

HB A 2051

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 2051

(By Delegates Mezzatesta and Williams)



Passed March 8, 2003

In Effect July 1, 2003

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## H. B. 2051

(BY DELEGATES MEZZATESTA AND WILLIAMS)

[Passed March 8, 2003; in effect July 1, 2003.]

AN ACT to amend and reenact section seven, article five, chapter eighteen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reducing the semester or term hours required for eligibility; requiring rule provisions to provide for set aside and distribution of funds for certain non credit and customized training programs; and requiring rule provisions on grant availability for approved distance education.

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

That section seven, article five, chapter eighteen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. HIGHER EDUCATION GRANT PROGRAM.**

**§18C-5-7. Higher education adult part-time student grant program.**

1 (a) There is established the higher education adult part-time  
2 student grant program, referred to in this section as the HEAPS  
3 grant program. The grant program established and authorized  
4 by this section is administered by the vice chancellor for  
5 administration. Moneys appropriated or otherwise available for  
6 the grant program shall be allocated by line item to an appropri-  
7 ate account. Any moneys remaining in the fund at the close of  
8 a fiscal year shall be carried forward for use in the next fiscal  
9 year.

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

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

17 (2) "Part-time" means enrollment for not less than three nor  
18 more than eleven semester or term hours: *Provided*, That in the  
19 case of enrollment in postsecondary certificate, industry  
20 recognized credential and other skill development programs in  
21 demand occupations in this state, "part-time" means enrollment  
22 on such basis as is established for the program in which  
23 enrolled.

24 (3) "Satisfactory academic progress" means maintaining a  
25 cumulative grade point average of at least 2.0 on a 4.0 grading  
26 scale with a goal of obtaining a certificate, associate degree or  
27 bachelor's degree. In the case of postsecondary certificate,  
28 industry recognized credential and other skill development  
29 programs, satisfactory academic progress means continuous

30 advancement toward completion of the program on the normal  
31 schedule established for the program in which enrolled;

32 (4) "Eligible institution" means:

33 (A) Any community college; community and technical  
34 college; adult technical preparatory education program or  
35 training;

36 (B) Any state college or university, as those terms are  
37 defined in section two, article one, chapter eighteen-b of this  
38 code;

39 (C) Any approved institution of higher education as that  
40 term is defined in section two of this article; and

41 (D) Any approved distance education, including world wide  
42 web based courses;

43 (5) "Eligible program or programs" or "eligible course or  
44 courses" means, in addition to programs and courses offered by  
45 eligible institutions as defined in subdivision (4) of this  
46 subsection:

47 (A) Programs and courses offered by any nationally  
48 accredited degree granting institution of higher learning  
49 permitted pursuant to section five, article three, chapter  
50 eighteen-b of this code and approved by the joint commission  
51 for vocational-technical occupational education; and

52 (B) Any postsecondary certificate, industry recognized  
53 credential and other skill development programs of study as  
54 defined in this section in a demand occupation in this state;

55 (6) "State resident" means a student who has lived in West  
56 Virginia continuously for a minimum of twelve months

57 immediately preceding the date of application for a HEAPS  
58 grant or renewal of a grant;

59 (7) "Postsecondary certificate program" means an orga-  
60 nized program of study, approved by the joint commission for  
61 vocational-technical-occupational education, with defined  
62 competencies or skill sets that may be offered for credit or  
63 noncredit and which culminates in the awarding of a certificate:  
64 *Provided*, That postsecondary certificate programs offered by  
65 eligible institutions as defined in subdivision (4) of this  
66 subsection do not require the approval of the joint commission  
67 for vocational-technical- occupational education;

68 (8) "Demand occupation" means any occupation having  
69 documented verification from employers that job opportunities  
70 in that occupation are currently available or are projected to be  
71 available within a year within the state or regions of the state.  
72 The joint commission for vocational-technical-occupational  
73 education shall prepare and update annually a list of occupa-  
74 tions that they determine meet the requirements of this defini-  
75 tion;

76 (9) "Industry recognized credential program" means an  
77 organized program that meets nationally recognized standards  
78 in a particular industry, is approved by the joint commission for  
79 vocational-technical-occupational education and which culmi-  
80 nates in the awarding of a certification or other credential  
81 commonly recognized in that industry: *Provided*, That industry  
82 recognized credential programs offered by eligible institutions  
83 as defined in subdivision (4) of this subsection do not require  
84 the approval of the joint commission for vocational-technical-  
85 occupational education; and

86 (10) "Skill development program" means a structured  
87 sequence or set of courses, approved by the joint commission  
88 for vocational-technical-occupational education, with defined

89 competencies that are designed to meet the specific skill  
90 requirements of an occupation and which culminates in the  
91 awarding of a certificate of completion that specifically lists the  
92 competencies or skills mastered: *Provided*, That skill develop-  
93 ment programs offered by eligible institutions as defined in  
94 subdivision (4) of this subsection do not require the approval of  
95 the joint commission.

96 (c) A person is eligible for consideration for a HEAPS grant  
97 if the person:

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

101 (2) Demonstrates financial need for funds, as defined by  
102 legislative rule;

103 (3) Is a state resident and may not be considered a resident  
104 of any other state;

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

106 (5) Is not incarcerated in a correctional facility;

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

108 (7) Is enrolled in a program of study at less than the  
109 graduate level on a part-time basis in an eligible institution or  
110 program of study and is making satisfactory academic progress  
111 at the time of application: *Provided*, That the requirement that  
112 the student be making satisfactory academic progress may not  
113 preclude a HEAPS grant award to a student who has been  
114 accepted for enrollment in an eligible institution or program of  
115 study but has not yet been enrolled.

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

119 (e) The higher education policy commission shall propose  
120 a legislative rule pursuant to article three-a, chapter twenty-  
121 nine-a of this code to implement the provisions of this section  
122 which shall be filed with the legislative oversight commission  
123 on education accountability by the first day of September, two  
124 thousand three. The Legislature hereby declares that an  
125 emergency situation exists and, therefore, the policy commis-  
126 sion may establish, by emergency rule, under the procedures of  
127 article three-a, chapter twenty-nine-a of this code, a rule to  
128 implement the provisions of this section, after approval by the  
129 legislative oversight commission on education accountability.

130 (f) The legislative rule shall provide at least the following:

131 (1) That consideration of financial need, as required by  
132 subdivision (3), subsection (c) of this section, include the  
133 following factors:

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

136 (B) Whether the applicant has any personal hardship as  
137 determined at the discretion of the vice chancellor for adminis-  
138 tration; and

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

141 (2) That an appropriate allocation process be provided for  
142 distribution of funds directly to the eligible institutions or  
143 programs based on the part-time enrollment figures of the prior  
144 year;

145 (3) That not less than twenty-five percent of the funds  
146 appropriated in any one fiscal year be used to make grants to  
147 students enrolled in postsecondary certificate, industry recog-  
148 nized credential and other skill development programs of study:  
149 *Provided*, That after giving written notice to the legislative  
150 oversight commission on education accountability, the vice  
151 chancellor for administration may allocate less than twenty-five  
152 percent of the funds for such grants;

153 (4) That ten percent of the funds appropriated in any one  
154 fiscal year shall be granted to state community and technical  
155 colleges by the council for community and technical college  
156 education in accordance with a process specified in the rule for  
157 noncredit and customized training programs which further the  
158 economic development goals of the state, help meet the training  
159 and skill upgrade needs of employers in the state, and for which  
160 funds are not available from other sources.

161 (5) That any funds not expended by an eligible institution  
162 or program at the end of each fiscal year shall be returned to the  
163 vice chancellor for administration for distribution under the  
164 provisions of this section;

165 (6) That grants under this section shall be available for  
166 approved distance education throughout the calendar year,  
167 subject only to the availability of funds; and

168 (7) That the amount of each HEAPS grant award be  
169 determined using the following guidelines:

170 (A) The amount of any HEAPS grant awarded to a student  
171 per semester, term hour or program for those students who are  
172 enrolled in eligible institutions or programs operated under the  
173 jurisdiction of an agency of the state or a political subdivision  
174 thereof shall be based upon the following:

175 (i) Actual cost of tuition and fees;



176       (ii) The portion of the costs determined to be appropriate by  
177 the commission; and

178       (iii) In addition to factors (i) and (ii) above, in determining  
179 the amount of the award, the vice chancellor may consider the  
180 demand for the program pursuant to subdivision (8), subsection  
181 (b) of this section; and

182       (B) The amount of any HEAPS grant awarded to a student  
183 who is enrolled in any other eligible institution, program or  
184 course shall be no greater than the average amount for compara-  
185 ble programs or courses as determined pursuant to the provi-  
186 sions of paragraph (A) above.

187       (g) The vice chancellor for administration shall report  
188 annually, by the first day of December, on the status of the  
189 HEAPS grant program to the legislative oversight commission  
190 on education accountability.

191       (h) The HEAPS grant program is subject to any provision  
192 of this article not inconsistent with the provisions of this  
193 section.

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

*Cary M. Lee*  
Chairman Senate Committee

*Greg Butcher*  
Chairman House Committee

Originating in the House.

In effect July 1, 2003

*Harrell Stokes*  
Clerk of the Senate

*Bryan M. Boy*  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
President of the Senate

*Thomas Skits*  
Speaker of the House of Delegates

The within *is approved* this the *27<sup>th</sup>*  
day of *March*, 2003.

*Bob Wise*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/25/03  
Time 9:35 am