

VETO 517

FILED

2001 MAY -2 P 11: 41

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2001



**ENROLLED**

Committee Substitute for Committee Substitute for  
**SENATE BILL NO.** 517

(By Senator Craig, et al )



**PASSED** April 14, 2001

**In Effect** from **Passage**

FILED

2001 MAY -2 P 11:41

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 517**

(SENATORS CRAIGO, OLIVERIO, HELMICK, ROSS, SHARPE,  
PLYMALE AND UNGER, *original sponsors*)

---

[Passed April 14, 2001; in effect from passage.]

---

AN ACT to amend and reenact sections thirteen, fourteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two and twenty-three, article twenty-three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter by adding thereto a new article, designated article twenty-four, all relating to revenue bonds generally; higher education revenue bonds; uses for bond proceeds, including motor vehicle parking facilities; removing certain requirement on bond trustee; authorizing gross revenues of facilities to be pledged; authorizing certain fees to be paid from bond proceeds; state parks revenue bonds; legislative findings and intent; reporting on capital project needs to joint committee on government and finance; and fund administration.

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

That sections thirteen, fourteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two and twenty-three, article twenty-three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article twenty-four, all to read as follows:

**ARTICLE 23. ADDITIONAL POWERS, DUTIES AND RESPONSIBILITIES OF GOVERNING BOARDS OF STATE INSTITUTIONS OF HIGHER EDUCATION.**

**§18-23-13. Construction and operation of dormitories, housing facilities, food service facilities and motor vehicle parking facilities for teachers and students.**

1 The governing boards are hereby authorized to provide,  
2 construct, erect, improve, equip, maintain and operate  
3 dormitories, housing facilities, food service facilities and  
4 motor vehicle parking facilities on land owned by the state  
5 for students or teachers at the various state institutions of  
6 higher education under their control and the cost of  
7 construction, erection, improvement or equipment may be  
8 payable by means of or with the proceeds of the revenue  
9 bonds hereinafter authorized. The governing boards have  
10 power and authority to employ engineering, architectural  
11 and construction experts and other employees as may be  
12 necessary in their judgment and fix their compensation, all  
13 of whom shall do the work as the governing boards direct,  
14 all of which shall be included as part of the cost of con-  
15 struction and equipment thereof.

**§18-23-14. Construction and operation of gymnasiums, etc.**

1 The governing boards, within their discretion, are  
2 hereby authorized to provide, construct, erect, improve,  
3 equip, maintain and operate gymnasiums or stadia for  
4 athletic games, contests or exhibitions or physical training,  
5 dormitories, housing facilities, food service facilities and

6 motor vehicle parking facilities, swimming pools or such  
7 other structures or buildings, for students, teachers,  
8 officers and employees at the various state institutions of  
9 higher education under their control and management  
10 subject to the provisions and limitations of sections  
11 thirteen, fifteen, sixteen, seventeen, eighteen, nineteen,  
12 twenty, twenty-one, twenty-two, twenty-three and  
13 twenty-four of this article.

**§18-23-16. Cost of dormitories, housing facilities, food service  
facilities and motor vehicle parking facilities to  
be paid from proceeds of revenue bonds.**

1 The governing boards may pay the cost, as defined in  
2 sections thirteen through twenty-four, inclusive, of this  
3 article, of any one or more of the dormitories, housing  
4 facilities, food service facilities and motor vehicle parking  
5 facilities out of the proceeds of revenue bonds of the state.  
6 The governing boards are authorized to issue revenue  
7 bonds of the state by a resolution of the board which shall  
8 recite an estimate by the board of the cost, the principal  
9 and interest of which bonds shall be payable solely from  
10 the special fund or funds herein provided for the payment.  
11 The board, after any issue of bonds or simultaneously  
12 therewith, may issue further issues of bonds to pay the cost  
13 of any other one or more of the dormitories, housing  
14 facilities, food service facilities and motor vehicle parking  
15 facilities in the manner and subject to all of the provisions  
16 herein contained as to the bonds first mentioned in this  
17 section. All these bonds shall have and are hereby de-  
18 clared to have all the qualities of negotiable instruments  
19 under the Uniform Commercial Code. These bonds shall  
20 bear interest at such rates, payable at such times, and shall  
21 mature in not more than thirty years from their date or  
22 dates and may be made redeemable at the option of the  
23 state, to be exercised by the governing boards, at a price  
24 and under terms and conditions as they may fix prior to  
25 the issuance of the bonds. They shall determine the form  
26 of the bonds, which bonds shall be signed by the governor

27 and the president of the appropriate governing board,  
28 under the great seal of the state and attested by the  
29 secretary of state. In case any of the officers whose signa-  
30 tures appear on the bonds shall cease to be officers before  
31 the delivery of the bonds, the signatures shall nevertheless  
32 be valid and sufficient for all purposes the same as if they  
33 had remained in office until the delivery. The governing  
34 boards shall fix the denominations of the bonds, the  
35 principal and interest of which shall be payable at the  
36 office of the treasurer of the state of West Virginia, at the  
37 capitol of the state or, at the option of the holder, at some  
38 bank or trust company within or outside of the state, to be  
39 named in the bonds, in lawful money of the United States  
40 of America. The bonds and the interest thereon shall be  
41 exempt from taxation by the state of West Virginia or any  
42 county, school district or municipality therein. The  
43 governing boards may provide for the registration of the  
44 bonds in the name of the owner as to principal alone or as  
45 to both principal and interest under the terms and condi-  
46 tions as the governing boards may determine and shall sell  
47 the bonds in such manner as they may determine to be for  
48 the best interest of the state, taking into consideration the  
49 financial responsibility of the purchaser and the terms and  
50 conditions of the purchase and especially the availability  
51 of the proceeds of the bonds when required for payment of  
52 the cost of the dormitories, housing facilities, food service  
53 facilities and motor vehicle parking facilities.

54 The proceeds of the bonds shall be used solely for the  
55 payment of the cost of the dormitories, housing facilities,  
56 food service facilities and motor vehicle parking facilities  
57 and costs of issuance of the bonds, which costs shall be  
58 deemed to include the cost of site acquisition or construc-  
59 tion thereof, the cost of all property, rights, easements and  
60 franchises deemed necessary or convenient therefor and  
61 for the improvements determined upon as provided in this  
62 article; interest upon bonds prior to and during construc-  
63 tion or acquisition and for a reasonable period after  
64 completion of construction or of acquisition of the im-

65 improvements; engineering, architectural and legal expenses;  
66 expense for estimates of cost and of revenues; expenses for  
67 plans, specifications and surveys; other expenses necessary  
68 or incidental to determining the feasibility or practicabil-  
69 ity of the improvements; and other expenses as may be  
70 necessary or incidental to the financing herein authorized  
71 and the construction or acquisition of the improvements  
72 and the placing thereof in operation. The bonds shall be  
73 authorized and approved by resolution of the appropriate  
74 governing board. If the proceeds of the bonds, by error or  
75 otherwise, shall be less than the cost of the dormitories,  
76 housing facilities, food service facilities and motor vehicle  
77 parking facilities, additional parity bonds may in like  
78 manner be issued to provide the amount of the deficit and,  
79 unless otherwise provided in the trust agreement hereinaf-  
80 ter mentioned, shall be deemed to be of the same issue and  
81 shall be entitled to payment from the same fund, without  
82 preference or priority of the bonds first issued for the same  
83 dormitories, housing facilities, food service facilities and  
84 motor vehicle parking facilities. If the proceeds of bonds  
85 issued for any dormitories, housing facilities, food service  
86 facilities and motor vehicle parking facilities shall exceed  
87 the cost thereof, the surplus shall be paid into the fund  
88 hereinafter provided for payment of the principal and  
89 interest of the bonds. The fund may be used for the  
90 purchase of any of the outstanding bonds payable from the  
91 fund at the market price, but not exceeding the price, if  
92 any, at which the bonds in the same year shall be redeem-  
93 able and all bonds redeemed or purchased shall forthwith  
94 be cancelled and shall not again be issued.

95 Prior to the preparation of definitive bonds, the govern-  
96 ing boards may under like restrictions issue temporary  
97 bonds exchangeable for definitive bonds upon the issuance  
98 of the latter. The revenue bonds may be issued without  
99 any other proceedings or the happening of any other  
100 conditions and things than those proceedings, conditions  
101 and things which are specified and required by this article  
102 or by the constitution of the state.

**§18-23-17. Agreements with trustees for bondholders.**

1 The governing boards may enter into an agreement or  
2 agreements with any trust company or with any bank  
3 having trust powers either within or outside of the state,  
4 as trustee for the holders of the bonds issued hereunder,  
5 setting forth therein such duties of the state and of the  
6 governing boards in respect of the acquisition, construc-  
7 tion, erection, improvement, maintenance, operation,  
8 repair and insurance of the dormitories, housing facilities,  
9 food service facilities and motor vehicle parking facilities,  
10 the conservation and application of all moneys, the  
11 insurance of moneys on hand or on deposit and the rights  
12 and remedies of the trustee and the holders of the bonds,  
13 as may be agreed on with the original purchasers of the  
14 bonds, and including therein provisions restricting the  
15 individual right of action of bondholders as is customary  
16 in trust agreements respecting bonds and debentures of  
17 corporations, protecting and enforcing the rights and  
18 remedies of the trustee and the bondholders and providing  
19 for approval by the original purchasers of the bonds, of the  
20 appointment of consulting engineers and of the security  
21 given by those who contract to make improvements and by  
22 any bank or trust company in which the proceeds of bonds  
23 or rents, fees or charges shall be deposited and for ap-  
24 proval by the consulting engineers of all contracts for  
25 improvements. All expenses incurred in carrying out an  
26 agreement may be treated as a part of the cost of mainte-  
27 nance, operation and repair of the dormitories, housing  
28 facilities, food service facilities and motor vehicle parking  
29 facilities affected by the agreement. Any agreement  
30 entered into by the governing boards shall be binding in  
31 all respects on the governing boards from time to time in  
32 accordance with its terms and all the provisions thereof  
33 shall be enforceable by appropriate proceedings at law or  
34 in equity, or otherwise.

**§18-23-18. Operation and control of fiscal affairs of dormito-  
ries, housing facilities, food service facilities and  
motor vehicle parking facilities.**

1 The governing boards shall properly maintain, repair,  
2 operate, manage and control the fiscal affairs of the  
3 dormitories, housing facilities, food service facilities and  
4 motor vehicle parking facilities, fix the rates of rents, fees  
5 or charges and establish rules and regulations for the use  
6 and operation of such dormitories, housing facilities, food  
7 service facilities and motor vehicle parking facilities for  
8 the welfare of the students or teachers and may make and  
9 enter into all contracts or agreements necessary and  
10 incidental to the performance of their duties and the  
11 execution of their powers under this article.

**§18-23-19. Payment of principal and interest of construction  
bonds from revenues of dormitories, housing  
facilities, food service facilities, or motor vehicle  
parking facilities; redemption of bonds.**

1 Whenever bonds are issued for the construction, erec-  
2 tion or equipment of dormitories, housing facilities, food  
3 service facilities or motor vehicle parking facilities or for  
4 the improvement or equipment of existing dormitories,  
5 housing facilities, food service facilities or motor vehicle  
6 parking facilities, or for any or all of the purposes, as joint  
7 or several projects, for which a single or several issues of  
8 bonds may be issued within the discretion of the governing  
9 boards, rents, fees and charges shall be fixed, charged and  
10 collected in connection with the use or occupancy of, or  
11 service to be thereby rendered and furnished by, dormito-  
12 ries, housing facilities, food service facilities or motor  
13 vehicle parking facilities of the particular state educa-  
14 tional institution as the governing board thereof shall  
15 determine, and shall be so fixed or adjusted, as to provide  
16 a fund sufficient to pay the principal and interest of each  
17 issue of bonds and to provide an additional fund to pay the  
18 cost of maintaining, repairing, operating and insuring such  
19 dormitories, housing facilities, food service facilities or  
20 motor vehicle parking facilities. Whenever bonds are  
21 issued to finance the construction and erection of dormito-  
22 ries, housing facilities, food service facilities or motor



23 vehicle parking facilities, together with additions or  
24 extensions to existing dormitories, housing facilities, food  
25 service facilities and motor vehicle parking facilities for  
26 students or teachers at state institutions of higher educa-  
27 tion, either the combined gross revenues derivable from all  
28 the dormitories, housing facilities, food service facilities or  
29 motor vehicle parking facilities or the separate gross  
30 revenues derivable from the dormitories, the housing  
31 facilities, the food service facilities or the motor vehicle  
32 parking facilities of the particular state institution of  
33 higher education as the governing board thereof shall  
34 determine, may be pledged to provide a fund sufficient to  
35 pay the principal and interest of the issue of bonds and of  
36 any other bonds thereafter issued for the same purpose  
37 and to provide an additional fund to pay the cost of  
38 maintaining, repairing, operating and insuring such  
39 dormitories, housing facilities, food service facilities or  
40 motor vehicle parking facilities. Except as may otherwise  
41 be provided in the trust agreement authorized in section  
42 seventeen of this article, the rents, fees and charges from  
43 the dormitories, housing facilities, food service facilities or  
44 motor vehicle parking facilities for which a single issue of  
45 bonds is issued, in an amount sufficient to pay, when due,  
46 the principal of, redemption premium, if any, and interest  
47 on such bonds shall be transmitted each month to the  
48 municipal bond commission and by it placed in a special  
49 fund which is hereby pledged to and charged with the  
50 payment of the principal of the bonds and the interest  
51 thereon and to the redemption or repurchase of the bonds,  
52 the special fund to be a fund for all these bonds without  
53 distinction or priority of one over another. The moneys in  
54 the special fund, less any reserve for payment of interest,  
55 if not used by the municipal bond commission within a  
56 reasonable time for the purchase of bonds for cancellation  
57 at a price not exceeding the market price and not exceed-  
58 ing the redemption price, shall be applied to the redemp-  
59 tion by lot of any bonds which by their terms are then  
60 redeemable, at the redemption price then applicable:

61 *Provided*, That if said revenue bonds are sold to and  
62 purchased by the United States of America or any federal  
63 or public agency or department created under and by  
64 virtue of the laws of the United States of America, then at  
65 the option of the United States of America or such federal  
66 or public agency or department in lieu of the moneys being  
67 transmitted to the municipal bond commission and by it  
68 placed in a special fund the rents, fees and charges from  
69 the dormitories, housing facilities, food service facilities,  
70 or motor vehicle parking facilities, in an amount sufficient  
71 to pay, when due, the principal of, redemption premium,  
72 if any, and interest on the bonds may be transmitted and  
73 paid to a trustee designated and named by the United  
74 States of America or a federal or public agency or depart-  
75 ment in its agreement and contract with the appropriate  
76 governing board, for the payment of the principal of such  
77 bonds and the interest thereon, under such terms and  
78 conditions as may be agreed upon.

**§18-23-20. When dormitories, housing facilities, food service  
facilities or motor vehicle parking facilities  
become property of state.**

1 When the particular bonds for any dormitory or dormi-  
2 tories, housing facilities, food service facilities or motor  
3 vehicle parking facilities and the interest on the bonds  
4 shall have been paid or a sufficient amount has been  
5 provided for their payment and shall continue to be held  
6 for that purpose, the dormitories, housing facilities, food  
7 service facilities or motor vehicle parking facilities shall  
8 thereafter be exclusively the property of the state of West  
9 Virginia and thereafter the rents, fees and charges col-  
10 lected for the use or occupancy of, or service rendered and  
11 furnished by, the dormitories, housing facilities, food  
12 service facilities or motor vehicle parking facilities shall be  
13 paid into the state board of investments as provided by the  
14 provisions of section two, article two, chapter twelve of  
15 this code, as amended, and used and expended for the  
16 benefit of the institution where collected: *Provided*, That

17 nothing in this section precludes any governing board from  
18 pledging the rents, fees and charges to pay the principal  
19 and interest on any bonds thereafter issued to construct  
20 new or to improve existing dormitories, housing facilities,  
21 food service facilities or motor vehicle parking facilities  
22 pursuant to section nineteen of this article. The rents, fees  
23 and charges shall be paid as may be provided in a trust  
24 agreement authorized pursuant to section seventeen of this  
25 article and in the absence of such trust agreement as  
26 provided in section nineteen of this article.

**§18-23-21. State debt not to be incurred for dormitories, housing facilities, food service facilities or motor vehicle parking facilities; federal and private assistance; provisions separable.**

1 Nothing in these sections dealing with dormitories,  
2 housing facilities, food service facilities or motor vehicle  
3 parking facilities may be so construed or interpreted as to  
4 authorize or permit the incurring of state debt of any kind  
5 or nature as contemplated by the constitution of this state  
6 in relation to the state debt. The dormitories, housing  
7 facilities, food service facilities or motor vehicle parking  
8 facilities herein are of the character described as  
9 self-liquidating projects under the laws of this state.

10 Any governing board authorized to issue bonds under  
11 the provisions of this article is authorized and empowered  
12 to accept loans or grants or temporary advances for the  
13 purpose of paying part or all of the cost of construction of  
14 the dormitories, housing facilities, food service facilities or  
15 motor vehicle parking facilities and the other purposes  
16 herein authorized, from the United States of America or a  
17 federal or public agency or department of the United  
18 States or any private agency, corporation or individual,  
19 which temporary advances may be repaid out of the  
20 proceeds of the bonds authorized to be issued under the  
21 provisions of this article and to enter into the necessary  
22 contracts and agreements to carry out the purposes hereof  
23 with the United States of America or a federal or public

24 agency or department of the United States or with any  
25 private agency, corporation or individual. The provisions  
26 and parts of this section are separable and are not matters  
27 of mutual essential inducement and it is the intention to  
28 confer the whole or any part of the powers herein provided  
29 for and if any of the sections or provisions, or parts  
30 thereof, are for any reason illegal or invalid, it is the  
31 intention that the remaining sections and provisions or  
32 parts thereof shall remain in full force and effect.

**§18-23-22. Sections regarded as supplementary.**

1 Sections thirteen through twenty-four, inclusive, of this  
2 article provide an additional and alternative method for  
3 the doing of the things authorized hereby and shall be  
4 regarded as supplementary and additional to powers  
5 conferred by other laws: *Provided*, That when any revenue  
6 bonds are issued hereunder for the purposes provided by  
7 sections thirteen through twenty-four, inclusive, of this  
8 article, for the benefit of any particular state institution of  
9 higher education, no dormitories, housing facilities, food  
10 service facilities or motor vehicle parking facilities shall  
11 thereafter be constructed, built or erected at the state  
12 institution of higher education until the appropriate  
13 governing board, by investigation had thereon, under the  
14 rules as it may prescribe, determines that there is an  
15 imperative public need for the construction, building or  
16 erection of the dormitories, housing facilities, food service  
17 facilities or motor vehicle parking facilities and that their  
18 construction, building or erection and subsequent mainte-  
19 nance or operation will not materially injure the revenues  
20 of and from any dormitories, housing facilities, food  
21 service facilities, or motor vehicle parking facilities  
22 constructed, built, erected, maintained or operated at the  
23 state institution of higher education under the provisions  
24 of sections thirteen to twenty-four, inclusive, of this  
25 article.

**§18-23-23. Approval of dormitories, housing facilities, food service facilities or motor vehicle parking facilities.**

1 It is not necessary to secure from any officer or board  
2 not named in sections thirteen through twenty-four,  
3 inclusive, of this article any approval or consent or any  
4 certificate or finding or to hold any election or to take any  
5 proceedings whatever, either for the acquisition, construc-  
6 tion or erection of such dormitories, housing facilities,  
7 food service facilities or motor vehicle parking facilities,  
8 or the improvement thereof, or their maintenance, opera-  
9 tion, repair or insurance, or for the issuance of bonds  
10 hereunder, except such as are prescribed in the sections  
11 herein named or are required by the constitution of the  
12 state.

**ARTICLE 24. FUNDING FOR CAPITAL PROJECTS FOR HIGHER EDUCATION AND STATE PARKS.**

**§18-24-1. Higher education and state parks capital projects.**

1 (a) The Legislature finds and declares that in order to  
2 promote state-of-the-art educational opportunities for the  
3 citizens of this state, and tourism enhancements at state  
4 parks throughout the state, it is necessary to continue  
5 development of adequate higher education and tourism  
6 facilities. Therefore, in order to promote education and  
7 tourism, the Legislature finds that public financial support  
8 should be provided for constructing, equipping, improving  
9 and maintaining capital improvement projects which  
10 promote education and tourism in this state.

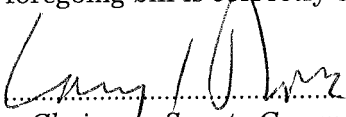
11 (b) For the purposes set forth in subsection (a) of this  
12 section, the Legislature is considering enactment of  
13 legislation authorizing the issuance of bonds in a principal  
14 amount of up to one hundred twenty-five million dollars.  
15 It is the intent of the Legislature that, during the two  
16 thousand two January legislative interim meeting period,  
17 the higher education policy commission and the division of

18 natural resources shall report to the joint committee on  
19 government and finance. This report shall include a  
20 prioritized list of capital projects to be considered for  
21 funding by each entity. Each project listed shall include  
22 a detailed explanation of the project, the amount of  
23 funding estimated for the project's completion and how  
24 the project will contribute to the education, economic  
25 development or tourism of the state, as appropriate.

26 (c) It is the further intent of the Legislature to pursue a  
27 resolution during the two thousand two regular legislative  
28 session to allow for the issuance of capital project bond  
29 debt service from a revenue source to be named at a later  
30 date.

31 (d) Notwithstanding any provision of this code to the  
32 contrary, the lottery education fund established pursuant  
33 to the provisions of section eighteen, article twenty-two,  
34 chapter twenty-nine of this code and all money deposited  
35 therein or accruing thereto shall be administered by the  
36 secretary of finance and administration.

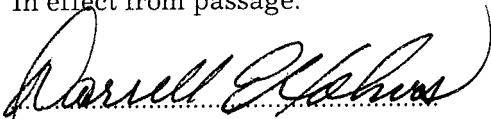
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

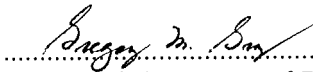
  
.....  
Chairman Senate Committee

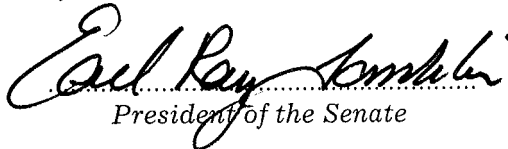
  
.....  
Chairman House Committee

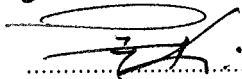
Originated in the Senate.

In effect from passage.

  
.....  
Clerk of the Senate

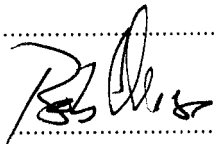
  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within disapproved bill this the 2.....

Day of May....., 2001.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

4/30/01

Time

9:35hr