appropriation under subsection (a) of this section shall be reduced by the sum of:~~

20 (1) ~~Any unused accumulated amounts transferred to the Hope Scholarship Board for these~~  
21 ~~purposes from previous years. and~~

22 (2) ~~Any unused appropriations made to the Department of Education for these purposes~~  
23 ~~that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior~~  
24 ~~years.~~

25 (b) Each fiscal year, the amount required to be requested and included in the budget bill for  
26 appropriation under subsection (a) of this section shall be reduced by an amount equal to the  
27 unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from

28 previous years.

**ARTICLE 31. HOPE SCHOLARSHIP PROGRAM.**  
**§18-31-2. Definitions.**

1 The following words have the meanings ascribed to them unless the context clearly  
2 indicates a different meaning:

3 (1) "Account" or "scholarship" means a Hope Scholarship account, awarded pursuant to  
4 this article, to which funds are allocated by the board to the parent or parents of an eligible Hope  
5 Scholarship student in order to pay qualifying elementary and secondary education expenses to  
6 educate the student pursuant to the requirements and conditions of this article;

7 (2) "Board" means the Hope Scholarship Board created pursuant to §18-31-3 of this code;

8 (3) "Curriculum" means a complete course of study for a particular elementary or  
9 secondary education content area or grade level, including, but not limited to, textbooks,  
10 workbooks, student and teacher curriculum kits, activity, learning or study guides, or any  
11 supplemental materials required by the curriculum;

12 (4) "Education service provider" means a person or organization that receives payments  
13 from Hope Scholarship accounts to provide educational goods and services to Hope Scholarship  
14 students;

15 (5) "Eligible recipient" means a child who:

16 (A) Is a resident of this state; and

17 (B) Is enrolled full-time and attending a public elementary or secondary school program in  
18 this state for at least 45 calendar days during an instructional term at the time of application and  
19 until an award letter is issued by the board under §18-31-5(c) of this code, or enrolled full-time in a  
20 public elementary or secondary school program in this state for the entire instructional term the  
21 previous year, or is eligible at the time of application to enroll in a kindergarten program in this state  
22 pursuant to §18-8-1a of this code, ~~except that if on July 1, 2024, the participation rate of the~~  
23 ~~combined number of students in the Hope Scholarship Program and students eligible who have~~

24 ~~applied to participate in the Hope Scholarship program during the previous school year is less than~~  
25 ~~five percent of net public school enrollment adjusted for state aid purposes for the previous school~~  
26 ~~year, then, effective July 1, 2026~~ on and after July 1, 2026, a child is considered to meet the  
27 requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be  
28 enrolled in a kindergarten program or public elementary or secondary school program in this state  
29 at the time of application;

30 (6) "Hope scholarship funds" means the moneys deposited in a Hope Scholarship  
31 student's account in accordance with the requirements of this article.

32 (7) "Hope scholarship student" means a student who receives a scholarship pursuant to  
33 this article;

34 (8) "Individualized Instructional Program (IIP)" means a customized educational  
35 experience that takes place either at home or another location. Hope Scholarship students with an  
36 IIP are not enrolled in a participating school and shall be governed by the requirements of this  
37 article, unless otherwise stated, and not any other compulsory school attendance exemption  
38 requirements.

39 ~~(8)~~ (9) "Parent" means a biological parent, legal guardian, custodian, or other person with  
40 legal authority to act on behalf of an eligible recipient or Hope Scholarship student;

41 ~~(9)~~ (10) "Participating school" means any private school, microschool, or learning pod as  
42 defined in §18-8-1(n)(1)(A) and (B) of this code that provides education to elementary and/or  
43 secondary students and has notified the board of its intention to participate in the program and  
44 comply with the program's requirements;

45 ~~(10)~~ (11) "Resident school district" means the county school district in which the student  
46 resides; and

47 ~~(14)~~ (12) "Treasurer" means the West Virginia State Treasurer.

**§18-31-2a. Educational privileges and programs available to Hope Scholarship students.**

1 (a) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student

2 that pursues an individualized instructional program is exempt from the requirements of  
3 compulsory school attendance pursuant to §18-8-1(m) of this code and shall be subject to the  
4 requirements of this article unless otherwise stated: *Provided*, That a Hope Scholarship student  
5 that pursues an individualized instructional program shall have the same privileges and access to  
6 programs that this code makes available to students exempt from compulsory school attendance  
7 pursuant to §18-8-1(c) of this code, including but not limited to:

8 (1) The ability to receive a diploma from the student's secondary educational program  
9 administrator, according to the requirements of §18-8-12 of this code;

10 (2) The ability to receive the PROMISE scholarship, according to the requirements of  
11 §18C-7-1 *et seq.* of this code;

12 (3) The ability to receive a work permit without prior review by a school administrator,  
13 pursuant to §21-6-3 of this code; and

14 (4) The ability to participate in an ACE program, according to the requirements in  
15 §18-2E-11 of this code.

16 (b) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student  
17 that attends a participating school shall have the same privileges and access to programs  
18 available to students exempt from compulsory school attendance pursuant to §18-8-1 of this code  
19 by virtue of attendance of a nonpublic school, including but not limited to:

20 (1) The ability to receive a diploma from the student's school administrator, according to  
21 the requirements of §18-8-12 of this code;

22 (2) The ability to receive the PROMISE scholarship, according to the requirements of  
23 §18C-7-1 *et seq.* of this code; and

24 (3) The ability to participate in an ACE program, according to the requirements in  
25 §18-2E-11 of this code.

26 (c) Nothing in this section may be construed as subjecting homeschool students or  
27 nonpublic school students not participating in the Hope Scholarship Program to the requirements



28 of this article.

**§18-31-3. West Virginia Hope Scholarship board; members; terms; compensation; proceedings generally.**

1 (a) The West Virginia Hope Scholarship Program shall be administered by the West  
2 Virginia Hope Scholarship Board.

3 (b) The board shall consist of nine members and include the following:

4 (1) The State Treasurer, or his or her designee;

5 (2) The State Auditor, or his or her designee;

6 (3) The State Attorney General, or his or her designee;

7 (4) The State Superintendent of Schools, or his or her designee;

8 (5) The Chancellor of Higher Education, or his or her designee;

9 (6) The Director of the Herbert Henderson Office of Minority Affairs, or his or her designee;

10 and

11 (7) ~~Three~~ Five members appointed by the Governor with the advice and consent of the  
12 Senate who are parents of Hope Scholarship students, ~~or for the initial appointments of board~~  
13 ~~members following the effective date of this article,~~ or parents who intend to apply for the Hope  
14 Scholarship on behalf of eligible recipients, to be appointed as follows:

15 (A) Only state residents are eligible for appointment to the board;

16 (B) The parent members shall reside in geographically diverse areas of the state;

17 ~~(C) Members shall be initially appointed to staggered terms as follows:~~

18 ~~(i) One member appointed by the Governor to a one-year term;~~

19 ~~(ii) One member appointed by the Governor to a two-year term; and~~

20 ~~(iii) One member each appointed by the Governor to a three-year term.~~

21 (C) The parent members shall represent a diverse group of Hope Scholarship students or  
22 prospective students utilizing different educational options such as homeschooling,  
23 microschooling, learning pods, or an individualized instructional program;

24 The Governor shall make appointments necessary to satisfy the requirements of  
25 subdivision (7) of this section to staggered terms as determined by the Governor. After the initial  
26 staggering of terms, appointed parent board members shall serve for three-year terms and are  
27 eligible for reappointment at the expiration of their terms; and

28 (D) If there is a vacancy among appointed members, the vacancy shall be filled by  
29 appointment to the unexpired term of a person meeting the requirements of this section by the  
30 Governor with the advice and consent of the Senate. Members of the board shall serve until the  
31 later of the expiration of the term for which the member was appointed or the appointment of his or  
32 her successor.

33 (c) Members of the board shall serve without compensation. The board may reimburse  
34 members for all reasonable and necessary expenses, including travel expenses, actually incurred  
35 by board members in the conduct of their official duties. Any expense reimbursements shall be  
36 made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to  
37 state employees.

38 (d) The Treasurer is the chairman and presiding officer of the board. The Treasurer may  
39 provide office space and staff to the board upon request of the board.

40 (e) The State Superintendent of Schools may provide staff to the board, upon request of  
41 the board.

42 (f) A majority of the members of the board constitutes a quorum for the transaction of the  
43 business of the board.

44 (g) Members of the board are subject to the ethical standards and financial disclosure  
45 requirements of the West Virginia Governmental Ethics Act in Chapter 6B of this code.

**§18-31-4. Powers of the board.**

1 The board is authorized to take any action necessary to effectuate the provisions of this  
2 article and to successfully administer the Hope Scholarship Program, subject to applicable state  
3 and federal law, including, but not limited to the following:

- 4 (1) Adopt and amend bylaws;
- 5 (2) Execute contracts and other instruments for necessary goods and services, employ  
6 necessary personnel and engage the services of private consultants, actuaries, auditors, counsel,  
7 managers, trustees, and any other contractor or professional needed for rendering professional  
8 and technical assistance and advice: *Provided*, That election of these services is not subject to the  
9 provisions of §5A-3-1 *et seq.* of this code;
- 10 (3) Implement the program through the use of financial organizations as account  
11 depositories and managers;
- 12 (4) Develop and impose requirements, policies, procedures, and guidelines to implement  
13 and manage the program;
- 14 (5) Determine whether an expenditure of Hope Scholarship funds is or was a qualifying  
15 expense to educate a Hope Scholarship student pursuant to §18-31-7 of this code. The board may  
16 approve or deny expenditures by a majority vote;
- 17 (6) Review any appeals made pursuant to §18-31-10(b) and §18-31-10(d) of this code;
- 18 (7) Establish the method by which moneys in the Hope Scholarship Expense Fund shall be  
19 allocated to pay for administrative costs and assess, collect and expend administrative fees,  
20 charges, and penalties;
- 21 (8) Authorize the assessment, collection and retention of fees and charges against the  
22 amounts paid into and the earnings on the Hope Scholarship funds by a financial institution,  
23 investment manager, fund manager, West Virginia Investment Management Board, West Virginia  
24 Board of Treasury Investments, or other professional managing or investing the Hope Scholarship  
25 funds and accounts;
- 26 (9) Invest and reinvest any of the funds and accounts under the board's control with a  
27 financial institution, an investment manager, a fund manager, the West Virginia Investment  
28 Management Board, West Virginia Board of Treasury Investments, or other professionals  
29 investing the funds and accounts: *Provided*, That investments made under this article shall be

30 made in accordance with the provisions of §44-6C-1 *et seq.* of this code; and

31 (10) Solicit and accept gifts, including bequests and other testamentary gifts made by will,  
 32 trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from  
 33 any source, or to participate in any other way in any federal, state, or local governmental programs  
 34 in carrying out the purposes of this article: *Provided*, That the board shall use the property received  
 35 to effectuate the desires of the donor, and shall convert the property received into cash within 180  
 36 days of receipt;

37 (11) Take any issues relating to Hope Scholarship student participation in established  
 38 public charter schools to the West Virginia Professional Charter School Board; and

39 (12) Request such information from the Department of Education and the county boards  
 40 as is necessary for the completion of the board's responsibilities pursuant to this article.

**§18-31-5. Award of Hope Scholarships.**

1 (a) The Hope Scholarship Program is established to provide the option for a parent to  
 2 better meet the individual elementary and secondary education needs of his or her eligible child.  
 3 The program shall be operational no later than July 1, 2022.

4 (b) The board shall create a standard application form that a parent can submit to establish  
 5 his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal  
 6 education savings account to be used for qualifying education expenses on behalf of the eligible  
 7 recipient as provided for in §18-31-7 of this code. Information about scholarship funds and the  
 8 application process shall be made available on the board's website.

9 (c) The board shall ~~make such applications available no later than March 1, 2022 and shall~~  
 10 ~~begin accepting applications immediately thereafter~~ process, accept, and make available Hope  
 11 Scholarship applications and awards at any time during the calendar year. The board may update  
 12 the application as needed. The board shall issue an award letter to eligible recipients within 45  
 13 days of receipt of a completed application and all required documentation.

14 (d) The board shall approve an application for a Hope Scholarship if all of the following

15 circumstances are met:

16 (1) A parent submits an application for a Hope Scholarship in accordance with the  
17 legislative rules promulgated by the board;

18 (2) A student on whose behalf the parent is applying is an eligible recipient, as provided for  
19 in §18-31-2(5) of this code;

20 (3) The parent signs an agreement with the board, promising to do all of the following:

21 (A) To provide an education for the eligible recipient in at least the subjects of reading,  
22 language, mathematics, science, and social studies;

23 (B) To use the Hope Scholarship funds exclusively for qualifying expenses incurred in  
24 providing the student an elementary or secondary education as provided for in §18-31-7 of this  
25 code;

26 (C) To comply with the rules and requirements of the Hope Scholarship program; ~~and~~

27 (D) To afford the Hope Scholarship student opportunities for educational enrichment such  
28 as organized athletics, art, music, or literature; and

29 (E) To notify the Hope Scholarship Board immediately and cease use of Hope Scholarship  
30 funds upon the student's reenrollment in a public school or when the student graduates from or  
31 otherwise successfully completes a secondary school program; and

32 (4) The board confirms with the West Virginia Department of Education that the student  
33 satisfies §18-31-2(5) of this code: *Provided*, That if the department does not reply within 30 days,  
34 this criteria is considered satisfied.

35 (e) ~~An application for a Hope Scholarship is~~ All records accepted or maintained by the  
36 Board containing personally identifying information of a Hope Scholarship student, applicant, or  
37 parent are confidential and not a public record subject to release pursuant to the West Virginia  
38 Freedom of Information Act, as codified in §29B-1-1 *et seq.* of this code.

**§18-31-6. Funding of Hope Scholarships; program and expense funds.**

1 (a) There is hereby created in the State Treasury a special revenue fund designated and

2 known as the West Virginia Hope Scholarship Program Fund. The fund shall be administered by  
3 the Treasurer and shall consist of funds transferred by the Department of Education in accordance  
4 with §18-9A-25 of this code. All interest and other returns derived from the deposit and investment  
5 of moneys in the Hope Scholarship Fund shall be credited to the fund. Any balance, including  
6 accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not  
7 revert to the General Revenue Fund but shall remain in the fund and be expended as provided by  
8 this section.

9 (b) The amount of Hope Scholarship funds made available to an eligible recipient on a  
10 yearly basis shall be equal to 100 percent of the prior year's statewide average net state aid share  
11 allotted per pupil based on net enrollment adjusted for state aid purposes, subject to the provisions  
12 of subsection (c) of this section: *Provided*, That the amount of the funding to an eligible recipient  
13 who is awarded a Hope Scholarship account for less than a full fiscal year shall be prorated based  
14 on the portion of the fiscal year the eligible recipient is awarded the Hope Scholarship account. On  
15 or prior to the submission of the Department of Education's budget request each year, the board  
16 shall notify the Department of Education of ~~the total number of eligible Hope Scholarship~~  
17 ~~applications received by the board~~ the estimated number of Hope Scholarship applications for the  
18 fiscal year, for purposes of facilitating the necessary transfer of moneys pursuant to §18-9A-25 of  
19 this code.

20 (c) Expenditures from the Hope Scholarship Fund shall be limited to the purposes set forth  
21 in this article: *Provided*, That an amount not to exceed five percent of the fund shall be transferred  
22 annually to the West Virginia Hope Scholarship Program Expense Fund established in subsection  
23 (h) of this section to cover the annual administrative costs of the Hope Scholarship Program. If the  
24 number of Hope Scholarship accounts increases significantly after any fiscal year, the Treasurer  
25 may request an appropriation by the Legislature to the West Virginia Hope Scholarship Program  
26 Expense Fund in an amount equal to the administrative costs associated with the increase in Hope  
27 Scholarship accounts.

28 (d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be  
29 subject to the execution of the parental agreement required by §18-31-5 of this code. Upon  
30 execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this  
31 code, ~~one half of the total annually required deposit shall be made no later than August 15 of every~~  
32 ~~year into an eligible recipient's Hope Scholarship account, and one half of the total annually~~  
33 ~~required deposit shall be made no later than January 15 of every year~~ the board will complete the  
34 total annually required scholarship disbursements by making quarterly electronic deposits of Hope  
35 Scholarship funds into an eligible recipient's Hope Scholarship account: *Provided*, That the board  
36 shall calculate a prorated amount for the annual Hope Scholarship for any student who becomes  
37 eligible during the academic year. Any funds remaining in a Hope Scholarship account at the end  
38 of the fiscal year may be carried over to the next fiscal year upon successful renewal of the  
39 account.

40 (e) Funds deposited in a student's Hope Scholarship account, other than those funds  
41 expended on transportation services pursuant to §18-31-7(11) of this code, do not constitute  
42 taxable income to the parent or the Hope Scholarship student.

43 (f) The board shall continue to make deposits into an eligible recipient's Hope Scholarship  
44 account in accordance with the provisions of this section unless any of the following conditions  
45 have occurred:

46 (1) A parent of an eligible recipient fails to renew a Hope Scholarship account or withdraws  
47 from the Hope Scholarship Program;

48 (2) The board determines that a student is no longer eligible for a Hope Scholarship;

49 (3) The board suspends or revokes participation in the Hope Scholarship Program for  
50 failure to comply with the requirements of this article;

51 (4) The Hope Scholarship student successfully completes a secondary education program  
52 or does not commence kindergarten-level education in the year that eligibility is based on the  
53 student's kindergartener status; or

54 (5) The Hope Scholarship student reaches 21 years of age.

55 (g) If any of the conditions in subsection (f) of this section occur, the board shall notify the  
56 parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to  
57 adequately address the condition or conditions upon which closure is based or does not respond  
58 within 30 calendar days of receipt of notice, the board shall close the account and any remaining  
59 moneys shall be returned to the state.

60 (h) (1) There is hereby created in the State Treasury a special revenue fund designated  
61 and known as the West Virginia Hope Scholarship Program Expense Fund. The account shall  
62 consist of moneys received pursuant to this section; moneys, if any, transferred from special  
63 revenue funds administered by the Treasurer; or any governmental or private grants and any state  
64 general fund appropriations, if any, for the Hope Scholarship Program. All interest and other  
65 returns derived from the deposit and investment of moneys in the Hope Scholarship Program  
66 Expense Fund shall be credited to the fund. Any balance, including accrued interest and other  
67 returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue  
68 Fund but shall remain in the fund and be expended as provided by this section.

69 (2) All expenses incurred by the Treasurer or the board in developing and administering  
70 the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship  
71 Expense Fund.

**§18-31-7. Qualifying expenses for Hope Scholarship accounts.**

1 (a) Parents of a Hope Scholarship student shall agree to use the funds deposited in their  
2 student's Hope Scholarship account only for the following qualifying expenses to educate the  
3 student:

4 (1) Ongoing services provided by a public school district pursuant to §18-31-8(f) of this  
5 code, including without limitation, individual classes and extracurricular activities and programs;  
6 Provided, That notwithstanding §18-5G-3 of this code, a public charter school may invoice a Hope  
7 Scholarship student's account for said services;



8 (2) Tuition and fees at a participating school;

9 (3) Tutoring services provided by an individual or a tutoring facility: *Provided*, That such  
10 tutoring services are not provided by a member of the Hope Scholarship student's immediate  
11 family;

12 (4) Fees for nationally standardized assessments, advanced placement examinations, any  
13 examinations related to college or university admission, and tuition and/or fees for preparatory  
14 courses for the aforementioned exams;

15 (5) Tuition and fees for programs of study or the curriculum of courses that lead to an  
16 industry-recognized credential that satisfies a workforce need;

17 (6) Tuition and fees for nonpublic online learning programs, including, but not limited to,  
18 online curriculum courses and tutorial programs;

19 (7) Tuition and fees for alternative education programs;

20 (8) Fees for after-school or summer education programs;

21 (9) Educational services and therapies, including, but not limited to, occupational,  
22 behavioral, physical, speech-language, and audiology therapies;

23 (10) Curriculum as defined in §18-31-2 of this code;

24 (11) Instruments or equipment required as part of a music education course or curriculum;

25 ~~(14)~~ (12) Fees for transportation paid to a fee-for-service transportation provider for the  
26 student to travel to and from an education service provider; and

27 ~~(42)~~ (13) Any other ~~qualified~~ qualifying expenses as approved by the board established  
28 pursuant to §18-31-3 of this code. Provided, That the board shall adopt rules and procedures for  
29 Hope Scholarship students who want to continue to receive services provided by a public school  
30 or district.

31 (b) Hope Scholarship funds may only be used for educational purposes in accordance with  
32 subsection (a) of this section. Nothing in this section requires that a Hope Scholarship student be  
33 enrolled, full- or part-time, in either a private school or nonpublic online school.

34 (c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or  
 35 student in any manner: Provided, That the board shall adopt procedures for establishing a  
 36 reimbursement process for any qualifying expenses not available for purchase by a Hope  
 37 Scholarship parent through the existing online Hope Scholarship Program portal. Any refund or  
 38 rebate for goods or services purchased with Hope Scholarship funds shall be credited directly to a  
 39 student's Hope Scholarship account.

40 (d) Nothing in this section prohibits the parents of a Hope Scholarship student from making  
 41 payments for the costs of educational goods and services not covered by the funds in their  
 42 student's Hope Scholarship account. However, personal deposits into a Hope Scholarship  
 43 account are not permitted.

**§18-31-8. Renewal of Hope Scholarship accounts; participation in public school system.**

1 ~~(a) A parent must renew an eligible recipient's Hope Scholarship on an annual basis.~~  
 2 Notwithstanding any changes in eligibility, a Hope Scholarship student who has previously  
 3 qualified for a Hope Scholarship account remains eligible ~~to apply for renewal~~ on an annual basis  
 4 ~~until unless~~ one of the conditions set forth in §18-31-6(f) occurs is confirmed by the board:  
 5 *Provided, That the board shall verify with the Department of Education the following information by*  
 6 July 1 of every year:

- 7 (1) A list of all active Hope Scholarship Accounts;
- 8 (2) The resident school district of each Hope Scholarship student;
- 9 (3) For a Hope Scholarship student who chooses to attend a participating school, annual  
 10 confirmation of his or her continued attendance at a nonpublic school that complies with all  
 11 requirements that other nonpublic school students must comply with; and
- 12 (4) For a Hope Scholarship student who chooses an individualized instructional program:
- 13 (A) (i) He or she has annually taken a nationally normed standardized achievement test of  
 14 academic achievement in the subject areas of reading, language, and mathematics, and when  
 15 available for the student's grade-level, science and social studies;

16 (ii) The mean of the child's overall test results in the subject areas of ~~reading, language,~~  
17 ~~mathematics, science, and social studies~~ tested for any single year is within or above the fourth  
18 stanine or, if below the fourth stanine, show improvement from the previous year's results; and

19 (iii) The mean of the child's overall test results are reported to the county superintendent; or

20 (B) (i) A certified teacher conducts a review of the student's academic work annually;

21 (ii) The certified teacher determines that the student is making academic progress  
22 commensurate with his or her age and ability; and

23 (iii) The certified teacher's determination is reported to the county superintendent.

24 (b) Each county superintendent shall submit the test results and determinations reported to  
25 him or her pursuant to subsection (a) of this section to the board and the Department of Education  
26 each year on or before June 15.

27 (c) If a parent fails to ~~renew an eligible~~ confirm the eligibility of a recipient's Hope  
28 Scholarship, the board shall notify the parent that the eligible recipient's account will be closed in  
29 45 calendar days. If a parent chooses not to renew or does not respond within 30 calendar days of  
30 receipt of notice, the board shall close the account and any remaining moneys shall be returned to  
31 the state.

32 (d) If an eligible recipient decides to return to the Hope Scholarship Program after failing to  
33 renew, they must reapply.

34 (e) The board, in consultation with the Department of Education, may adopt rules and  
35 policies to provide the least disruptive process for Hope Scholarship students who desire to stop  
36 receiving Hope Scholarship payments and return full-time to a public school.

37 (f) The board, in consultation with the Department of Education, ~~may~~ shall adopt rules and  
38 policies for Hope Scholarship students who want to continue to receive services provided by a  
39 public school or district, including individual classes and extracurricular programs, in combination  
40 with an individualized instructional program. The board, in consultation with the Department of  
41 Education, shall ensure that any public school or school district providing such services receives

42 the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of  
 43 total instruction provided to the student by the public school or school district. County boards shall  
 44 charge tuition to Hope Scholarship students who enroll for services in a public school within the  
 45 county. Hope Scholarship students who enroll for services part-time in public school shall not be  
 46 included in net enrollment for state aid funding purposes under §18-9A-2 of this code. Nothing in  
 47 this subsection prohibits a Hope Scholarship student from using the funds deposited in his or her  
 48 account on both services provided by a public school or district, including but not limited to a public  
 49 charter school, and other qualifying expenses as provided for in §18-31-7 of this code.

**§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.**

1 (a) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et*  
 2 *seq.* of this code for the auditing of individual Hope Scholarship accounts and shall conduct or  
 3 contract for the random auditing of individual Hope Scholarship accounts as needed to ensure  
 4 compliance with the requirements of this article and rules promulgated pursuant to this article.

5 (b) As part of the auditing process, the board may remove a parent or eligible recipient from  
 6 the Hope Scholarship program and close a Hope Scholarship account for failure to comply with the  
 7 terms of the parental agreement required by §18-31-5 of this code, failure to comply with the  
 8 applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of  
 9 Hope Scholarship funds: *Provided*, That the board shall create procedures to ensure that a fair  
 10 process exists to determine the removal of a parent or eligible recipient from the Hope Scholarship  
 11 program and a parent or Hope Scholarship student may appeal the decision to make the student  
 12 ineligible for funds to the board.

13 ~~(c) The board may conduct or contract for the audit of education service providers~~  
 14 ~~accepting payments from Hope Scholarship accounts, if it determines that the education service~~  
 15 ~~provider has:~~

16 ~~(1) Intentionally and substantially misrepresented information or failed to refund any~~  
 17 ~~overpayments in a timely manner; or~~

18 ~~(2) Routinely failed to provide students with promised educational goods or services.~~

19 (c) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 et  
20 seq. of this code for the auditing of education service providers and shall conduct or contract for  
21 the random auditing of individual providers as needed to ensure compliance with the requirements  
22 of this article and rules promulgated pursuant to this article.

23 (d) If the board determines that an education service provider has intentionally and  
24 substantially misused Hope Scholarship funds, the board may bar the education service provider  
25 from continuing to receive payments. The board shall create procedures to ensure that a fair  
26 process exists to determine whether an education service provider may be barred from receiving  
27 payment from Hope Scholarship accounts and an education service provider may appeal a  
28 decision to bar it from receiving payments to the board. If the board bars an education service  
29 provider from receiving payments from Hope Scholarship accounts, it shall notify parents and  
30 students of its decision as quickly as possible.

31 (e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it  
32 may refer suspected cases to the State Auditor for purposes of investigation, collection, and  
33 potential criminal investigation.

**§18-31-11. Requirements for and rights of education service providers.**

1 (a) To be eligible to accept payments from a Hope Scholarship account, an education  
2 service provider shall:

3 (1) Submit notice to the board that they wish to participate in the Hope Scholarship  
4 Program;

5 (2) Provide participating parents with a receipt for all qualifying educational expenses for  
6 the Hope Scholarship student;

7 (3) Agree not to refund, rebate, or share Hope Scholarship funds with parents or students  
8 in any manner, except that funds may be remitted or refunded to a Hope Scholarship account in  
9 accordance with §18-31-7(c) of this code;

10 (4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. 1981;

11 (5) ~~Agree to~~ Submit any employee or other person who will have contact with Hope  
12 Scholarship students receiving services from the provider to a criminal background check; and  
13 certify that said background check does not indicate conviction of a felony involving violence to the  
14 person and that the employee or other person is not on a federal or state sex offender registry; and

15 (6) In the case of a participating school, provide notice of each Hope Scholarship student's  
16 enrollment annually to the county superintendent of any student for which a student's tuition is  
17 being paid through the Hope Scholarship Program.

18 (b) This article does not limit the independence or autonomy of an education service  
19 provider or make the actions of an education service provider the actions of the state government.

20 (c) Education service providers shall be given maximum freedom to provide for the  
21 educational needs of Hope Scholarship students without governmental control.

22 (d) A participating school or education service provider is not required to alter its creed,  
23 practices, admission policy, hiring policy or curriculum in order to accept eligible recipients whose  
24 parents pay tuition or fees from a Hope Scholarship account pursuant to this article: Provided,  
25 That an education service provider is prohibited from requiring a student or family to pay tuition,  
26 costs, or fees above or in addition to the provider's regular tuition or fee schedule based in whole  
27 or in part upon a student or family member's participation in the Hope Scholarship program.

28 (e) This article does not expand the regulatory authority of the state, its officers, or any  
29 school district to impose any additional regulation of education service providers beyond those  
30 necessary to enforce the requirements of the program.

**§18-31-14.**

**Reporting.**

1 (a) The board shall provide a comprehensive report on the status of the Hope Scholarship  
2 Program to the Legislative Oversight Commission on Education Accountability on or before  
3 December 31, 2026, and annually on or before December 31 of each year thereafter, addressing  
4 the progress of the program throughout the state. As part of the annual report, the board, in

- 5 collaboration with the state and county boards of education, shall survey participating Hope  
 6 Scholarship families to determine:
- 7 (1) The types of educational services chosen by Hope Scholarship students;  
 8 (2) Demographic and geographic data of participating students;  
 9 (3) Number of students participating with special needs;  
 10 (4) For Hope Scholarship students participating in an individualized instructional program  
 11 or nonpublic school program, the stated reasons for leaving the public school system;  
 12 (5) County superintendent and Board compliance with Hope Scholarship reporting  
 13 requirements; and
- 14 (5) Parent satisfaction with the Hope Scholarship Program.
- 15 (b) The board shall use only aggregate, nonidentifying evaluation data when compiling any  
 16 such public reports.

NOTE: The purpose of this bill is generally relates to the Hope Scholarship Program. The bill provides that microschoools and learning pods have the authority to issue secondary school diplomas. The bill provides that the annual Hope Scholarship Program appropriation calculation will be based on the estimated number of participating students instead of the number of participating students in the prior year. The bill provides that Hope Scholarship students have certain educational privileges made available to other nonpublic school students. The bill provides reporting requirements of Hope Scholarship Students to the State Board of Education, county superintendents and county boards of education. The bill clarifies that Hope Scholarship funds may only be utilized for expenses incurred in a Kindergarten through secondary school education. The bill specifies that a microschoool can be a participating school. The bill permits the State Treasurer to appear by designee at Hope Scholarship Board meetings. The bill modifies the composition of members to the Hope Scholarship Board. The bill modifies definitions. The bill requires parental agreement to include provisions requiring parents to notify the Board if a student reenrolls in public school or graduates from a secondary school program. The bill clarifies that all records and personally identifying information of a Hope Scholarship student, applicant, or parent is confidential and not subject to disclosure pursuant to the West Virginia Freedom of Information Act. The bill clarifies that a kindergarten-level applicant's Hope Scholarship participation does not commence if the student does not begin kindergarten-level education that school year. The bill establishes a year-round application and awards process. The bill sets forth the annual renewal process for Hope Scholarship parents and students. The bill clarifies that a public charter school may invoice a Hope Scholarship student for educational services. The bill provides that the Hope Scholarship Board may take issues involving Hope Scholarship students in charter schools to the West Virginia Professional Charter School Board. The bill authorizes the Hope Scholarship Board to request certain information from county superintendents and county boards of education. The bill modifies qualifying expenses for Hope Scholarship accounts. The bill requires education service providers conducting background screenings of employees and other persons in contact with students to certify screening results to the board. The bill clarifies that providers may

not assess increased or additional fees against Hope Scholarship students based on participation in the program. Finally, the bill adds reporting requirements.

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