WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2482

(By Delegates Mezzatesta, Michael, Doyle, Williams, Stemple, Manuel and Harrison)

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Passed March 13, 1999

In Effect July 1, 1999
AN ACT to amend and reenact sections three, four and six, article five, chapter eighteen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section seven, all relating to the higher education grant program; administration by the senior administrator; powers and duties of the senior administrator; recipients, awards and distribution of awards of grants; renewal of grant awards; creation of the higher education adult part-time student grant program; defined terms; eligibility criteria; legislative rules; authority of governing boards to promulgate emergency rules; and report to legislative oversight commission on education accountability.

Be it enacted by the Legislature of West Virginia:

That sections three, four and six, article five, chapter eighteen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be
further amended by adding thereto a new section, designated section seven, all to read as follows:

ARTICLE 5. HIGHER EDUCATION GRANT PROGRAM.

§18C-5-3. Grant program to be administered by senior administrator; higher education grant fund created.

The grant program established and authorized by this article shall be administered by the senior administrator. Moneys appropriated or otherwise available for this purpose, shall be allocated by line item to an appropriate account.

§18C-5-4. Powers and duties of senior administrator.

Subject to the provisions of this article and within the limits of appropriations made by the Legislature, the senior administrator is authorized and empowered to: (1) Prepare and supervise the issuance of public information concerning the grant program; (2) prescribe the form and regulate the submission of applications for grants; (3) administer or contract for the administration of such examinations as may be prescribed by the senior administrator; (4) select qualified recipients of grants; (5) award grants; (6) accept grants, gifts, bequests and devises of real and personal property for the purposes of the grant program; (7) administer federal and state financial loan programs; (8) cooperate with approved institutions of higher education in the state and their governing boards in the administration of the grant program; (9) make the final decision pertaining to residency of an applicant for grant or renewal of grant; (10) employ or engage such professional and administrative employees as may be necessary to assist the senior administrator in the performance of the duties and responsibilities, who shall serve at the will and pleasure and under the direction and control of the senior administrator; (11) employ or engage such clerical and other employees as may be necessary to assist the senior administrator in the performance of the duties and responsibilities, who shall be under the direction and control of the senior administrator; (12) prescribe the duties and fix the compensation of all such employees; (13) administer the adult part-time student higher education grant program established under section seven of this article; and (14) propose legislative
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rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code, not inconsistent with the provisions of this article relating to the administration of the higher education grant program.

§18C-5-6. Recipients, awards and distribution of awards of grants; authority of senior administrator to enter into reciprocal agreements with other states concerning grants.

The grant recipient is free to attend any approved institution of higher education in this state or any three-year registered nurse diploma program which is approved by the West Virginia board of examiners for registered professional nurses and which is offered at a nonprofit West Virginia hospital.

The institution is not required to accept the grant recipient for enrollment, but is free to exact compliance with its own admission requirements, standards and policies.

Grants may only be made to undergraduate students and to students enrolled in approved three-year registered nurse diploma programs, as provided in this article.

Each grant is renewable until the course of study is completed, but not to exceed an additional three academic years beyond the first year of the award. These may not necessarily be consecutive years, and the grant will be terminated if the student receives a degree in a shorter period of time. Qualifications for renewal will include maintaining satisfactory academic standing, making normal progress toward completion of the course of study and continued eligibility, as determined by the senior administrator.

Grant awards shall be made without regard to the applicant’s race, creed, color, sex, national origin or ancestry; and in making grant awards, the senior administrator shall treat all approved institutions of higher education in a fair and equitable manner.

The senior administrator from time to time shall identify areas of professional, vocational and technical expertise that
are, or will be, of critical need in this state and, to the extent feasible, may direct grants to students that are pursuing instruction in those areas.

The senior administrator may enter into reciprocal agreements with state grant and grant program agencies in other states which provide financial assistance to their residents attending institutions of higher education located in West Virginia. In connection therewith, the senior administrator may authorize residents of West Virginia to use financial assistance under this article to attend institutions of higher education in such other states. Residents of West Virginia requesting financial assistance to attend institutions of higher education located in any such states must meet all of the eligibility standards set forth in section five of this article.

Grant awards are limited to the lesser of the payment of tuition and those related compulsory fees charged by an institution to all West Virginia undergraduate students or an amount equal to the average state general fund support for each full-time equivalent student at state institutions of higher education for the preceding academic year as calculated by the senior administrator. Payments of grants shall be made directly to the institution.

In the event that a grant recipient transfers from one approved institution of higher education or approved three-year registered nurse diploma program, to another approved institution of higher education or approved three-year registered nurse diploma program, the grant is transferable only with the approval of the senior administrator.

Should the recipient terminate enrollment for any reason during the academic year, the unused portion of the grant shall be returned by the institution to the appropriate governing board in accordance with the governing board’s policy for issuing refunds, for transfer to the appropriate account and allocation for expenditure pursuant to the provisions of this article.

§18C-5-7. Higher education adult part-time student grant program.
(a) There is established the higher education adult part-time student grant program, hereafter referred to as the HEAPS grant program. The grant program established and authorized by this section is administered by the senior administrator. Moneys appropriated or otherwise available for such purpose shall be allocated by line item to an appropriate account. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year.

(b) As used in this section, the following terms have the meanings ascribed to them:

(1) "Approved distance education" means a course of study offered via electronic access that has been approved for inclusion in the applicant's program of study by the eligible institution of higher education at which the applicant is enrolled or has been accepted for enrollment;

(2) "Part-time" means enrollment for not less than six nor more than eleven semester or term hours: Provided, That for no more than two semesters during the recipient's ten years of eligibility, the recipient may be considered to be enrolled part-time if he or she is enrolled for three or more semester or term hours;

(3) "Satisfactory academic progress" means maintaining a cumulative grade point average of at least 2.0 on a 4.0 grading scale with a goal of obtaining a certificate, associate degree or bachelor's degree;

(4) "Eligible institution of higher education" means any community college; community and technical college; adult technical preparatory education program or training, as that term is defined in section one-b, article three-a, chapter eighteen-b of this code; state college or university, as those terms are defined in section two, article one, chapter eighteen-b of this code; approved institution of higher education as that term is defined in section two of this article; or any approved distance education, including world wide web based courses; and

(5) "State resident" means a student who has lived in West Virginia continuously for a minimum of twelve months.
(c) A person is eligible for consideration for a HEAPS grant if the person:

(1) Demonstrates that he or she has applied for, accepted, or both, other student financial assistance in compliance with federal financial aid rules, including the federal Pell grant;

(2) Qualifies as an independent student according to current federal financial aid criteria;

(3) Demonstrates financial need for funds, as defined by legislative rule;

(4) Has not been enrolled in a high school diploma program, other than general education development (GED), for at least the two preceding years;

(5) Is a state resident and may not be considered a resident of any other state;

(6) Is a United States citizen or permanent resident thereof;

(7) Is not incarcerated in a correctional facility;

(8) Is not in default on a higher education loan; and

(9) Is enrolled in a program of study as an undergraduate on a part-time basis at an eligible institution of higher education and is making satisfactory academic progress at the time of application: Provided, That the requirement that the student be making satisfactory academic progress may not preclude a HEAPS grant award to a student who has been accepted for enrollment in a program of study but has not yet been enrolled.

(d) Each HEAPS grant award is eligible for renewal until the course of study is completed, but not to exceed an additional nine years beyond the first year of the award.

(e) The governing boards shall propose a joint legislative rule pursuant to article three-a, chapter twenty-nine-a, to implement the provisions of this section which shall be filed with the legislative oversight commission on education ac-
countability by the first day of September, one thousand nine
hundred ninety-nine. The Legislature hereby declares that an
emergency situation exists and, therefore, the governing boards
jointly may establish by emergency rule, under the procedures
of article three-a, chapter twenty-nine-a of this code, legislative
rules to implement the provisions of this section, after approval
by the legislative oversight commission on education account-
ability.

(1) The joint legislative rules shall provide that consider-
atation of financial need, as required by subdivision (3), subsec-
tion (c) of this section, include the following factors:

(A) Whether the applicant has dependents as defined by
federal law;

(B) Whether the applicant has any personal hardship as
determined at the discretion of the senior administrator; and

(C) Whether the applicant will receive any other source of
student financial aid during the award period.

(2) The joint legislative rule shall provide for an appropri-
ate allocation process for distribution of funds directly to the
eligible institutions of higher education, and may include a
provision for making allocations directly to the community
college components of four-year institutions where appropriate,
based on the part-time enrollment figures of the prior year. The
rules shall further provide for any funds not expended by an
institution at the end of each fiscal year to be returned to the
senior administrator for distribution under the provisions of this
section.

(f) The amount of any HEAPS grant awarded per semester
or term hour to a student enrolled at a public institution of
higher education under the jurisdiction of the governing boards,
as defined in section two, article one, chapter eighteen-b of this
code, shall be based upon the actual per credit hour tuition and
fees charged. The amount of any HEAPS grant awarded per
semester or term hour to a student enrolled in any other
institution that qualifies under the provisions of this section
shall be based upon the average per credit or term hour tuition
and fee charges assessed by all public undergraduate institutions of higher education, under the jurisdiction of the governing boards, during the previous year.

(g) The senior administrator shall report annually, by the first day of December, on the status of the HEAPS grant program to the legislative oversight commission on education accountability.

(h) The HEAPS grant program is subject to any provision of this article not inconsistent with the provisions of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1999.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 7th day of April, 1999.

Governor