

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1971



ENROLLED

HOUSE BILL No. 729

(By Mr. SPEAKER, BOIARSKY)



PASSED MARCH 4, 1971

In Effect JULY 1, 1971 Passage



FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 3-15-71

729

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**House Bill No. 729**

(By MR. SPEAKER, MR. BOIARSKY)

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AN ACT to repeal articles twenty-two and twenty-two-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section ten, article twenty-six of said chapter; and further to amend article twenty-six of said chapter by adding thereto twelve new sections, designated as sections thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-four, all relating to the transfer of powers, duties and authorities with respect to the academic facilities program, the state scholarship program and the guaranteed student loan program from the state commission on higher education to the board of regents;

the creation of an advisory commission; its membership, terms and organization; the abolishment of the state commission on higher education.

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

That articles twenty-two and twenty-two-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section ten, article twenty-six of said chapter be amended and reenacted; and that article twenty-six be further amended by adding thereto twelve new sections, designated as sections thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-four, all to read as follows:

**ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.**

**§18-26-10. State agency for participation in federal and private grants to higher education; powers and duties of the board of regents.**

1 The board of regents, on behalf of the state of West  
2 Virginia, is authorized and empowered to apply for, to  
3 accept and administer and expend for the purpose or  
4 purposes designated, any funds which now are, or may  
5 be made available to the board or to any institution

6 under its authority from federal or private grants, ap-  
7 propriations, allocations and programs.

8 The board of regents shall have the power:

9 (1) To receive and disburse funds appropriated by  
10 the federal government for the construction, equipment,  
11 and improvement of academic facilities of institutions  
12 of higher education as required by the federal Higher  
13 Education Facilities Act of 1963, and any and all subse-  
14 quent acts of Congress relating to the same subject;

15 (2) To apply for, receive, and administer, subject  
16 to any applicable regulations or laws of the federal gov-  
17 ernment or any agency thereof, any federal grants, ap-  
18 propriations, allocations, and programs for the develop-  
19 ment of academic facilities on behalf of the state of West  
20 Virginia, or any institution of higher education, public  
21 or private, within the state;

22 (3) To develop, alter, amend, and submit to the fed-  
23 eral government state plans for participation in federal  
24 grants, appropriations, allocations, and programs for the  
25 development of academic facilities and to formulate  
26 regulations, criteria, methods, forms, procedures, and to

27 do all other things which may be necessary to make pos-  
28 sible the participation of the state in such federal grants,  
29 appropriations, allocations, and programs for the de-  
30 velopment of academic facilities;

31 (4) To hold hearings, and render decisions as to the  
32 priority assigned to any project, or as to any other matter  
33 or determination affecting any applicant for federal  
34 grants, appropriations, allocations and programs for the  
35 development of academic facilities;

36 (5) To hire personnel, purchase materials, make  
37 studies and reports, enter into contracts, and do all  
38 other things necessary to accomplish the duties as set  
39 forth in this section within the limits of the funds avail-  
40 able.

**§18-26-13. Transfer of powers, duties, and authorities, title  
to property, agreements, and orders, resolutions,  
etc., of the state commission on higher education  
to board of regents.**

1 All powers, duties, and authorities vested in the state  
2 commission on higher education by article twenty-two,  
3 twenty-two-a and twenty-two-b of this chapter or by  
4 any other provisions of law are hereby transferred to

5 the West Virginia board of regents; and on and after the  
6 effective date of this article all of the powers, duties, and  
7 authorities of the state commission on higher education  
8 shall be exercised and performed by the West Virginia  
9 board of regents, and the state commission on higher  
10 education shall be abolished and repealed.

11 The title to all property heretofore acquired in the  
12 name of the state commission on higher education is  
13 hereby transferred to and vested in the West Virginia  
14 board of regents.

15 Each valid agreement and obligation of the state com-  
16 mission on higher education shall on or after the effective  
17 date of this section become and be deemed the agreement  
18 and obligation of the West Virginia board of regents.

19 All orders, resolutions, rules, and regulations adopted  
20 or promulgated by the state commission on higher edu-  
21 cation and in effect immediately prior to the effective  
22 date of this section shall continue and shall be deemed  
23 the orders, resolutions, rules, and regulations of the  
24 West Virginia board of regents until rescinded by the  
25 board; and all such orders, resolutions, rules and regula-

26 tions may be rescinded, revised, altered or amended by  
27 the board in the manner and to the extent authorized  
28 and permitted by law.

**§18-26-14. Creation of advisory council; appointment, terms  
and qualifications of members; vacancies; com-  
pensation and expenses; meetings; quorum re-  
quirements.**

1 There is hereby created an advisory council to be  
2 known as the higher education advisory council on fed-  
3 eral resources. The council shall review the state plan  
4 for administration of the federal Higher Education Fa-  
5 cilities Act of 1963 and Titles I and VI of the federal  
6 Higher Education Act of 1965, as amended. The council  
7 shall also evaluate proposals pertaining to the afore-  
8 mentioned federal acts and shall submit such recom-  
9 mendations as it deems appropriate to the board of  
10 regents. The council shall be involved in every significant  
11 function of the board of regents pertaining to said federal  
12 acts.

13 The advisory council shall consist of nine members to  
14 be appointed as follows: One member shall be a member  
15 of the board of regents appointed by the president of the

16 board of regents, three members appointed by the board  
17 of regents to represent the public at large, two members  
18 appointed by the board of regents to represent public  
19 institutions of higher education, and three members ap-  
20 pointed by the board of regents to represent nonpublic  
21 institutions of higher education: *Provided*, That of the  
22 three members representing nonpublic institutions of  
23 higher education, one shall be a president of a nonpublic  
24 institution, and of the two members representing public  
25 institutions of higher education, one shall be a president  
26 of a public institution. The board of regents shall appoint  
27 a chairman of the advisory council who shall be selected  
28 from the representatives of the public at large.

29 The members shall serve for a term of six years, ex-  
30 cept that the original appointment shall be as follows:  
31 Three members shall serve two years, three members to  
32 serve four years, and three members to serve six years.  
33 The board of regents shall appoint a member to fill any  
34 vacancy, which member shall serve for the unexpired  
35 term of the vacating member. All shall be eligible for  
36 reappointment.

37 The members of the advisory council shall serve with-



38 out compensation, but shall be reimbursed for their  
39 necessary expenses actually incurred in the performance  
40 of their duties not to exceed twenty-five dollars per day  
41 plus an allowance of ten cents per mile actually traveled  
42 to and from such meetings.

43 A meeting of the advisory council shall be held within  
44 sixty days after the effective date of this section, and  
45 thereafter the advisory council shall meet at least an-  
46 nually and at such other times as necessary upon the  
47 call of the chairman. Five members of the advisory coun-  
48 cil shall constitute a quorum, and a majority vote of the  
49 quorum shall be necessary to pass upon matters before  
50 the council.

**§18-26-15. Loan program to be administered by board of regents.**

1 The guaranteed student loan program established and  
2 authorized by this article shall be administered by the  
3 West Virginia board of regents.

**§18-26-16. Definitions.**

1 As used in this article, the following words and terms  
2 shall have the following meanings, unless the context  
3 shall indicate another or different meaning or intent:

4 (a) The words "act" or "undertaking" shall mean the  
5 official act of the board in connection with the acquisi-  
6 tion or deposition of all or any part of obligations or  
7 interest therein which the board of regents is authorized  
8 to buy or sell hereunder.

9 (b) The word "obligations" shall mean those evidences  
10 of debt which the board may buy, sell, endorse, or guar-  
11 antee under the provisions of this article.

**§18-26-17. Board authority to buy and sell certain student  
obligations; undertakings not to constitute state  
debt; undertakings limited to available funds.**

1 In order to facilitate the education of residents in this  
2 state and promote the industrial and economic develop-  
3 ment of the state, the board of regents is hereby authoriz-  
4 ed and empowered to buy and sell obligations of students  
5 who are residents of West Virginia, who have been resi-  
6 dents of this state for at least one year and who are stu-  
7 dents at state supported or private institutions of higher  
8 education or vocational schools accredited by a national-  
9 ly recognized accrediting agency or by a state agency  
10 designated by the governor and representing loans made  
11 to such students who have met the requirement of fi-

12 nancial need as determined by the board of regents,  
13 such loans having been made for the purpose of an edu-  
14 cation.

15 No act or undertaking of the board shall be deemed  
16 to constitute a debt of the state or of any political sub-  
17 division thereof or a pledge of the faith and credit of  
18 the state or of any such political subdivision, but shall  
19 be payable solely from the funds of the board specifically  
20 appropriated for the guaranteed student loan program.  
21 All such acts and undertakings shall contain on the face  
22 thereof a statement to the effect that neither the state  
23 nor the board shall be obligated to pay the same or the  
24 interest thereon except from revenues of the board and  
25 that neither the faith and credit nor the taxing power  
26 of the state or of any political subdivision thereof is  
27 pledged to the payment of the principal of or the interest  
28 on such acts and undertakings.

29 All expenses incurred in carrying out the provisions  
30 of this article dealing with the guaranteed student loan  
31 program shall be payable solely from funds provided for  
32 the purpose and no liability or obligation shall be in-

33 curred by the board hereunder beyond the extent to  
34 which money shall have been provided under the ap-  
35 plicable provisions of this article for the guaranteed stu-  
36 dent loan program.

**§18-26-18. Powers and duties of board of regents regarding  
loan program.**

1 The board of regents is hereby authorized and em-  
2 powered:

3 (1) To fix and revise from time to time and charge  
4 and collect fees for its acts and undertakings;

5 (2) To establish rules and regulations concerning the  
6 acts and undertakings;

7 (3) To acquire, hold and dispose of personal property  
8 in the exercise of its powers and the performance of its  
9 duties;

10 (4) To make and enter into all contracts and agree-  
11 ments necessary or incidental to the performance of its  
12 duties and the execution of its powers under this article;

13 (5) To employ in its discretion such employees as it  
14 may deem necessary to carry out its powers and duties  
15 as enumerated in this article;

16     (6) To receive and accept from any federal or private  
17 agency, corporation, association or person, grants to be  
18 expended in accomplishing the objectives of this article  
19 and to receive and accept from the state, from any munic-  
20 ipality, county or other political subdivision thereof and  
21 from any other source, aid or contributions of either  
22 money, property, or other things of value to be held,  
23 used and applied only for the purposes for which such  
24 grants and contributions may be made;

25     (7) To sue and be sued as provided by law;

26     (8) To do all other acts and things necessary or con-  
27 venient to carry out the powers expressly granted by  
28 the provisions of this article which relate to the guar-  
29 anteed student loan program. Nothing in this article  
30 shall be construed to empower the board to engage in  
31 the business of banking or insurance.

**§18-26-19. Title to property.**

1     Title to any property acquired by the board of regents  
2 under the provisions of this article which relate to the  
3 guaranteed student loan program shall be taken and  
4 held in the name of the board of regents.

**§18-26-20. Acquisition of contingent interests in obligations from lending institutions; collection of delinquent obligations.**

1 With funds available to the board of regents for pur-  
2 poses other than the payment of compensation to per-  
3 sonnel and the lease or rental of offices or equipment,  
4 the board may acquire from any bank or other lending  
5 institution of this state a contingent interest in student  
6 obligations; the total contingent interest of the board  
7 on all such obligations shall not exceed at any one time  
8 a sum of twelve and one-half times the total funds which  
9 the board can employ to acquire such contingent in-  
10 terests. When the board acquires any such contingent  
11 interest, it may require the payment to it of a portion  
12 of the interest payable upon any such obligation. In each  
13 such acquisition, the board shall provide that at such time  
14 as the obligation becomes delinquent, the bank or other  
15 lending institution shall notify the board forthwith and  
16 shall transfer forthwith to the board, by assignment or  
17 otherwise, an interest in such obligation equal to the  
18 contingent interest of the board therein. The bank or  
19 other lending institution and the board shall forthwith

20 take such steps as may be necessary to recover the bal-  
21 ance due upon any such obligation, and such recovery  
22 shall be apportioned between the board and the bank or  
23 other lending institution as their respective interests may  
24 appear.

**§18-26-21. Terms of acquisitions.**

1 The board of regents shall prescribe the terms, condi-  
2 tions and limitations upon which it will acquire a con-  
3 tingent or direct interest in any obligation and such terms,  
4 conditions and limitations shall include, but without  
5 limiting the generality thereof, the terms for payment of  
6 principal and interest, applicable life or other insurance  
7 which may be required in connection with any such  
8 obligation and who shall pay the premiums thereon, the  
9 safekeeping of assets pledged to secure any such under-  
10 taking, and any and all matters in connection with the  
11 foregoing as will protect the assets of the board.

**§18-26-22. Trust fund established; limitations on the use of  
the fund; duties of the treasurer in connection  
therewith; special account created.**

1 The appropriation made to the board under the pro-  
2 visions of this article which relate to the guaranteed

3 student loan program shall be used exclusively for the  
4 purpose of acquiring contingent or vested rights in obliga-  
5 tions which it may acquire under this article, and such  
6 appropriation, payments, revenue and interest, as well  
7 as other income received in connection with such obliga-  
8 tions, is hereby established as a trust fund. Such fund  
9 shall be used for the purposes of the board other than  
10 maintenance and operation.

11 The maintenance and operating expenses of the board  
12 shall be paid from funds specifically appropriated for  
13 such purposes. No part of the trust fund established under  
14 this section shall be expended for such purposes.

15 The board of regents shall be the trustee of the trust  
16 fund hereby created and all investments to be made from  
17 the assets of such trust shall be made by the state treas-  
18 urer in the manner provided by law. For the purposes  
19 of this article there is hereby created in the treasury  
20 of this state a special revolving account for deposits and  
21 withdrawals as herein provided. The state treasurer shall  
22 be the custodian of the assets of the board. All payments  
23 from the accounts thereof shall be made by him upon



24 warrants issued by the auditor upon vouchers signed  
25 by such persons as are designated by the board. A duly  
26 attested copy of a resolution of the board designating such  
27 persons shall be filed with the state treasurer as his au-  
28 thority for issuing warrants upon such vouchers.

**§18-26-23. Construction of article.**

1 The provisions of this article which relate to the guar-  
2 anteed student loan program shall be liberally construed  
3 to the end that its beneficial purposes may be effectuated.

**§18-26-24. Purpose.**

1 The Legislature enacts the provisions of this article  
2 which relate to the establishment of the guaranteed stu-  
3 dent loan program to continue and encourage education  
4 of citizens of this state who are in need of financial as-  
5 sistance, such assistance and education being for the wel-  
6 fare of this state, and the Legislature hereby declares  
7 such to be a public purpose.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James M. Bruce  
Chairman Senate Committee

Phyllis J. Rutledge  
Chairman House Committee

Originated in the House.

In effect July 1, 1971.

Howard Myers  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

John B. Lount  
President of the Senate

Ivan F. Boianky  
Speaker House of Delegates

The within approved this the 13th  
day of March, 1971.

Arch. A. Shaare, Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

RECEIVED

Date 3/9/71

Time 1:45 p.m.

MAR 15 10 07 AM '71  
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SECRETARY OF STATE  
STATE OF VIRGINIA