

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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FEB 22 10 57 AM '01

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Board of the PROMISE Scholarship TITLE NUMBER: 134

RULE TYPE: Legislative CITE AUTHORITY: 18C-7-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Rules for the Operation of the PROMISE Scholarship Program

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 26 March, 2001 AT 5P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Kay Goodwin, Cabinet Secretary
Department of Education and the Arts
State Capitol Complex
Building 5, Room 205
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$4.60

Summary

This rule establishes guidelines and procedures, which will direct the operation of the West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence Scholarship Program (PROMISE).

Why

As mandated by State Code

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Rules for the Operation of the PROMISE Scholarship Program

LEGISLATIVE RULE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 1

**TITLE: WEST VIRGINIA PROVIDING REAL OPPORTUNITIES
FOR MAXIMIZING IN-STATE STUDENT EXCELLENCE
(PROMISE) SCHOLARSHIP PROGRAM**

SECTION 1: GENERAL

- 1.1. Scope - This rule establishes guidelines and procedures which will direct the operation of the West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence Scholarship Program, hereafter referred to as PROMISE.
- 1.2. Authority - West Virginia Code §18C-7-6
- 1.3. Filing Date - _____
- 1.4. Effective Date _____

SECTION 2: PURPOSE

- 2.1. The intent of the legislation creating PROMISE is to:
 - 2.1.1. provide an incentive for all West Virginia students to perform at a high academic level;
 - 2.1.2. increase the college-going rate in West Virginia, and
 - 2.1.3. develop an educated work force that will attract high skill, high wage jobs for West Virginians.

SECTION 3: FUNDING

- 3.1. A special revenue fund known as the PROMISE Scholarship Fund shall be created in the State Treasury.
- 3.2. Funding shall consist of:
 - 3.2.1. All appropriations to the fund from the West Virginia lottery, video lottery, taxes on amusement devices, and any other legislative appropriations;
 - 3.2.2. All interest earned from the investment of the fund; and
 - 3.2.3. Any gifts, grants, or contributions received by the fund.

SECTION 4: ADMINISTRATION

- 4.1. The PROMISE Scholarship Program shall operate under the direction of a PROMISE Scholarship Board.
 - 4.1.1. The Board shall consist of thirteen members including:
 - 4.1.1.1. the Chancellor of the University System Board of Trustees
 - 4.1.1.2. the Chancellor of the Board of Directors of the State College System;
 - 4.1.1.3. the State Superintendent of Schools or her or his designee;
 - 4.1.1.4. the Secretary of Education and the Arts who shall be the chairperson and presiding officer of the Board;
 - 4.1.1.5. the State Treasurer or her or his designee;
 - 4.1.1.6. the Chair of the Senate Committee on Finance or her or his designee who is a member of the committee;
 - 4.1.1.7. the Chair of the House of Delegates Committee on Finance or her or his designee who is a member of the committee;

- 4.1.1.8. the Chair of the Senate Committee on Education or her or his designee who is a member of the committee;
- 4.1.1.9. the Chair of the House of Delegates Committee on Education or her or his designee who is a member of the committee; and
- 4.1.1.10. four members appointed by the Governor with the advice and consent of the Senate (these appointees must have knowledge, skill and experience in an academic, business or financial field).
 - 4.1.1.10.1. At least three of the four appointees must be residents of the state,
 - 4.1.1.10.2. no more than two of the four appointees may be from the same party, and
 - 4.1.1.10.3. no more than two of the four appointees may be from the same congressional district.
- 4.1.2. Appointed members shall serve a term of four years, except as set forth in 4.1.2.1, and may be reappointed at the expiration of their terms.
 - 4.1.2.1. Of the initial appointments, the Governor shall appoint one member to a one-year term, one member to a two-year term, one member to a three-year term, and one member to a four-year term.
 - 4.1.2.2. An appointed member of the Board shall serve until a successor has been appointed and verified.
 - 4.1.2.3. In the event of a vacancy, the Governor shall appoint a person representing the same interests to fill the unexpired term.
 - 4.1.2.3.1. A person appointed to fill a vacancy shall be appointed only for the remainder of the term and is eligible for reappointment.
- 4.1.3. A majority of the members of the Board constitute a quorum for the transaction of the Board's business.
- 4.1.4. Members of the Board shall serve without compensation.

- 4.1.5. Members of the Board shall be reimbursed by the Office of the Secretary of Education and the Arts for expenses, including travel expenses incurred by them in the conduct of official business for the Board.
 - 4.1.5.1. Expenses shall be paid at the same rate as is paid to employees of the State.
- 4.1.6. Appointed Board members may be removed from office by the Governor for official misconduct, incompetence, neglect of duty, or gross immorality.
 - 4.1.6.1. Any such removal must be done in the manner prescribed by law for the removal by the Governor of state elective officers in accordance with Section five, Article six, Chapter six of the State Code.
- 4.2. The Board has the powers necessary or convenient to administer and carry out the purpose of the PROMISE Scholarship Program including, but not limited to, the following:
 - 4.2.1. To adopt and amend bylaws;
 - 4.2.2. To invest funds with the West Virginia Investment Management Board in accordance with the provisions of Article six, Chapter twelve of the West Virginia Code;
 - 4.2.2.1. Any investment shall be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
 - 4.2.2.2. Fiduciaries shall diversify plan investments to the extent permitted by law so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
 - 4.2.3. To execute contracts and other necessary instruments;
 - 4.2.4. To impose reasonable requirements for residency for students applying for a PROMISE Scholarship;

4.2.4.1. Such requirement shall not, in any way, establish residency requirements for matriculation or fee payment purposes at state institutions of higher education.

- 4.2.5. To contract for necessary goods and services;
- 4.2.6. To employ necessary personnel and, when necessary, to engage the services of private persons for administrative and technical assistance;
- 4.2.7. To solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition, grants, loans, and other aids from any source;
- 4.2.8. To participate in any other way in any federal, state, or local government programs in carrying out the purposes of the PROMISE Program;
- 4.2.9. To define the terms and conditions under which scholarships shall be awarded;
- 4.2.10. To establish other policies, procedures, and criteria necessary to implement and administer the PROMISE Scholarship Program;
- 4.2.11. To expend the moneys in the fund to operate the PROMISE Scholarship Program; and
- 4.2.12. To annually prepare and submit a budget request to the Governor.

SECTION 5: STUDENT ELIGIBILITY CRITERIA

- 5.1. To be eligible for consideration for an initial PROMISE Scholarship, an applicant:
 - 5.1.1. Must be a high school graduate or have earned a General Educational Development (GED) diploma as set forth in Section 5.2 or have been home-schooled as set forth in Section 5.3;
 - 5.1.1.1. Must have completed grades eleven and twelve in a high school located in West Virginia;
 - 5.1.1.2. Must apply within two years of her or his graduation from high school unless the applicant has entered the United States Armed services within two years after he or she graduated from high school.

- 5.1.12.1. A student who has served in the Armed Services is eligible to apply for a scholarship within seven years of the time he or she enters military service. However, once discharged from the military, the student is only eligible to apply for the initial award within one year of being discharged.
- 5.1.2. Must, if an applicant with zero to fifteen credits from an institution of higher education, have attained a cumulative grade point average of at least 3.0 on a scale of 4.0 in the core courses, as set forth in the unit requirements contained in the undergraduate admissions policies of the State College and University Systems of West Virginia, at the secondary level and have earned a composite ACT score of 21 or the equivalent of these requirements (based on a combined GPA and composite ACT score); provided, however, that the GPA must be at least 2.75 and the ACT composite score must be at least 19 regardless of the combined score.
- 5.1.3. Must, if an applicant with more than fifteen credits from an institution of higher education have earned at least a cumulative grade point average of 3.0 on a scale of 4.0 at the undergraduate level;
- 5.1.4. Must be enrolled or accepted for enrollment at an eligible institution of higher education;
 - 5.1.4.1. Must be a first-time, full-time freshman.
- 5.1.5. Must have submitted the application/needs analysis form used to apply for federal student aid programs;
 - 5.1.5.1. Student may also be required to complete an application form designed and distributed by the Board.
- 5.1.6. Must be a state resident;
 - 5.1.6.1. State resident means a student who has lived in West Virginia continuously for a minimum of twelve months immediately preceding the date of application for a PROMISE Scholarship or the renewal of a Scholarship and meets the standards of West Virginia domicile as defined by the residency policies of the governing boards for public colleges and universities.

- 5.1.7. Must be a United States citizen or a permanent resident thereof;
- 5.2. For a student who has earned a GED to be eligible for consideration for an initial PROMISE award, he or she:
 - 5.2.1. Must have passed the GED examination within two years of the date her or his high school class would normally have graduated,
 - 5.2.2. Must apply for a PROMISE award within two years of attaining the GED unless the applicant has entered the United States Armed Services within two years after he or she attained the GED,
 - 5.2.2.1. A student who has served in the Armed Services is eligible to apply for a scholarship within seven years of the time he or she enters military service. However, once discharged from the military, the student is only eligible to apply for the initial award within one year after being discharged.
 - 5.2.3. Must have earned a composite ACT score of at least 21 or its equivalent.
- 5.3. For a student who has been home-schooled and has earned the equivalent of a high school diploma, to be eligible for consideration for an initial PROMISE award, he or she:
 - 5.3.1. Must take and pass the GED,
 - 5.3.2. Must earn a composite ACT score of at least 21 or its equivalent, and
 - 5.3.3. Must apply for a PROMISE award within two years of attaining the home-school equivalent of a high school diploma unless the applicant has entered the United States Armed Services.
 - 5.3.3.1. A student who has served in the Armed Services is eligible to apply for a PROMISE award within seven years of the time he or she enters military service. However, once discharged from the military, the student is only eligible to apply for the initial award within one year after being discharged.
- 5.4. To be eligible for the renewal of a PROMISE Scholarship, a student:
 - 5.4.1. Must have earned a cumulative grade point average of at least 3.0 on a 4.0 scale; provided, however, that for the first year a PROMISE award is

received, the applicant may be eligible for renewal if he or she has earned at least a 2.75 GPA. Thereafter, a cumulative GPA of no less than 3.0 is required for the renewal of a Scholarship.

5.4.2. Must have met the academic progress requirements of the institution he or she is attending.

5.5. An eligible student may receive the PROMISE Scholarship for up to eight semesters or until he or she earns a bachelor's degree, whichever comes first.

SECTION 6: ELIGIBLE INSTITUTIONS

6.1. Institutions eligible to participate in the PROMISE Scholarship Program include:

6.1.1. Any university, college or community and technical college in the University System of West Virginia or the State College System of West Virginia;

6.1.2. Alderson-Broaddus College, Appalachian Bible College, Bethany College, College of West Virginia, Davis and Elkins College, Ohio Valley College, Salem-Teikyo University, The University of Charleston, West Virginia Wesleyan College, Wheeling Jesuit University, all in West Virginia; and

6.1.3. Any other institution of higher education, public or private, approved by the Board.

6.1.4. Any institution that is not regionally accredited shall not be eligible to participate in the PROMISE Scholarship Program.

SECTION 7: AMOUNT OF AWARD

7.1. The award for a student enrolled in a public institution under the jurisdiction of the State College and University Systems governing boards shall be based upon the actual tuition and fee charges. An award may also include an allowance for books and supplies.

7.1.1. "Tuition and fees" means the quarter, semester or term charges imposed by a state institution of higher education and all mandatory fees required as a condition of enrollment by all students.

- 7.2 Students enrolled in other eligible institutions shall receive an award based upon the average undergraduate tuition and fee charges at four-year public college and universities for the previous year as determined by the Board. An award may also include an allowance for books and supplies.
- 7.3. Total aid, including the PROMISE award, may not exceed the recipient's total cost of education as defined by the institution being attended.
- 7.3.1. Should the scholarship award plus the amount of other financial awards exceed the cost of attendance, the institution's financial aid officer, in consultation with the recipient, will determine what aid is to be reduced. This adjustment should be to the best advantage of the recipient.
- 7.4. The PROMISE Scholarship Program may be articulated with other related West Virginia student financial aid programs.

SECTION 8: PROMISE SCHOLARSHIP SUPPLEMENTAL FUND

- 8.1. A special revenue fund will be created in the State Treasury which shall be designated and known as the "PROMISE Scholarship Supplemental Fund."
- 8.1.1. This fund shall consist of:
- 8.1.1.1. all appropriations to the fund,
 - 8.1.1.2. all interest earned from the investment of the fund, and
 - 8.1.1.3. any gifts, grants, or contributions received by the fund.
- 8.1.2. Monies from this fund shall be used to assist state institutions in the event that the PROMISE Scholarship Program leads to an increased number of individuals attending those institutions and contributing to expenses greater than the additional tuition income generated by the increased enrollment.
- 8.1.3. Monies from this fund shall be used to assist only public institutions of higher education.
- 8.1.4. Funds shall be divided among state institutions of higher education in a reasonable manner to reflect the actual distribution of PROMISE scholarship students among the institutions.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules for the Operation of the PROMISE Scholarship Program

Type of Rule: Legislative Interpretive Procedural

Agency: Board of the PROMISE Scholarship Program

Address: Department of Education and the Arts
State Capitol Complex
Building 5, Room 205
1900 Kanawha Blvd., East
Charleston, WV 25311

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	9,227,868		9,227,868	15,430,252	24,963,984
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:
 Assumes coordination of benefits with WV Higher Education Grant Program.

3. Objectives of These Rules:
 Award merit-based scholarships to academically qualified students in West Virginia Higher Education.

Rule Title: Rules for the Operation of the PROMISE Scholarship Program

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Immediate impact will be the \$9 million for the first year (the Fiscal Note). PROMISE is an investment by the State Legislature. PROMISE is expected to return greater economic benefits to the state of West Virginia.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: Everyone in the state of West Virginia is expected to benefit with the implementation of PROMISE. PROMISE will produce a more educated workforce. It will keep the best and brightest students in the state of West Virginia.

C. Economic Impact on Citizens/Public at Large.

The overall economic impact is expected to be very positive. A better educated and skilled workforce attracts better industry, better paying jobs and greater tax revenue for the state.

Date: 22 February, 2001

Signature of Agency Head or Authorized Representative:

