WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

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ENROLLED
Committee Substitute for
HOUSE BILL No. 2059.

(By Delegate Hoblitzell & Delegate Sattes

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Passed March 8, 1986

In Effect ninety days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2059
(By Delegate Hoblitzell and Delegate Sattes)

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

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.

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

It is therefore the policy of the Legislature to establish a state higher education student assistance loan program to guarantee that deserving residents of this state have the opportunity to continue their education at an approved institution of higher education of their choice in this state.


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

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

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

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

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

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

(3) Is currently enrolled in good standing or accepted
for enrollment at an approved institution of higher education in this state of the student's choice; and

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

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

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

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

(a) The board of regents shall have full authority to administer the program in accordance with the provisions of this article. In furtherance of such administration, the board shall approve institutions of higher education in this state for participation in the loan program, establish guidelines for use by such institutions in determining which applicants are eligible students and in calculating the maximum loan amounts, and develop a uniform eligibility certification and maximum loan amount form to be used by the applicant and the approved institution of higher education in determining and certifying eligibility and maximum loan amounts. The board shall further provide information as to the federal guaranteed student loan program and other financial assistance which may be available to the applicant, which information shall be conveyed to such applicants by the approved institution of higher education.
(b) Upon receipt of an applicant's certification form, the approved institution of higher education shall review such form, certify any student who meets the eligibility guidelines promulgated by the board and indicate on such form the maximum loan amount which may be received by the applicant pursuant to this article. The institution shall calculate such amount with consideration to any other financial assistance which is or will be received by the applicant and shall assist such applicant in receiving such other financial assistance. In no case shall the annual loan amount to an eligible student exceed six thousand dollars for undergraduate study or ten thousand dollars for graduate or professional study, and the eligible student shall receive not more than five such loans for undergraduate study and three such loans for graduate or professional study. Any applicant who is not certified as eligible shall be notified in writing as to the reasons for which certification was not granted.

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

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

The state treasurer shall invest in linked deposits as identified by the board through an approved application, provided that at the time of placement of the linked deposit, exclusive of the linked deposit program provided for in article one-a, chapter twelve of this code, not more than two percent of the state's total investment portfolio is so invested. The total amount initially deposited in any one year shall not exceed twelve million dollars, and the total amount so deposited at any one time shall not exceed, in the aggregate, one hundred twenty million dollars.

§18-22D-5. Applications for loans; loan package.
(a) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from applicants certified as eligible students. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible student. In no case shall the applicant request, nor the eligible lending institution approve, an annual loan amount in excess of the maximum amount indicated on the form certifying such applicant as an eligible student.

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

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

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

(a) The board may approve or reject a linked deposit loan package. Upon approval by the board of the linked deposit loan package, the board shall forward such
approved application to the state treasurer, and the state treasurer shall place certificates of deposit, within the limitations provided for in section four of this article, with the eligible lending institution at three percent below current market rates, as determined and calculated by the state treasurer.

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

§18-22D-7. Rate of loan; repayment.

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

(b) Upon request therefor and approval thereof, the loan agreement may require repayment of interest only, until such time as the eligible student commences repayment of the principal. Such repayment of the principal shall commence at or before such time as the eligible student is no longer enrolled in the approved institution of higher education for which the loan
proceeds were paid or within five years of receipt of the loan, whichever is sooner: Provided, That an eligible student who enrolls in graduate or professional school subsequent to the enrollment for which a loan or loans were received pursuant to this section may defer such repayment time until completion or withdrawal from the graduate or professional school.

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

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

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

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

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

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

Jed C. Wells
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Jason Loop
President of the Senate

Joseph P. Allen Jr.
Speaker of the House of Delegates

The within ............... approved ............... this the .......... day of .........., 1986.

................. Governor