SB 449

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

ENROLLED

COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 449

(By Senator TOUBLIN, MR. PRESIDENT, ET AL)

PASSED MARCH 9, 1996

In Effect FROM Passage

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 449

(SENATORS TOMBLIN, MR. PRESIDENT, AND BOLEY,
BY REQUEST OF THE EXECUTIVE, *original sponsors*)

[Passed March 9, 1996; in effect from passage.]

AN ACT to amend and reenact sections four, five, eight and ten, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section eleven-a; to amend article six, chapter twelve of said code by adding thereto a new section, designated section nineteen; and to amend and reenact section eighteen, article twenty-two, chapter twenty-nine of said code, all relating to authorizing the state building commission to borrow funds; clarifying the deposit and disbursement of funds by the commission; authorizing the issuance of revenue bonds; setting forth the terms and conditions of the issuance of bonds; authorizing the acquisition of specified property; clarifying the trust provisions for existing bondholders; requiring the expenditure of bond proceeds for capital

expenditures at state institutions of higher education; establishing a committee to certify arts and sciences projects by a date certain; requiring notice and public hearings to be conducted by the committee; authorizing the committee to certify whether a portion of bond proceeds will be expended for constructing and equipping an arts and sciences center in West Virginia; setting forth the conditions upon which proceeds may be used for an arts and sciences center; requiring the committee to determine whether projects will be funded by a date certain; authorizing the balance of bond proceeds to be expended for capital projects at the state parks, the capitol complex or other tourism sites in this state; establishing a committee to certify capital improvement projects by a date certain; requiring notice and public hearings to be conducted by the committee; creating a special account in the state treasury for debt service; authorizing the state board of investments to loan money to the state building commission for acquisition of specified property, to refinance projects and for construction and improvements of regional jails and correctional facilities; setting forth an interest rate for the loans; establishing method of repayment of loans; authorizing board of investments to fix annual amount of loan; setting forth priorities for loans; encouraging liquidity in the consolidated fund; dedicating lottery proceeds for the repayment of bonds issued by the building commission; establishing maximum amount of lottery proceeds to be dedicated for bond repayment; and making this dedication a second-in-priority lien on the proceeds of the state lottery fund.

Be it enacted by the Legislature of West Virginia:

That sections four, five, eight and ten, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eleven-a; that article six, chapter twelve of said code be amended by adding thereto a new section, designated section nineteen; and that section eighteen, article

twenty-two, chapter twenty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 6. STATE BUILDING COMMISSION.

§5-6-4. Powers of commission.

The commission has the power:

(1) To sue and be sued, plead and be impleaded;

(2) To have a seal and alter the same at pleasure;

(3) To contract to acquire and to acquire, in the name of the commission or of the state, by purchase, lease, lease-purchase or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish those purposes;

(4) To acquire, hold and dispose of personal property for its corporate purposes;

(5) To make bylaws for the management and regulation of its affairs;

(6) With the consent of the attorney general of the state of West Virginia, to use the facilities of his or her office, assistants and employees in all legal matters relating to or pertaining to the commission;

(7) To appoint officers, agents and employees, and fix their compensation;

(8) To make contracts, and to execute all instruments necessary or convenient to effectuate the intent of, and to exercise the powers granted to it by this article;

(9) To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the commission that its interests will be best served;

(10) To construct a building or buildings on real property, which it may acquire, or which may be owned by the state of West Virginia, in the city of Charleston, as convenient as may be to the capitol building, together with incidental approaches, structures and facilities, subject to the consent and approval of the city of Charleston in any case as may be necessary; and, in addition, to acquire or construct a warehouse, including office space in the warehouse, in Kanawha county for the West Virginia alcohol beverage control commissioner, and equip and furnish the office space; and to acquire or construct, through lease, purchase, lease-purchase or bond financing, hospitals or other facilities, buildings, or additions or renovations to buildings as may be necessary for the safety and care of patients, inmates and guests at facilities under the jurisdiction of and supervision of the division of health and at institutions under the jurisdiction of the division of corrections or the regional jail and correctional facilities authority; and to formulate and program plans for the orderly and timely capital improvement of all of the hospitals and institutions and the state capitol buildings; and to construct a building or buildings in Kanawha county to be used as a general headquarters by the division of public safety to accommodate that division's executive staff, clerical offices, technical services, supply facilities and dormitory accommodations; and to develop, improve and expand state parks and recreational facilities to be operated by the division of natural resources; and to establish one or more systems or complexes of buildings and projects under control of the commission; and, subject to prior agreements with holders of bonds previously issued, to change the systems, complexes of buildings and projects from time to time, in order to facilitate the issuance and sale of bonds of different series on a parity with each other or having such priorities between series as the commission may determine; and to acquire by purchase, eminent domain or otherwise all real property or interests in the real property necessary or convenient to accomplish the purposes of

this subdivision. The rights and powers set forth in this subdivision shall not be construed as in derogation of any rights and powers now vested in the West Virginia alcohol beverage control commissioner, the department of health and human resources, the division of corrections or the division of natural resources;

(11) To maintain, construct and operate a project authorized under this article;

(12) To charge rentals for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved in whole or in part with the proceeds of sale of bonds issued pursuant to this article, subject to and in accordance with such agreements with bondholders as may be made as provided in this article: *Provided,* That on and after the effective date of the amendments to this section, to charge rentals for the use of all or any part of a project or buildings at any time financed, constructed, acquired, maintained or improved in whole or in part with the proceeds of sale of bonds issued pursuant to this article, subject to and in accordance with such agreements with bondholders as may be made as in this section provided, or with any funds available to the state building commission, including, but not limited to, all buildings and property owned by the state of West Virginia or by the state building commission, but no rentals shall be charged to the governor, attorney general, secretary of state, state auditor, state treasurer, the Legislature and the members of the Legislature, the supreme court of appeals, nor for their offices, agencies, official functions and duties;

(13) To issue negotiable bonds and to provide for the rights of the holders of the negotiable bonds;

(14) To accept and expend any gift, grant or contribution of money to, or for the benefit of, the commission, from the state of West Virginia or any other source for any or all of the purposes specified in this article or for any one or more of such purposes as may be specified in connection with the gift, grant or contribution;

(15) To enter on any lands and premises for the purpose of making surveys, soundings and examinations;

(16) To invest in United States government obligations, on a short-term basis, any surplus funds which the commission may have on hand pending the completion of any project or projects;

(17) To issue revenue bonds in accordance with the applicable provisions of this article for the purposes set forth in section eleven-a of this article; and

(18) To do all things necessary or convenient to carry out the powers given in this article.

§5-6-5. Deposit and disbursement of funds of commission; security for deposits; audits.

Except as provided in sections five-a and eleven-a of this article, all moneys of the commission from whatever source derived shall be paid to the treasurer of the state of West Virginia who shall not commingle the moneys, but shall deposit them to a special revenue fund to be known as the "state building commission fund". The moneys in the account shall be impressed with and subject to the lien or liens on the moneys in favor of the bondholders provided in the proceedings for issuance of bonds pursuant to this article. The moneys in the account shall be paid out on check of the treasurer on requisition of the chairman of the commission, or of such other person as the commission may authorize to make the requisition. All deposits of the moneys shall, if required by the treasurer or the commission, be secured by obligations of the United States, of the state of West Virginia, or of the commission, of a market value equal at all times to the amount of the deposit, and all banking institutions are authorized to give such security for the deposits. The legislative auditor and his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, contracts, leases, sinking funds, invest-

25 ments and any other matters relating to its financial
26 standing.

§5-6-8. Commission empowered to issue state building revenue bonds after legislative authorization; form and requirements for bonds; procedure for issuance; temporary bonds; funds, grants and gifts.

1 (a) The commission is hereby empowered to raise the
2 cost of a project, as defined in this article, by the issu-
3 ance of state building revenue bonds of the state, the
4 principal of and interest on which shall be payable solely
5 from the special revenue fund provided in section five of
6 this article for the payment. Subject to the proceedings
7 pursuant to which any bonds outstanding were autho-
8 rized and issued pursuant to this article, the commission
9 shall pledge the moneys in the special revenue fund,
10 except that part of the proceeds of sale of any bonds to
11 be used to pay the cost of a project and for the payment
12 of the principal of and interest on bonds issued pursuant
13 to this article. The pledge shall apply equally and ratably
14 to separate series of bonds or upon the priorities as the
15 commission shall determine. The bonds shall be autho-
16 rized by resolution of the commission. The resolution
17 shall recite an estimate by the commission of the cost,
18 and shall provide for the issuance of bonds in an amount
19 sufficient, when sold as provided in this section, to
20 produce the cost, less the amount of any funds, grant or
21 grants, gift or gifts, contribution or contributions
22 received, or in the opinion of the commission expected to
23 be received, from the United States of America or from
24 any other source. The acceptance by the commission of
25 any and all funds, grants, gifts and contributions,
26 whether in money or in land, labor or materials, is
27 hereby expressly authorized. All bonds shall have and
28 are hereby declared to have all the qualities of negotia-
29 ble instruments. The bonds shall bear interest at not
30 more than twelve percent per annum, payable semiannu-
31 ally, and shall mature in not more than forty years from
32 their date or dates, and may be made redeemable at the

33 option of the state, to be exercised by the commission, at
34 the price and under the terms and conditions, all as the
35 commission may fix prior to the issuance of the bonds.
36 The commission shall determine the form of the bonds,
37 including coupons, if any, to be attached to the bonds to
38 evidence the right of interest payments. The bonds shall
39 be signed by the chairman and secretary of the commis-
40 sion, under the great seal of the state, attested by the
41 secretary of state, and the coupons, if any, attached to
42 the bonds shall bear the facsimile signature of the
43 chairman of the commission. In case any of the officers
44 whose signatures appear on the bonds or coupons issued
45 as authorized by this section shall cease to be officers
46 before the delivery of the bonds, the signatures are
47 nevertheless valid and sufficient for all purposes the
48 same as if they had remained in office until the delivery.
49 The commission shall fix the denominations of the
50 bonds, the principal and interest of which shall be
51 payable at the office of the treasurer of the state of West
52 Virginia, at the capitol of the state, or, at the option of
53 the holder, at some bank or trust company within or
54 without the state of West Virginia to be named in the
55 bonds, in such medium as may be determined by the
56 commission. The bonds and interest on the bonds are
57 exempt from taxation by the state of West Virginia, or
58 any county or municipality in the state. The commission
59 may provide for the registration of the bonds in the name
60 of the owners as to principal alone, and as to both
61 principal and interest under the terms and conditions as
62 the commission may determine, and shall sell the bonds
63 in the manner as it may determine to be for the best
64 interest of the state, taking into consideration the
65 financial responsibility of the purchaser, and the terms
66 and conditions of the purchase, and especially the
67 availability of the proceeds of the bonds when required
68 for payment of the cost of the project. The sale shall be
69 made at a price not lower than a price which, computed
70 upon standard tables of bond values, will show a net
71 return of not more than thirteen percent per annum to
72 the purchaser upon the amount paid for the bonds. The

proceeds of the bonds shall be used solely for the payment of the cost of the project for which bonds were issued, and shall be deposited and checked out as provided by section five of this article, and under further restrictions, if any, as the commission may provide. If the proceeds of bonds issued for a project or a specific group of projects exceeds the cost of the project or projects, the surplus shall be paid into the fund provided for in section five of this article for payment of the principal and interest of the bonds. The fund may be used for the purchase of any of the outstanding bonds payable from the fund at the market price, but at not exceeding the price, if any, at which the bonds are in the same year redeemable, and all bonds redeemed or purchased shall be canceled immediately, and shall not again be issued. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Notwithstanding the provisions of sections nine and ten, article six, chapter twelve of this code, revenue bonds issued under the authority granted in this section are eligible as investments for the workers' compensation fund, teachers retirement fund, division of public safety, death, disability and retirement fund, West Virginia public employees retirement system and as security for the deposit of all public funds. The revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified and required by this article, or by the constitution of the state. For all projects authorized under the provisions of this article, other than projects to be leased by the commission to the regional jail and correctional facilities authority or projects authorized pursuant to section eleven-a of this article, the aggregate amount of all issues of bonds outstanding at one time shall not exceed sixty-two million five hundred thousand dollars including the renegotiation, reissuance or refinancing of any bonds, and no project in connection with which bonds

are to be issued shall be initiated by the commission unless and until the Legislature, through enactment of general law, approves the purpose, the amount of bonds to be issued and the total cost for the project, construction or acquisition.

For projects which are to be leased by the commission to the regional jail and correctional facilities authority, legislative approval pursuant to the provisions of this section shall not be required if the projects have otherwise been approved by the Legislature in accordance with the provisions of subsection (m), section five, article twenty, chapter thirty-one of this code, and the limitations on the amount of revenue bonds which may be issued by the commission and the project costs shall be governed by the terms of any concurrent resolution adopted pursuant to that subsection.

(b) Notwithstanding anything in this article to the contrary, the commission is authorized to issue bonds, or otherwise finance or refinance the following projects, including the costs of issuance and sale of the bonds or financing, all necessary financial and legal expenses and creation of debt service reserve funds, in an amount not to exceed twenty-one million dollars:

(1) Any or all of the state office buildings and adjoining real property being lease-purchased in Beckley, Charleston, Clarksburg, Fairmont, Huntington and Parkersburg;

(2) A facility to be obtained or constructed by the commission and leased to the division of motor vehicles; and

(3) Property and buildings needed for state spending units in an amount not to exceed three million dollars.

(c) Notwithstanding any other provision of this section, the commission is authorized to issue bonds for the purposes set forth in section eleven-a of this article in the aggregate amount of one hundred million dollars, including the renegotiation, reissuance or refinancing of any bonds issued for that purpose. If the proceeds of

bonds issued under this subsection exceeds the cost of the project or projects, the surplus shall be paid into the education, arts, sciences and tourism fund established in section eleven-a of this article.

(d) The commission shall acquire the property being lease-purchased in the city of Charleston, located at 601 Morris street, through a loan from the consolidated fund. The loan shall be under the terms and conditions set forth in section nineteen, article six, chapter twelve of this code.

§5-6-10. Trust existing in favor of existing bondholders.

The properties and interests in properties, real, personal and mixed, tangible and intangible, standing or held in the name of or for and in behalf of, or for the benefit of, the commission, or the state of West Virginia to the extent that the properties and interests in properties were acquired or improved by the expenditure of the proceeds of bonds previously issued by the commission, and the moneys, deposits, securities and choses in action and other rights held in the name of or for and in behalf of, or for the benefit of, the commission, other than moneys, deposits, securities, choses in action and other rights, or which are investments of: (1) Proceeds of bonds previously issued by the commission held for expenditure for completion of now existing projects of the commission; or (2) revenues of the commission from existing projects of the commission which, after provision for operation and maintenance expenses and coverage requirements not otherwise provided for, are in excess of sums required to pay the principal of and interest on the bonds of the commission previously issued, as and when due and payable; or (3) proceeds of bonds of the commission issued after the effective date of this section; or (4) revenues pledged for the repayment of bonds issued pursuant to section eleven-a of this article; or (5) revenues of the commission from projects acquired after the effective date of this section or constructed by the commission, are declared to be

subject to and shall be held by the commission in trust for the satisfaction of the obligations evidenced by the bonds previously issued by the commission and the interest coupons on the bonds: *Provided,* That nothing in this article shall be taken to validate or to attempt to validate rights under any existing lease or other agreement entered into under the former provisions of this article between the commission and the state of West Virginia or any officer, department or agency of this state to the extent that the lease or agreement provides for payments from general tax revenues of the state. Until the satisfaction in full of the obligations evidenced by bonds previously issued by the commission, the commission shall hold, manage and operate the trust properties and interests in properties, moneys, deposits, securities and choses in action and other rights, separate from all other properties and interests in properties, moneys, deposits, securities and choses in action and other rights that may after the effective date of this section be held and owned by the commission. Upon the satisfaction of all of the obligations of the commission, all of the trust properties and interests in properties, moneys, deposits, securities and choses in action and other rights shall become and be free and clear of the trust.

§5-6-11a. Special power of commission to transfer or expend bond proceeds for capital improvements at institutions of higher education, state parks and the capitol complex and to construct and lease a center for arts and sciences of West Virginia; limitations; state building commission authorized to issue revenue bonds; fund created; use of funds to pay for development of education, arts, sciences and tourism projects.

(a) The Legislature finds and declares that in order to attract new business and industry to this state, to retain existing business and industry providing the citizens of this state with economic security and to advance the

business prosperity and economic welfare of this state it is necessary to promote adequate higher education, arts, sciences and tourism facilities, including infrastructure, for: (1) State-of-the-art educational opportunities for all citizens of this state; (2) tourism enhancements at state parks, the capitol complex or other tourism sites throughout the state; (3) hands-on arts and science training for the youth of West Virginia; and (4) programs using the performing arts as an educational tool. Therefore, in order to promote education, arts, sciences and tourism, the Legislature finds that public financial support should be provided for constructing, equipping, improving and maintaining capital improvement projects which promote education, arts, sciences and tourism in this state.

(b) The state building commission shall, by resolution, in accordance with the provisions of this article, issue revenue bonds of the commission from time to time, to pay for a portion of the cost of constructing, equipping, improving or maintaining capital improvement projects under this section or to refund the bonds, at the discretion of the authority. The principal amount of the bonds issued under this section shall not exceed, in the aggregate, one hundred million dollars. Any revenue bonds issued on or after the first day of January, one thousand nine hundred ninety-six, which are secured by lottery proceeds shall mature at a time or times not exceeding twenty-five years from their respective dates. The principal of, and the interest and redemption premium, if any, on the bonds shall be payable solely from the special fund provided in this section for the payment.

(c) There is hereby created in the state treasury a special revenue fund named the "education, arts, sciences and tourism debt service fund" into which shall be deposited on and after the first day of July, one thousand nine hundred ninety-six, the amounts specified in section eighteen, article twenty-two, chapter twenty-nine of this code. All amounts deposited in the fund shall be pledged to the repayment of the principal,

interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The commission may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the education, arts, sciences and tourism debt service fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued from time to time under the provisions of this article. The education, arts, sciences and tourism debt service fund shall be pledged solely for the repayment of bonds issued pursuant to this section. On or prior to the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-six, the commission shall certify to the state lottery director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the education, arts, sciences and tourism debt service fund have been pledged, or will be pledged, for repayment pursuant to this section.

After the commission has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the education, arts, sciences and tourism debt service fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(d) The commission shall expend twenty-five million dollars of the bond proceeds for certified capital im-

provement projects at state institutions of higher education. For the purposes of certifying the projects which will receive funds from the bond proceeds, a committee shall be established and comprised of the governor, or his or her designee, the secretary of the department of administration, the secretary of the department of education and the arts, the chancellor of the university of West Virginia board of trustees and the chancellor of the board of directors of the state college system. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state institutions of higher education. The committee shall meet within forty-five days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings, one of which must be held outside of Kanawha county. Notice of the time, place, date and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least fourteen days prior to the date of the public hearing. On or before the fifteenth day of September, one thousand nine hundred ninety-six, the committee shall certify to the commission, a list of those capital improvement projects at state institutions of higher education which will receive funds from the proceeds of bonds issued pursuant to this section. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(e) The commission shall expend up to twenty-six million dollars from the proceeds of the bonds authorized by this section to pay a portion of the costs of projects certified under this subsection for development, maintenance or promotion of arts and sciences or constructing and equipping a center for arts and sciences of West Virginia located on a site acquired for that purpose. Any proceeds expended to pay a portion of project costs to construct and equip a center for arts and sciences of West Virginia shall not exceed forty percent of the total cost of the project and permanent endow-

ments for operation and maintenance, and bond proceeds shall not be expended until sixty percent of the total cost has been committed from sources other than bond proceeds. For the purposes of certifying the projects which will receive funds from the bond proceeds under this subsection, a committee shall be established and comprised of the governor, or his or her designee, the secretary of the department of administration, the director of the division of natural resources, the director of the West Virginia development office and a representative of the capitol building commission, other than the secretary of the department of administration, who shall be selected by the capitol building commission. The capitol building commission shall select its representative within thirty days of the effective date of this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding which projects should be certified. The committee shall meet within forty-five days of the effective date of this section. Prior to making its determination, the committee shall conduct one public hearing on the projects to be certified under this subsection. Notice of the time, place, date and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least fourteen days prior to the date of the public hearing. The committee shall make its determination as to whether bonds proceeds will be expended for the purposes set forth in this subsection and the amount to be expended for each project, on or before the fifteenth day of June, one thousand nine hundred ninety-six. Thereafter, the decision may not be altered or amended other than by legislative enactment. The commission is authorized to acquire by purchase or lease real property to be used as the site for a center for arts and sciences of West Virginia; and notwithstanding the provisions of section seven of this article, enter into a long-term lease agreement with a nonprofit corporation organized under the laws of this state for operation and maintenance of the center. The nonprofit corporation shall, as consideration

for any long-term lease agreement, complete the construction and equipping of the center and demonstrate to the satisfaction of the commission its financial ability to operate and maintain the center during the term of the lease agreement. The nonprofit corporation shall have at least nine members on its board of directors which are appointed by the governor with the advice and consent of the Senate. Of the nine appointed members, three shall be selected from each congressional district: *Provided*, That none of the appointed members shall be a resident of Kanawha county. The members appointed by the governor with the advice and consent of the Senate shall serve on the board for three-year staggered terms. Of the members first appointed by the governor, one from each congressional district will serve a three-year term, one from each congressional district will serve a two-year term and one from each congressional district shall serve a one-year term.

(f) The commission shall expend the balance of the bond proceeds for certified projects at state parks, the capitol complex or other tourism sites. The committee established in subsection (e) of this section shall certify to the commission on or before the fifteenth day of September, one thousand nine hundred ninety-six, a list of those capital improvement projects at state parks, the capitol complex or other tourism sites which will receive funds from the proceeds of bonds issued pursuant to this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state parks, the capitol complex or other tourism sites in this state. The committee shall meet within forty-five days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings on the projects to be certified under this subsection, one of which must be held outside of Kanawha county. Notice of the time, place, date and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at

201 least fourteen days prior to the date of the public hear-
202 ing. Once certified, the list may not thereafter be altered
203 or amended other than by legislative enactment.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6. WEST VIRGINIA STATE BOARD OF INVESTMENTS.

§12-6-19. Authorization for loans by the state board of investments.

1 (a) The state board of investments, upon request of the
2 state building commission, shall transfer moneys as a
3 loan to the state building commission in an amount not
4 to exceed in the aggregate twenty-one million dollars for
5 the purposes of financing or refinancing the projects
6 specified in subsections (b) and (d), section eight, article
7 six, chapter five of this code. The money borrowed shall
8 bear interest during the term of the loan at a fixed rate
9 not to exceed the interest rate on treasury notes, bills or
10 bonds of the same term as the term of the loan the week
11 of closing on the loan as reported by the treasury of the
12 United States. Loans made under this subsection shall
13 be repaid in regular monthly or semiannual payments
14 and shall be paid in full not later than twenty-five years
15 from the date the loans are made with terms and condi-
16 tions mutually agreed upon by the state building com-
17 mission and the state board of investments.

18 (b) The state board of investments shall upon request
19 of the state building commission transfer moneys as a
20 loan to the state building commission in an amount not
21 to exceed in the aggregate eighty million dollars for the
22 purposes of financing construction of regional jails,
23 correctional facilities, or building extensions or improve-
24 ments to regional jails and correctional facilities. Prior
25 to the expenditure of any loan proceeds, the regional jail
26 and correctional facility authority shall certify a list of
27 projects to the state building commission and the joint
28 committee on government and finance that are to be
29 funded from loan proceeds. This certified list cannot
30 thereafter be altered or amended other than by legisla-
31 tive enactment. Upon receipt of the certified list of

projects, the state building commission shall transfer the loan proceeds to the regional jail and correctional facility authority. The money borrowed shall bear interest during the term of the loan at a fixed rate not to exceed the interest rate on treasury notes, bills or bonds of the same term as the term of the loan the week of closing on the loan as reported by the treasury of the United States.

(c) Loans made under this section for the projects specified in subsection (b) of this section and in subsection (d), section eight, article six, chapter five of this code shall be repaid in annual payments of not less than twelve million dollars per year by appropriation of the Legislature to the board of investments. The amount transferred for loans under subsection (a) or (b) of this section shall not exceed that amount which the board of investments determines is reasonable given the cash flow needs of the consolidated fund. The board shall make transfers for loans first for the project specified in subsection (d), section eight, article six, chapter five of this code, second for the projects specified in subsection (b) of this section and third for projects specified in subsection (b), section eight, article six, chapter five of this code which are in imminent danger of default in payment. The board shall take the steps necessary to increase the liquidity of the consolidated fund over a period of the next five years to allow for the loans provided in this section without increasing the risk of loss in the consolidated fund.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-18. State lottery fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; state lottery education fund; state

lottery senior citizens fund; allocation and appropriation of net profits.

(a) There is hereby continued a special revenue fund in the state treasury which shall be designated and known as the "state lottery fund". The fund shall consist of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received from the sale of lottery tickets, materials and games shall be deposited with the state treasurer and placed into the "state lottery fund". The revenue shall be disbursed in the manner provided in this section for the purposes stated in this section and shall not be treated by the auditor and treasurer as part of the general revenue of the state.

(b) No appropriation, loan or other transfer of state funds may be made to the commission or lottery fund after the initial appropriation.

(c) A minimum annual average of forty-five percent of the gross amount received from each lottery shall be allocated and disbursed as prizes.

(d) Not more than fifteen percent of the gross amount received from each lottery shall be allocated to and may be disbursed as necessary for fund operation and administration expenses.

(e) The excess of the aggregate of the gross amount received from all lotteries over the sum of the amounts allocated by subsections (c) and (d) of this section shall be allocated as net profit. In the event that the percentage allotted for operations and administration generates a surplus, the surplus shall be allowed to accumulate to an amount not to exceed two hundred fifty thousand dollars. On a monthly basis, the director shall report to the joint committee on government and finance of the Legislature any surplus in excess of two hundred fifty thousand dollars and remit to the state treasurer the entire amount of those surplus funds in excess of two

hundred fifty thousand dollars which shall be allocated as net profit.

(f) After first satisfying the requirements for funds dedicated to the school building debt service fund in subsection (h) of this section to retire the ten-year bonds authorized to be issued pursuant to section eight, article nine-d, chapter eighteen of this code and then satisfying the requirements for funds dedicated to the education, arts, sciences and tourism debt service fund in subsection (i) of this section to retire the bonds authorized to be issued pursuant to section eleven-a, article six, chapter five of this code, the Legislature shall annually appropriate all of the remaining amounts allocated as net profits in subsection (e) of this section, in such proportions as it considers beneficial to the citizens of this state, to: (1) The lottery education fund created in subsection (g) of this section; (2) the school construction fund created in section six, article nine-d, chapter eighteen of this code; (3) the lottery senior citizens fund created in subsection (j) of this section; and (4) the division of natural resources created in section four, article five, chapter twenty of this code and the West Virginia development office as created in section one, article two, chapter five-b of this code, in accordance with subsection (k) of this section. No transfer to any account other than the school building debt service account and the education, arts, sciences and tourism debt service fund may be made in any period of time in which a default exists in respect to debt service on bonds issued by the school building authority and the state building commission which are secured by lottery proceeds. No additional transfer shall be made to any account other than the school building debt service account and the education, arts, sciences and tourism debt service fund when net profits for the preceding twelve months are not at least equal to one hundred fifty percent of debt service on bonds issued by the school building authority and the state building commission which are secured by net profits.

(g) There is hereby continued a special revenue fund in

the state treasury which shall be designated and known as the "lottery education fund". The fund shall consist of the amounts allocated pursuant to subsection (f) of this section, which shall be deposited into the lottery education fund by the state treasurer. The lottery education fund shall also consist of all interest earned from investment of the lottery education fund and any other appropriations, gifts, grants, contributions or moneys received by the lottery education fund from any source. The revenues received or earned by the lottery education fund shall be disbursed in the manner provided below and shall not be treated by the auditor and treasurer as part of the general revenue of the state. Annually, the Legislature shall appropriate the revenues received or earned by the lottery education fund to the state system of public and higher education for such educational programs as it considers beneficial to the citizens of this state.

(h) On or before the twenty-eighth day of each month through the twentieth day of June, two thousand five, the lottery director shall allocate to the school building debt service fund created pursuant to the provisions of section six, article nine-d, chapter eighteen of this code, as a first priority from the net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after the first day of April, one thousand nine hundred ninety-four, as certified to the lottery director in accordance with the provisions of section six, article nine-d, chapter eighteen of this code. In no event shall the monthly amount allocated exceed one million eight hundred thousand dollars, nor shall the total allocation of the net profits to be paid into the school building debt service fund, as provided in this section, in any fiscal year exceed the lesser of the principal and interest requirements certified to the lottery director or eighteen million dollars. In the event there are insufficient funds

available in any month to transfer the amount required to be transferred pursuant to this subsection to the school debt service fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency. A lien on the proceeds of the state lottery fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not to exceed twenty-seven million dollars annually, may be granted by the school building authority in favor of the bonds it issues which are secured by the net lottery profits.

(i) Beginning on or before the twenty-eighth day of July, one thousand nine hundred ninety-six, and continuing on or before the twenty-eighth day of each succeeding month thereafter through the twenty-eighth day of June, two thousand twenty-one, the lottery director shall allocate to the education, arts, sciences and tourism debt service fund created pursuant to the provisions of section eleven-a, article six, chapter five of this code, as a second priority from the net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after the first day of April, one thousand nine hundred ninety-six, as certified to the lottery director in accordance with the provisions of that section. In no event shall the monthly amount allocated exceed one million dollars nor shall the total allocation paid into the education, arts, sciences and tourism debt service fund, as provided in this section, in any fiscal year exceed the lesser of the principal and interest requirements certified to the lottery director or ten million dollars. In the event there are insufficient funds available in any month to transfer the amount required pursuant to this subsection to the education, arts, sciences and tourism debt service fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to

transfer the deficiency. A second-in-priority lien on the proceeds of the state lottery fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not to exceed fifteen million dollars annually, may be granted by the state building commission in favor of the bonds it issues which are secured by the net lottery profits.

(j) There is hereby continued a special revenue fund in the state treasury which shall be designated and known as the "lottery senior citizens fund". The fund shall consist of the amounts allocated pursuant to subsection (f) of this section, which shall be deposited into the lottery senior citizens fund by the state treasurer. The lottery senior citizens fund shall also consist of all interest earned from investment of the lottery senior citizens fund and any other appropriations, gifts, grants, contributions or moneys received by the lottery senior citizens fund from any source. The revenues received or earned by the lottery senior citizens fund shall be disbursed in the manner provided below and shall not be treated by the auditor or treasurer as part of the general revenue of the state. Annually, the Legislature shall appropriate the revenues received or earned by the lottery senior citizens fund to such senior citizens medical care and other programs as it considers beneficial to the citizens of this state.

(k) The division of natural resources and the West Virginia development office, as appropriated by the Legislature, may use the amounts allocated to it pursuant to subsection (f) of this section for one or more of the following purposes: (1) The payment of any or all of the costs incurred in the development, construction, reconstruction, maintenance or repair of any project or recreational facility, as these terms are defined in section four, article five, chapter twenty of this code, pursuant to the authority granted to it under article five, chapter twenty of this code; (2) the payment, funding or refunding of the principal of, interest on or redemption premiums on any bonds, security interests or notes issued by

the parks and recreation section of the division of natural resources under article five, chapter twenty of this code; or (3) the payment of any advertising and marketing expenses for the promotion and development of tourism or any tourist facility or attraction in this state.

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker House of Delegates

The within ....is approved.... this the....1st....

day of ....April...., 1996.

.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/96

Time 10:25am