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# **WEST VIRGINIA CODE CHAPTER 29**

## **ARTICLE 24**

WV Legislature

**§29-24-1. Legislative findings and declarations.**

Individuals with disabilities comprise a significant and increasing percentage of West Virginia's population. The Legislature finds and declares that action is necessary to assist these individuals in their homes, schools, employment and communities to become more independent citizens of the state. Many of these individuals require technology-related devices and technology-related services in order to perform functions, such as caring for themselves, performing manual tasks, mobility, seeing, hearing, speaking, breathing and learning in order to have the ability to more independently participate in society and the work force. In order to meet the present and increasing needs of West Virginians for technology-related devices and technology-related services, it is necessary for the state to provide funds for the technology-related revolving loan fund for individuals with disabilities that neither supplant nor replace existing state, federal or private sector funds.

**§29-24-2. Terms defined.**

As used in this article, the term:

(a) "Board" means the technology-related assistance revolving loan fund for individuals with disabilities board.

(b) "Individual with disability" means any individual, of any age who, for the purposes of state or federal law, is considered to have a disability or handicap, injuries and chronic health conditions, whether congenital or acquired; and who is or would be enabled by technology-related devices or technology-related services to maintain or improve his or her ability to function in society and the workplace.

(c) "Qualifying borrower" means any individual with disabilities and their family members, guardians, authorized representatives or nonprofit entity who demonstrates that such a loan will improve their independence or become more productive members of the community. The individual must demonstrate credit worthiness and repayment abilities to the satisfaction of the board. No more than twenty percent of all loan funds are to be provided to nonprofit entities in a single year.

(d) "Technology-related assistance" means either the provision of technology-related devices or technology-related services to improve the independence, quality of life or productive involvement in the community of individuals with disabilities.

(e) "Technology-related device" means any item, piece of equipment or product system, whether acquired commercially off-the-shelf, modified or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities.

(f) "Technology-related service" means any service that directly assists an individual with a disability in the selection, acquisition or use of a technology-related device, including:

(1) The evaluation of the needs of an individual with a disability, including a functional evaluation in the individual's customary environment;

(2) Purchasing, leasing or otherwise providing for the acquisition of technology-related devices by individuals with disabilities;

(3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing technology-related devices;

(4) Coordinating and using other therapies, interventions or services with technology-related devices, such as those associated with existing education and rehabilitation plans and programs; and

(5) Training or technical assistance for individuals or the family of an individual with disabilities.

(g) "Revolving loan fund" means the technology-related assistance revolving loan fund for individuals with disabilities established in this article.

(h) "Consumer" means individuals with disabilities and, when appropriate, their family members, guardians, advocates or authorized representatives.

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**§29-24-3. Board created, membership, terms, officers and staff.**

(a) The technology-related assistance revolving loan fund for individuals with disabilities board created by chapter 247 Acts of the Legislature, regular session, 1996, is hereby continued.

(b) The board shall consist of seven members as follows, of whom at least three must be individuals with disabilities:

(1) Director of the Division of Rehabilitation Services, ex officio, who shall be entitled to vote, or his or her designee;

(2) A representative of the banking industry;

(3) A representative of the medical profession;

(4) A certified public accountant; and

(5) Three members from the public at large who are users or providers of technology-related assistance devices or services for individuals with disabilities. Members shall be appointed by the Governor, by and with the advice and consent of the Senate, for terms of three years. Members appointed by the Governor with the advice and consent of the Senate prior to the effective date of this section shall continue to serve for the terms for which they were appointed. State officers or employees may be appointed to the board unless otherwise prohibited by law.

(c) In the event a board member fails to attend more than twenty-five percent of the scheduled meetings in a twelve-month period, the board may, after written notification to that member and the Secretary of Commerce, request in writing that the Governor remove the member and appoint a new member to serve his or her unexpired term.

(d) If there is a death, resignation, disqualification, or removal for any reason of any member of the board, the vacancy shall be filled in the same manner as the original appointment and the successor shall serve for the unexpired term.

(e) The board shall elect from its membership a chairperson, treasurer, and secretary as well as any other officer as appropriate. The term of the "chairperson" is for two years in duration and he or she cannot serve more than two consecutive terms.

**§29-24-4. Compensation and expenses of board.**

Members of the board who are not employees of the state are entitled to receive a compensation in an amount not to exceed \$50 for each day the member of the board is in attendance at a meeting of the board, plus reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as a member of the board in accordance with state travel regulations. Members with disabilities are also entitled to reimbursement for costs associated with personal assistance, interpreters and disability-related accommodations for the purpose of conducting the business of the board. Compensation, reimbursement and other costs authorized in this section shall be paid from moneys in the revolving loan fund.

**§29-24-5. Power, duties and responsibilities of the board; loans.**

(a) The board has the following powers, duties, and responsibilities:

(1) Meet at such times (minimum of four times each fiscal year) and at places as it determines necessary or convenient to perform its duties. The board shall also meet on the call of the chairperson or Secretary of Commerce;

(2) Maintain written minutes of its meetings;

(3) Propose rules for legislative promulgation in accordance with §29A-3-1 et seq. of this code for the transaction of its business and to carry out the purposes of this article. The rules shall include: (A) Guidelines, procedures, reporting requirements, accountability measures and such other criteria as the board deems appropriate and necessary to fulfill its governance responsibility under this article if it elects to contract with a nonprofit, consumer-driven organization to carry out the purposes of this article; (B) an appeals process with regard to the administration of the fund; and (C) rules governing the operation of the fund, including, but not limited to, eligibility of receipt of funds and all other matters consistent with and necessary to accomplishing the purpose of this fund;

(4) Employ personnel on a full-time, part-time or contracted basis. Board personnel may be members of the state civil service system. Participating agencies shall make staff support and resources available to the board whenever practicable at the discretion of the agencies. The compensation of personnel shall be paid from moneys in the revolving loan fund;

(5) Receive, administer and disburse funds to support purposes established by this article and contract with nonprofit, consumer-based groups dealing with individuals with disabilities to assist in administering programs established by this article;

(6) Maintain detailed records of all expenditures of the board, funds received as gifts and donations and disbursements made from the revolving loan fund;

(7) Submit to the Secretary of the Department of Commerce and the Legislature annually a summary report concerning programmatic and financial status of the revolving loan fund;

(8) Develop and implement a comprehensive set of financial standards to ensure the integrity and accountability of all funds received as well as loan funds disbursed; and

(9) Conform to the standards and requirements prescribed by the State Auditor.

(b) Subject to available funds, the board shall enter into loan agreements with any qualifying borrower, who demonstrates that:

(1) The loan will assist one or more individuals with disabilities in improving their independence, productivity and full participation in the community; and

(2) The applicant has the ability to repay the loan. Any necessary loan limitation shall be determined by the board. All loans must be repaid within such terms and at such interest rates as the board may determine to be appropriate. However, no loan may extend beyond sixty months from date of award and may be paid off anytime without prepayment penalty. The board shall determine the interest rate to be charged on loans made pursuant to this article, but in no event may the interest rate on any such loans be less than four or more than twenty-one percent per annum.

(c) The board may authorize loans up to ninety percent of the cost of an item or items.

(d) The board may award loans to qualifying borrowers for purposes, including, but not limited to, the following:

(1) To assist one or more individuals with disabilities to improve their independence through the purchase of technology-related devices; and

(2) To assist one or more individuals with disabilities to become more independent members of the community and improve such individuals quality of life within the community through the purchase of technology-related devices.

(e) If there is a failure of the borrower to repay the loan balance due and owing, the board shall seek to recover the loan balance by such legal or administrative action available to it. Persons or representatives of persons who default on a loan are not eligible for a new loan. The board shall retain ownership of all property, equipment, or devices until the borrower's loan is paid in full.

(f) A new loan may not be issued to, or on behalf of, a disabled person if a previous loan made to, or on behalf of, such person remains unpaid.

(g) The board may charge a fee for loan applications and processing. All funds generated by fee charges shall be directly placed into the revolving loan fund to off-set the costs of application processing.

The board may accept federal funds granted by Congress or executive order for the purposes of this chapter as well as gifts and donations from individuals, private organizations, or foundations. The acceptance and use of federal funds does not commit state funds and does not place an obligation upon the Legislature to continue the purposes for which the federal funds are made available. All funds received in the manner described in this article shall be deposited in the revolving loan fund to be disbursed as other moneys in the revolving loan fund.

**§29-24-6. Disbursements.**

Loans may be made for amounts ranging from a minimum of \$500 to a maximum of \$5,000. The loan must be used to purchase technology-related devices or directly related services that will assist the person with a disability to overcome barriers in daily living.

WV Legislature

**§29-24-7. Fund created.**

The technology-related assistance revolving loan fund for individuals with disabilities is hereby created in the State Treasury to be expended by the board in accordance with the provisions of and for the purposes of this article. Upon the effective date of this section, any funds remaining in the technology-related assistance revolving loan fund for individuals with disabilities created by chapter two hundred forty-seven, acts of the Legislature, regular session, one thousand nine hundred ninety-six, which is hereby abolished, shall be deposited into the fund created by this section. Nothing contained herein may be construed to require any level of funding by the Legislature.

**§29-24-8. Deposits created by the board.**

The board shall deposit all amounts paid, appropriated, granted or donated to it, including interest accrued on loan balances, fees charged and funds received in repayment of loans, in the revolving loan fund.

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**§29-24-9. Fund use.**

The moneys in the revolving loan fund shall be used only for the following purposes:

- (a) Implementing revolving loan program for technology-related devices;
- (b) Providing technology-related devices to individuals with severe disabilities who meet economic criteria established by the board;
- (c) Providing support for technology-related assistance;
- (d) Providing technology-related and disability prevention education and research;
- (e) Disseminating public information;
- (f) Conducting program evaluation and needs assessment;
- (g) Operating the board and other administrative and personnel costs;
- (h) Conducting research and demonstration projects, including new and future uses of technology-related services; and
- (i) Developing a strategic plan.

Administrative costs are not to exceed ten percent of the revolving loan fund's yearly budget.

All unexpended moneys contained in this fund at the end of the fiscal year shall be carried forward from year to year.