

No: 2059

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

— ● —

# ENROLLED

Committee Substitute for  
HOUSE BILL No. 2059

(By ~~Mr.~~ Delegate Hoblitzell + Delegate Sattes)

— ● —

Passed March 8, 1986

In Effect ninety days from Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2059**

(By DELEGATE HOBLITZELL and DELEGATE SATTES)

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[Passed March 8, 1986; in effect ninety days from passage.]

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AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-two-d, relating to higher education; establishing student assistance loan program generally; declaring legislative purpose; defining terms; providing for eligibility, application and administrative approval; requiring cooperation between the board of regents, state treasurer and lending institutions; authorizing linked deposits by state treasurer with eligible lending institutions; setting limitations on linked deposit investments; requiring deposit agreements and certain loan terms; requiring quarterly reports; and providing that the state or the agencies are not liable for loan repayment.

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

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article designated article twenty-two-d, to read as follows:

**ARTICLE 22D. HIGHER EDUCATION STUDENT ASSISTANCE  
LOAN PROGRAM.**

**§18-22D-1. Legislative purpose.**

1 The Legislature finds that the percentage of the  
2 population in this state attending college is substantially  
3 lower than the national average; that higher education  
4 in this age of advanced technology is a key element in  
5 the efforts to invigorate and develop the economy of our  
6 state; that opportunities for students attending a college  
7 or university in this state are diminished because of  
8 limited access to programs of financial assistance; and  
9 that the cost of attending college has dramatically  
10 increased and has become a great burden upon family  
11 budgets.

12 It is therefore the policy of the Legislature to establish  
13 a state higher education student assistance loan pro-  
14 gram to guarantee that deserving residents of this state  
15 have the opportunity to continue their education at an  
16 approved institution of higher education of their choice  
17 in this state.

**§18-22D-2. Definitions.**

1 The following words when used in this article have the  
2 meaning hereinafter ascribed to them, unless the  
3 context clearly indicates a different meaning:

4 (a) "Board" means the West Virginia board of  
5 regents.

6 (b) "Eligible lending institution" or "institution"  
7 means a financial institution that is eligible to make  
8 commercial loans, is a public depository of state funds  
9 and agrees to participate in the West Virginia higher  
10 education student assistance loan program.

11 (c) "Eligible student" means any individual who:

12 (1) Is a citizen or eligible noncitizen of the United  
13 States;

14 (2) Has been a resident of the state for at least one  
15 year immediately preceding the date of application for  
16 a West Virginia higher education student assistance  
17 loan;

18 (3) Is currently enrolled in good standing or accepted

19 for enrollment at an approved institution of higher  
20 education in this state of the student's choice; and

21 (4) Is certified by such institution in accordance with  
22 section three of this article.

23 (d) "Linked deposit" means a certificate of deposit  
24 placed by the state treasurer with an eligible lending  
25 institution at three percent below current market rates,  
26 as determined and calculated by the state treasurer,  
27 provided the institution agrees to lend the value of such  
28 deposit, according to the deposit agreement provided for  
29 by this article, to eligible students at three percent  
30 below the present borrowing rate applicable to each  
31 such student at the time of the deposit of state funds in  
32 the institution.

33 (e) "Approved institution of higher education in this  
34 state" means nonprofit, degree-granting two-year and  
35 four-year colleges and universities located in West  
36 Virginia.

**§18-22D-3. Certification of eligibility; information as to  
other financial assistance; approval of  
maximum loan amount.**

1 (a) The board of regents shall have full authority to  
2 administer the program in accordance with the provi-  
3 sions of this article. In furtherance of such administra-  
4 tion, the board shall approve institutions of higher  
5 education in this state for participation in the loan  
6 program, establish guidelines for use by such institu-  
7 tions in determining which applicants are eligible  
8 students and in calculating the maximum loan amounts,  
9 and develop a uniform eligibility certification and  
10 maximum loan amount form to be used by the applicant  
11 and the approved institution of higher education in  
12 determining and certifying eligibility and maximum  
13 loan amounts. The board shall further provide informa-  
14 tion as to the federal guaranteed student loan program  
15 and other financial assistance which may be available  
16 to the applicant, which information shall be conveyed to  
17 such applicants by the approved institution of higher  
18 education.

19 (b) Upon receipt of an applicant's certification form,  
20 the approved institution of higher education shall review  
21 such form, certify any student who meets the eligibility  
22 guidelines promulgated by the board and indicate on  
23 such form the maximum loan amount which may be  
24 received by the applicant pursuant to this article. The  
25 institution shall calculate such amount with considera-  
26 tion to any other financial assistance which is or will be  
27 received by the applicant and shall assist such applicant  
28 in receiving such other financial assistance. In no case  
29 shall the annual loan amount to an eligible student  
30 exceed six thousand dollars for undergraduate study or  
31 ten thousand dollars for graduate or professional study,  
32 and the eligible student shall receive not more than five  
33 such loans for undergraduate study and three such loans  
34 for graduate or professional study. Any applicant who  
35 is not certified as eligible shall be notified in writing as  
36 to the reasons for which certification was not granted.

37 (c) Any applicant who is denied eligibility certifica-  
38 tion or has a maximum loan amount approved which is  
39 less than the applicant reasonably believes is required  
40 for attendance at the approved institution of higher  
41 education may request in writing to the board a hearing  
42 on any such matter. The board may conduct such  
43 hearing or may respond in writing as to the reasons such  
44 hearing is denied. Any decision by the board regarding  
45 eligibility or or maximum loan amount shall be final.

**§18-22D-4. Limitations on investment in linked deposits.**

1 The state treasurer shall invest in linked deposits as  
2 identified by the board through an approved applica-  
3 tion, provided that at the time of placement of the linked  
4 deposit, exclusive of the linked deposit program pro-  
5 vided for in article one-a, chapter twelve of this code,  
6 not more than two percent of the state's total investment  
7 portfolio is so invested. The total amount initially  
8 deposited in any one year shall not exceed twelve million  
9 dollars, and the total amount so deposited at any one  
10 time shall not exceed, in the aggregate, one hundred  
11 twenty million dollars.

**§18-22D-5. Applications for loans; loan package.**

1 (a) An eligible lending institution that desires to  
2 receive a linked deposit shall accept and review  
3 applications for loans from applicants certified as  
4 eligible students. The lending institution shall apply all  
5 usual lending standards to determine the creditworth-  
6 iness of each eligible student. In no case shall the  
7 applicant request, nor the eligible lending institution  
8 approve, an annual loan amount in excess of the  
9 maximum amount indicated on the form certifying such  
10 applicant as an eligible student.

11 (b) An eligible student shall certify on the loan  
12 application that the reduced rate loan will be used  
13 exclusively to attend an approved institution of higher  
14 education in this state. Whoever knowingly makes a  
15 false statement concerning such application shall be  
16 prohibited from entering into the West Virginia higher  
17 education student assistance loan program. Whoever  
18 knowingly uses loan proceeds received pursuant to this  
19 article for reasons other than attendance at an approved  
20 institution of higher education shall be prohibited from  
21 benefitting from the linked deposit, which deposit shall  
22 be withdrawn upon maturity, and the loan shall revert  
23 to the rate of market interest originally determined.

24 (c) Upon approval of all or any portion of the loan  
25 amount requested for which a linked deposit is sought,  
26 the eligible lending institution shall forward to the  
27 board a linked deposit loan package, in such form and  
28 manner as shall be prescribed by the state treasurer in  
29 cooperation with the board. The package shall include  
30 such information as may be needed by the board or the  
31 treasurer, including the certification form and the  
32 amount of the loan requested by the eligible student.  
33 The eligible lending institution shall certify, for each  
34 eligible student, the present borrowing rate applicable  
35 to such student.

**§18-22D-6. Acceptance or rejection of loan package;  
deposit agreement.**

1 (a) The board may approve or reject a linked deposit  
2 loan package. Upon approval by the board of the linked  
3 deposit loan package, the board shall forward such

4 approved application to the state treasurer, and the state  
5 treasurer shall place certificates of deposit, within the  
6 limitations provided for in section four of this article,  
7 with the eligible lending institution at three percent  
8 below current market rates, as determined and calcu-  
9 lated by the state treasurer.

10 (b) The eligible lending institution shall enter into a  
11 deposit agreement with the state treasurer, which shall  
12 include requirements necessary to carry out the pur-  
13 poses of this article. Such requirements shall reflect the  
14 market conditions prevailing in the eligible lending  
15 institution's lending area. The agreement may include  
16 a specification of the period of time in which the eligible  
17 lending institution is to lend funds after the placement  
18 of a linked deposit and shall include provisions for the  
19 certificates of deposit to be placed for up to two-year  
20 maturities that may be renewed for period up to two  
21 years until such time as the loan has been completely  
22 repaid, or ten and one-half years after the eligible  
23 student's cessation of enrollment in the approved  
24 institution of higher education to which the loan  
25 proceeds were paid, whichever is sooner. Interest shall  
26 be paid at the times determined by the state treasurer.

**§18-22D-7. Rate of loan; repayment.**

1 (a) Upon placement of a linked deposit with an  
2 eligible lending institution, such institution is required  
3 to lend such funds to each approved eligible student  
4 listed in the linked deposit loan package required in  
5 subsection (c), section five of this article, and in  
6 accordance with the deposit agreement required by  
7 subsection (b), section six of this article. The loan shall  
8 be at three percent below the present borrowing rate  
9 applicable to each eligible student.

10 (b) Upon request therefor and approval thereof, the  
11 loan agreement may require repayment of interest only,  
12 until such time as the eligible student commences  
13 repayment of the principal. Such repayment of the  
14 principal shall commence at or before such time as the  
15 eligible student is no longer enrolled in the approved  
16 institution of higher education for which the loan

17 proceeds were paid or within five years of receipt of the  
18 loan, whichever is sooner: *Provided*, That an eligible  
19 student who enrolls in graduate or professional school  
20 subsequent to the enrollment for which a loan or loans  
21 were received pursuant to this section may defer such  
22 repayment time until completion or withdrawal from  
23 the graduate or professional school.

24 (c) Notwithstanding the time in which the eligible  
25 lending institution may provide for the repayment of the  
26 loan, the linked deposit shall be terminated at the  
27 maturity date next succeeding complete repayment or  
28 ten and one-half years after cessation of enrollment,  
29 whichever is sooner. The amount of interest on the loan  
30 shall revert to the market rate originally determined at  
31 such time as the linked deposit is withdrawn.

**§18-22D-8. Certification and monitoring of compliance;  
reports.**

1 (a) A certification of compliance with any applicable  
2 provisions of this article, in such form and manner as  
3 shall be prescribed by the state treasurer in cooperation  
4 with the board, shall be required of the eligible lending  
5 institution.

6 The board of regents, in cooperation with the state  
7 treasurer, shall monitor compliance by the eligible  
8 student with the applicable provisions of this article and  
9 may take whatever action may be deemed necessary in  
10 furthering the intent of the student loan program.

11 (b) By the first day of January, April, July and  
12 October of each year, the treasurer shall report on the  
13 linked deposit program for the preceding calendar  
14 quarter to the governor, the joint committee on govern-  
15 ment and finance, and the board. The reports shall set  
16 forth the linked deposits made by the state treasurer  
17 under the program during the quarter and shall include  
18 information regarding the nature, terms and amounts  
19 of the loans upon which the linked deposits were based  
20 and the eligible students to which the loans were made.

**§18-22D-9. State, board of regents and state treasurer not  
liable.**

1       The state, the board of regents, and the state treasurer  
2       are not liable to any eligible lending institution in any  
3       manner for payment of the principal or interest on the  
4       loan to an eligible student. Any delay in payment or  
5       default on the part of an eligible student does not in any  
6       manner affect the deposit agreement between the  
7       eligible lending institution and the state treasurer.

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

*Bruce O. Williams*  
.....  
Chairman Senate Committee

*Floyd Fuller*  
.....  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Todd C. Willis*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Sam Taylor*  
.....  
President of the Senate

*Joseph P. Allright*  
.....  
Speaker of the House of Delegates

The within *Approved* this the *26th*  
*March*  
day of ....., 1986.

*Arch A. Moore*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/20/86

Time 3:02 p.m.

RECORDED

1935 MAR 29 9 53 AM

SECRETARY OF STATE

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/26/86