

RECEIVED

97 APR 22 PM 6:45

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 503

(By Senator OLIVERIO, ET AL)

PASSED APRIL 10, 1997

In Effect FROM Passage

ENROLLED

Senate Bill No. 503

(BY SENATORS OLIVERIO, WALKER, PREZIOSO,
MCKENZIE AND TOMBLIN, MR. PRESIDENT)

[Passed April 10, 1997; in effect from passage.]

AN ACT to amend and reenact article twenty-four, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the technology-related assistance revolving loan fund for individuals with disabilities act; authorizing the director of the division of rehabilitation services or his or her designee to vote as an ex officio member of the technology-related assistance revolving loan fund for individuals with disabilities board; revising qualifications of members of board; continuing the board and terms of members; authority of governor to appoint members of board; removal of board member; compensation and expenses for board members; powers, duties and responsibilities of the board; legislative rules; reports to the Legislature; loan agreements; maximum interest rate on loans; creating the technology-related assistance revolving loan fund for individuals with disabilities fund in the state treasury; abolishment of prior fund; deposits required to be made into fund; and administrative costs.

Be it enacted by the Legislature of West Virginia:

That article twenty-four, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all 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
2 increasing percentage of West Virginia's population. The
3 Legislature finds and declares that action is necessary to
4 assist these individuals in their homes, schools, employ-
5 ment and communities to become more independent
6 citizens of the state. Many of these individuals require
7 technology-related devices and technology-related
8 services in order to perform functions, such as caring for
9 themselves, performing manual tasks, mobility, seeing,
10 hearing, speaking, breathing and learning in order to have
11 the ability to more independently participate in society
12 and the work force. In order to meet the present and
13 increasing needs of West Virginians for technology-related
14 devices and technology-related services, it is necessary for
15 the state to provide funds for the technology-related
16 revolving loan fund for individuals with disabilities that
17 neither supplant nor replace existing state, federal or
18 private sector funds.

§29-24-2. Terms defined.

1 As used in this article, the term:
2 (a) "Board" means the technology-related assistance
3 revolving loan fund for individuals with disabilities board.
4 (b) "Individual with disability" means any individual, of
5 any age who, for the purposes of state or federal law, is
6 considered to have a disability or handicap, injuries and
7 chronic health conditions, whether congenital or acquired;
8 and who is or would be enabled by technology-related
9 devices or technology-related services to maintain or
10 improve his or her ability to function in society and the
11 workplace.

12 (c) “Qualifying borrower” means any individual with
13 disabilities and their family members, guardians, autho-
14 rized representatives or nonprofit entity who demon-
15 strates that such a loan will improve their independence
16 or become more productive members of the community.
17 The individual must demonstrate credit worthiness and
18 repayment abilities to the satisfaction of the board. No
19 more than twenty-percent of all loan funds are to be
20 provided to nonprofit entities in a single year.

21 (d) “Technology-related assistance” means either the
22 provision of technology-related devices or technology-
23 related services to improve the independence, quality of
24 life or productive involvement in the community of
25 individuals with disabilities.

26 (e) “Technology-related device” means any item, piece
27 of equipment or product system, whether acquired com-
28 mercially off-the-shelf, modified or customized, that is
29 used to increase, maintain or improve functional capabili-
30 ties of individuals with disabilities.

31 (f) “Technology-related service” means any service that
32 directly assists an individual with a disability in the
33 selection, acquisition or use of a technology-related
34 device, including:

35 (1) The evaluation of the needs of an individual with a
36 disability, including a functional evaluation in the individ-
37 ual’s customary environment;

38 (2) Purchasing, leasing or otherwise providing for the
39 acquisition of technology-related devices by individuals
40 with disabilities;

41 (3) Selecting, designing, fitting, customizing, adapting,
42 applying, maintaining, repairing or replacing technology-
43 related devices;

44 (4) Coordinating and using other therapies, interventions
45 or services with technology-related devices, such as those
46 associated with existing education and rehabilitation
47 plans and programs; and

48 (5) Training or technical assistance for individuals or the

49 family of an individual with disabilities.

50 (g) "Revolving loan fund" means the technology-related
51 assistance revolving loan fund for individuals with
52 disabilities established in this article.

53 (h) "Consumer" means individuals with disabilities and,
54 when appropriate, their family members, guardians,
55 advocates or authorized representatives.

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

1 (a) The technology-related assistance revolving loan
2 fund for individuals with disabilities board created by
3 chapter two hundred forty-seven, acts of the Legislature,
4 regular session, one thousand nine hundred ninety-six, is
5 hereby continued.

6 (b) The board shall consist of seven members as follows,
7 of whom at least three must be individuals with disabili-
8 ties:

9 (1) Director of the division of rehabilitation services, ex
10 officio, who shall be entitled to vote, or his or her
11 designee;

12 (2) A representative of the banking industry;

13 (3) A representative of the medical profession;

14 (4) A certified public accountant; and

15 (5) Three members from the public at large who are
16 users or providers of technology-related assistance devices
17 or services for individuals with disabilities. Members
18 shall be appointed by the governor, by and with the advice
19 and consent of the Senate, for terms of three years.
20 Members appointed by the governor with the advice and
21 consent of the Senate prior to the effective date of this
22 section shall continue to serve for the terms for which they
23 were appointed. State officers or employees may be
24 appointed to the board unless otherwise prohibited by
25 law.

26 (c) In the event a board member fails to attend more
27 than twenty-five percent of the scheduled meetings in a
28 twelve-month period, the board may, after written

29 notification to that member and the secretary of education
30 and the arts, request in writing that the governor remove
31 the member and appoint a new member to serve his or her
32 unexpired term.

33 (d) In the event of death, resignation, disqualification or
34 removal for any reason of any member of the board, the
35 vacancy shall be filled in the same manner as the original
36 appointment and the successor shall serve for the unex-
37 pired term.

38 (e) The board shall elect from its membership a chair-
39 person, treasurer and secretary as well as any other officer
40 as appropriate. The term of the "chairperson" is for two
41 years in duration and he or she cannot serve more than
42 two consecutive terms.

§29-24-4. Compensation and expenses of board.

1 Members of the board who are not employees of the
2 state are entitled to receive a compensation in an amount
3 not to exceed fifty dollars for each day the member of the
4 board is in attendance at a meeting of the board, plus
5 reimbursement for reasonable and necessary expenses
6 actually incurred in the performance of their duties as a
7 member of the board in accordance with state travel
8 regulations. Members with disabilities are also entitled to
9 reimbursement for costs associated with personal assis-
10 tance, interpreters and disability-related accommodations
11 for the purpose of conducting the business of the board.
12 Compensation, reimbursement and other costs authorized
13 in this section shall be paid from moneys in the revolving
14 loan fund.

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

1 (a) The board has the following powers, duties and
2 responsibilities:

3 (1) Meet at such times (minimum of four times each
4 fiscal year) and at places as it determines necessary or
5 convenient to perform its duties. The board shall also
6 meet on the call of the chairperson or secretary of educa-
7 tion and the arts;

8 (2) Maintain written minutes of its meetings;

9 (3) Propose rules for legislative promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code for the transaction of its business and to carry out the purposes of this article. Such rules shall include: (A) Guidelines, procedures, reporting requirements, accountability measures and such other criteria as the board deems appropriate and necessary to fulfill its governance responsibility under this article if it elects to contract with a nonprofit, consumer-driven organization to carry out the purposes of this article; (B) an appeals process with regard to the administration of the fund; and (C) 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;

24 (4) Employ personnel on a full-time, part-time or contracted basis. Board personnel may be members of the state civil service system. Participating agencies shall make staff support and resources available to the board whenever practicable at the discretion of the agencies. The compensation of personnel shall be paid from moneys in the revolving loan fund;

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

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

39 (7) Submit to the secretary of education and the arts and the Legislature annually a summary report concerning programmatic and financial status of the revolving loan fund;

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

46 bursed; and

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

49 (b) Subject to available funds, the board shall enter into
50 loan agreements with any qualifying borrower, who
51 demonstrates that:

52 (1) The loan will assist one or more individuals with
53 disabilities in improving their independence, productivity
54 and full participation in the community; and

55 (2) The applicant has the ability to repay the loan. Any
56 necessary loan limitation shall be determined by the
57 board. All loans must be repaid within such terms and at
58 such interest rates as the board may determine to be
59 appropriate. However, no loan may extend beyond sixty
60 months from date of award and may be paid off anytime
61 without prepayment penalty. The board shall determine
62 the interest rate to be charged on loans made pursuant to
63 this article, but in no event may the interest rate on any
64 such loans be less than four or more than twenty-one
65 percent per annum.

66 (c) The board may authorize loans up to ninety percent
67 of the cost of an item or items.

68 (d) The board may award loans to qualifying borrowers
69 for purposes, including, but not limited to, the following:

70 (1) To assist one or more individuals with disabilities to
71 improve their independence through the purchase of
72 technology-related devices; and

73 (2) To assist one or more individuals with disabilities to
74 become more independent members of the community and
75 improve such individuals quality of life within the com-
76 munity through the purchase of technology-related
77 devices.

78 (e) In the event of the failure of the borrower to repay
79 the loan balance due and owing, the board shall seek to
80 recover the loan balance by such legal or administrative
81 action available to it. Persons or representatives of
82 persons who default on a loan are not eligible for a new

83 loan. The board shall retain ownership of all property,
84 equipment or devices until the borrower's loan is paid in
85 full.

86 (f) A new loan may not be issued to, or on behalf of, a
87 disabled person if a previous loan made to, or on behalf of,
88 such person remains unpaid.

89 (g) The board may charge a fee for loan applications and
90 processing. All funds generated by fee charges shall be
91 directly placed into the revolving loan fund to off-set the
92 costs of application processing.

93 The board may accept federal funds granted by Congress
94 or executive order for the purposes of this chapter as well
95 as gifts and donations from individuals, private organiza-
96 tions or foundations. The acceptance and use of federal
97 funds does not commit state funds and does not place an
98 obligation upon the Legislature to continue the purposes
99 for which the federal funds are made available. All funds
100 received in the manner described in this article shall be
101 deposited in the revolving loan fund to be disbursed as
102 other moneys in the revolving loan fund.

§29-24-6. Disbursements.

1 Loans may be made for amounts ranging from a mini-
2 mum of five hundred dollars to a maximum of five thou-
3 sand dollars. The loan must be used to purchase
4 technology-related devices or directly related services that
5 will assist the person with a disability to overcome
6 barriers in daily living.

§29-24-7. Fund created.

1 The technology-related assistance revolving loan fund
2 for individuals with disabilities is hereby created in the
3 state treasury to be expended by the board in accordance
4 with the provisions of and for the purposes of this article.
5 Upon the effective date of this section, any funds remain-
6 ing in the technology-related assistance revolving loan
7 fund for individuals with disabilities created by chapter
8 two hundred forty-seven, acts of the Legislature, regular
9 session, one thousand nine hundred ninety-six, which is
10 hereby abolished, shall be deposited into the fund created

11 by this section. Nothing contained herein may be con-
12 strued to require any level of funding by the Legislature.

§29-24-8. Deposits created by the board.

1 The board shall deposit all amounts paid, appropriated,
2 granted or donated to it, including interest accrued on
3 loan balances, fees charged and funds received in repay-
4 ment of loans, in the revolving loan fund.

§29-24-9. Fund use.

1 The moneys in the revolving loan fund shall be used only
2 for the following purposes:

3 (a) Implementing revolving loan program for technol-
4 ogy-related devices;

5 (b) Providing technology-related devices to individuals
6 with severe disabilities who meet economic criteria
7 established by the board;

8 (c) Providing support for technology-related assistance;

9 (d) Providing technology-related and disability preven-
10 tion education and research;

11 (e) Disseminating public information;

12 (f) Conducting program evaluation and needs assess-
13 ment;

14 (g) Operating the board and other administrative and
15 personnel costs;

16 (h) Conducting research and demonstration projects,
17 including new and future uses of technology-related
18 services; and

19 (i) Developing a strategic plan.

20 Administrative costs are not to exceed ten percent of the
21 revolving loan fund's yearly budget.

22 All unexpended moneys contained in this fund at the
23 end of the fiscal year shall be carried forward from year to
24 year.

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

Randy Schoonover
.....
Chairman Senate Committee

Neil Trutman
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Samuel Kelsoe
.....
Clerk of the Senate

Bregory D. Bay
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is appended* this the *22nd*
day of *April*, 1997.

[Signature]
.....
Governor

PRESENTED TO THE

Governor

Date 4/16/97

Time 3:04 pm