WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED
Committee Substitute for
SENATE BILL NO. 40

(By Senator Oliverio, et al.)

PASSED March 9, 1996
In Effect From Passage
AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-four, relating to establishing the technology-related assistance revolving loan fund for individuals with disabilities and the technology-related assistance revolving loan fund for individuals with disabilities board; providing short title, defining certain terms; providing for the membership of the technology-related assistance revolving loan fund for individuals with disabilities board and its powers, duties and compensation; allowing a nonprofit, consumer-driven organization as contracted by the board and other related associations to develop criteria for funds; providing for disbursement of the revolving loan fund money; setting forth the minimum amount of interest the board may
charge; including a provision regarding funding; setting a cap on the maximum amount which may be expended from the fund for administrative expenses; and specifying maximum time such loans may be outstanding.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine 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-four, to read as follows:

ARTICLE 24. TECHNOLOGY-RELATED ASSISTANCE REVOLVING LOAN FUND FOR INDIVIDUALS WITH DISABILITIES ACT.

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

1 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 present and increasing needs of West Virginians for technology-related devices and technology-related services, it is necessary for the state to provide funds that neither supplant nor replace existing state or federal funds for the technology-related revolving loan fund for individuals with disabilities.

§29-24-2. Terms defined.

1 As used in this article, the term:

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

3 (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 main-
tain 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, author-
rized representatives or nonprofit entity who demon-
strates 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 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.

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

(a) There is established the technology-related assistance revolving loan fund for individuals with disabilities board that shall contract to a nonprofit, consumer-driven organization for administrative purposes only.

(b) The board shall consist of seven members of which at least three must be individuals with disabilities and appointed by the secretary of education and the arts as follows:

(1) Director of division of rehabilitation services 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 additional members from the public-at-large shall be consumers. Members shall be appointed by the governor, by and with the advice and consent of the Senate, for terms of three years, their initial appoint-
ments, however, being three for three-year terms, two for
two-year terms and two for one-year terms: Provided,
That the governor may not appoint any members to this
board until the Legislature has made an appropriation in
a sufficient amount to cover the expenses of this board.
State officers or employees may be appointed to the
board unless otherwise prohibited by law. To be eligible
for appointment to the board, the citizen members shall
demonstrate knowledge in the area of technology-related
assistance as users or providers of the rehabilitative
services to the extent practicable. The board shall
approve all proposed rules and the established nonprofit
consumer-driven organization shall then promulgate and
implement same.

(c) In the event a board member fails to attend
twenty-five percent of the scheduled meetings in a
twelve-month period, the board may elect to remove that
member after written notification to that member and
the secretary of education and the arts.

(d) In the event of 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 initial terms for all members shall be on the
first day of July, one thousand nine hundred ninety-
seven.

(f) Membership on the board does not constitute public
office and no member shall be disqualified from holding
public office by reason of his or her membership.

(g) The board shall elect from its membership a chair-
person, 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.

(h) The board has the power and authority to establish
an appeals process with regards to the administration of
the fund. The selected nonprofit, consumer-driven organization contracted by the board shall submit to the board proposed 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.

(i) The board may contract to a nonprofit entity to be the authority to carry out the purposes of this article. The compensation of personnel shall be paid from moneys in the loan fund. Board personnel may be members of the state civil service system. The board shall utilize existing state resources and staff of participating departments whenever practicable. Personnel expenses and other costs authorized in this subsection shall be paid from moneys in the revolving loan fund. Administrative costs are not to exceed ten percent of the revolving loan funds yearly budget.


Members of the board shall receive a compensation in an amount not to exceed the state per diem for each day the member of the board is in attendance at a meeting of the board, plus either reimbursement for actual transportation cost while traveling by public carrier or the same mileage allowance for use of a personal car in connection with such attendance as members of the Legislature receive. Members with disabilities shall be compensated for costs associated with personal assistance, interpreters and disability related accommodations for the purpose of conducting the business of the board. Expense allowances and other costs authorized in this section shall be paid from moneys in the loan fund.

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

(a) The board shall do all of the following:

(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
education and the arts;

(2) Maintain written minutes of its meetings;
(3) Adopt rules for the transaction of its business;

(4) Promulgate rules to carry out the purposes of this
chapter, which ensure that individuals, profit and
nonprofit corporations and partnerships are eligible for
loans;

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

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

(7) During the first three years of operation of the fund,
the contracted nonprofit consumer-driven organization
shall submit to the secretary of education and the arts
and the board annually a summary report concerning
programmatic and financial status of the technology
reversing loan fund. Future year annual reports will be
provided to the board;

(8) Develop and implement a comprehensive set of
financial standards to ensure the integrity and account-
ability of all funds received as well as loan funds dis-
bursed; and

(9) Conform to the standards and requirements pre-
scribed by the state auditor.

(b) 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, productiv-
ity 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 per centum 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) In the event of the 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 borrowers 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 five hundred dollars to a maximum of five thousand dollars. The loan must be used to purchase essential equipment or directly related services that will assist the person with a disability to overcome barriers in daily living.

§29-24-7. Fund created.

The technology-related assistance revolving loan fund for individuals with disabilities is created as a separate fund and placed with a selected bank or credit union. The revolving loan fund may be expended only as provided in this chapter. All amounts in this fund shall be expended only upon appropriation by the Legislature, and 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 credit to the revolving loan fund all amounts paid, appropriated or donated to the revolving loan fund. All funds shall be deposited with, maintained and administered by a commercial bank or credit union and shall contain appropriations provided for that purpose, interest accrued on loan balances, fees charged and funds received in repayment of loans.

The moneys collected 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;
(h) Conducting research and demonstration projects, including new and future uses of technology-related services; and
(i) Developing a strategic plan.

All unexpended moneys contained in this fund at the end of the fiscal year shall be carried forward from year to year.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within .................. approved .................. this the 25th .................. day of .................. March .................., 1996.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/01/96
Time 3:50 PM