

WEST VIRGINIA LEGISLATURE

REGULAR THIRTY-DAY SESSION, 1956



ENROLLED

*Com. Sub. for*

SENATE BILL NO. 21

*Originating in Finance Committee*  
(By Mr. ....)



PASSED February 9, 1956

In Effect 90 days Passage



Filed in the Office of the Secretary of State  
of West Virginia FEB 15 1956  
D. PITT O'BRIEN  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 21**

(Originating in the Committee on Finance)

[Passed February 9, 1956; in effect ninety days from passage.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; by adding thereto a new article, to be designated article twelve-a, relating to the authority of the West Virginia board of education to issue revenue bonds to finance the construction of a new building for Marshall college and to pledge as security for such bonds the revenue collected at Marshall college from certain student fees.

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

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by

adding thereto a new article, to be designated article twelve-a, to read as follows:

**Article 12-A. Revenue Bonds for Marshall College Capital Improvements.**

Section 1. *West Virginia Board of Education Authorized to Issue Revenue Bonds for Certain Capital Improvements.*—The West Virginia Board of Education shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed nine hundred fifty thousand dollars in principal amount thereof, to finance the cost of providing a health and physical education building for Marshall college. The principal of and interest on such bonds shall be payable solely from the special nonrevolving fund herein provided for such payment. The costs of any such building or buildings shall include the cost of acquisition of land, the construction and equipment of any such building or buildings, and the provision of roads, utilities and other services necessary, appurtenant or incidental to such building or buildings; and shall also include all other charges or expenses necessary, appurtenant or incidental to the construction, financing and placing in operation of any such building or buildings.

Sec. 2. *Special Marshall College Capital Improvement*

2 *Fund Created in State Treasury; Collections to Be Paid*  
3 *Into Special Fund; Authority of West Virginia Board of*  
4 *Education to Pledge Such Collections as Security for*  
5 *Revenue Bonds.*—There is hereby created in the state  
6 treasury a special nonrevolving Marshall College capital  
7 improvements fund. On and after the first day of July,  
8 one thousand nine hundred fifty-seven, there shall be  
9 paid into such special fund all fees collected under the  
10 provisions of section one, article one-a, chapter twenty-  
11 five of this code, from students at Marshall college, ex-  
12 cept such fees as are required by that section to be paid  
13 into other special funds.

14 The board of education shall have authority to pledge  
15 all or such part of the revenue paid into the special Mar-  
16 shall college capital improvement fund as may be needed  
17 to meet the requirements of the sinking fund established  
18 in connection with any revenue bond issue authorized by  
19 this article, including a reserve fund for the payment of  
20 the principal of and interest on such revenue bond issue  
21 when other moneys in the sinking fund are insufficient

22 therefor; and may provide in the resolution authorizing  
23 any issue of such bonds, and in any trust agreement made  
24 in connection therewith, for such priorities on the reve-  
25 nues paid into the special fund as may be necessary for  
26 the protection of the prior rights of the holders of bonds  
27 issued at different times under the provisions of this  
28 article.

29 If any balance shall remain in the special Marshall col-  
30 lege capital improvement fund after the board has issued  
31 the maximum of nine hundred fifty thousand dollars  
32 worth of bonds authorized by this article, and after the  
33 requirements of all sinking funds and reserve funds es-  
34 tablished in connection with the issue of such bonds  
35 have been satisfied, such balance may and shall be used  
36 solely for the redemption of any of the outstanding bonds  
37 issued hereunder which by their terms are then redeem-  
38 able, or for the purchase of bonds at the market price,  
39 but at not exceeding the price, if any, at which such  
40 bonds shall in the same year be redeemable, and all bonds  
41 redeemed or purchased shall forthwith be cancelled and  
42 shall not again be issued. Whenever all outstanding bonds

43 issued hereunder shall have been paid, the special Mar-  
44 shall college capital improvement fund shall cease to  
45 exist and any balance then remaining in such fund shall  
46 be transferred to the general revenue fund of the state.  
47 Thereafter all fees formerly paid into such special fund  
48 shall be paid into the general revenue fund of the state.

Sec. 3. *Issuance of Revenue Bonds.*—The issuance of  
2 bonds under the provisions of this article shall be au-  
3 thorized by a resolution of the board of education, which  
4 shall recite an estimate by the board of the cost of the  
5 proposed building or buildings; and shall provide for the  
6 issuance of bonds in an amount sufficient, when sold as  
7 hereinafter provided, to provide moneys sufficient to pay  
8 such cost, less the amount of any other funds available  
9 for the construction of the building or buildings from any  
10 appropriation, grant or gift therefor. Such resolution  
11 shall prescribe the rights and duties of the bondholders  
12 and the board, and for such purpose may prescribe the  
13 form of the trust agreement hereinafter referred to. The  
14 bonds shall be of such series, bear such date or dates,  
15 mature at such time or times not exceeding thirty years

16 from their respective dates, bear interest at such rate or  
17 rates not exceeding five per cent per annum, payable semi-  
18 annually; be in such denominations; be in such form,  
19 either coupon or fully registered without coupons, carry-  
20 ing such registration exchangeability and interchangea-  
21 bility privileges; be payable in such medium of payment  
22 and at such place or places; be subject to such terms of  
23 redemption at such prices not exceeding one hundred five  
24 per cent of the principal amount thereof, and be entitled  
25 to such priorities on the revenues paid into the special  
26 state colleges capital improvements fund as may be pro-  
27 vided in the resolution authorizing the issuance of the  
28 bonds or in any trust agreement made in connection  
29 therewith. The bonds shall be signed by the governor,  
30 and by the president of the board of education, under the  
31 great seal of the state, attested by the secretary of state,  
32 and the coupons attached thereto shall bear the facsimile  
33 signature of the president of the board. In case any of  
34 the officers whose signatures appear on the bonds or cou-  
35 pons cease to be such officers before the delivery of such  
36 bonds, such signatures shall nevertheless be valid and

37 sufficient for all purposes the same as if such officers had  
38 remained in office until such delivery.

39 Such bonds shall be sold in such manner as the board  
40 may determine to be for the best interests of the state,  
41 taking into consideration the financial responsibility of  
42 the purchaser, the terms and conditions of the purchase,  
43 and especially the availability of the proceeds of the  
44 bonds when required for payment of the cost of such  
45 building or buildings, such sale to be made at a price not  
46 lower than a price which, when computed upon standard  
47 tables of bond values, will show a net return of not more  
48 than six per cent per annum to the purchaser upon the  
49 amount paid therefor. The proceeds of such bonds shall  
50 be used solely for the payment of the cost of such build-  
51 ing or buildings, and shall be deposited in the state  
52 treasury in a special fund and checked out as provided  
53 by law for the disbursement of other state funds. If the  
54 proceeds of such bonds, by error in calculation or other-  
55 wise, shall be less than the cost of such building or build-  
56 ings, additional bonds may in like manner be issued to  
57 provide the amount of the deficiency, but in no case to

58 exceed nine hundred fifty thousand dollars as provided  
59 in section one of this article; and unless otherwise pro-  
60 vided for in this resolution or trust agreement herein-  
61 after mentioned, shall be deemed to be of the same issue,  
62 and shall be entitled to payment from the same fund,  
63 without preference or priority, as the bonds before issued  
64 for such building or buildings. If the proceeds of bonds  
65 issued for such building or buildings shall exceed the  
66 cost thereof, the surplus shall be paid into the sinking  
67 fund to be established for payment of the principal and  
68 interest of such bonds as hereinafter provided. Prior  
69 to the preparation of definitive bonds, the board may,  
70 under like restrictions, issue temporary bonds with or  
71 without coupons, exchangeable for definitive bonds upon  
72 their issuance.

73 The bonds issued under the provisions of this article  
74 shall be and have all the qualities of negotiable instru-  
75 ments under the law merchant and under the negotiable  
76 instruments law of this state.

*Sec. 4. Trust Agreement For Holders of Bonds.—*The

2 board may enter into an agreement or agreements with

3 any trust company, or with any bank having the powers  
4 of a trust company, either within or outside the state,  
5 as trustee for the holders of bonds issued hereunder,  
6 setting forth therein such duties of the board in respect  
7 to the payment of the bonds, the fixing, establishing and  
8 collecting of the fees hereinbefore referred to, the ac-  
9 quisition, construction, improvement, maintenance, oper-  
10 ation, repair and insurance of such building or buildings,  
11 the conservation and application of all moneys, the se-  
12 curity for moneys on hand or on deposit, and the rights  
13 and remedies of the trustee and the holders of the bonds,  
14 as may be agreed upon with the original purchasers of  
15 such bonds; and including therein provisions restricting  
16 the individual right of action of bondholders as is cus-  
17 tomary in trust agreements respecting bonds and deben-  
18 tures of corporations, protecting and enforcing the rights  
19 and remedies of the trustee and the bondholders, and  
20 providing for approval by the original purchasers of the  
21 bonds of the appointment of consulting engineers and of  
22 the security given by those who contract to construct  
23 such building or buildings, and for approval by the con-

24 sulting engineers of all contracts for construction. Any  
25 such agreement entered into by the board shall be bind-  
26 ing in all respects on such board and its successors from  
27 time to time in accordance with its terms; and all the  
28 provisions thereof shall be enforceable by appropriate  
29 proceedings at law or in equity, or otherwise.

Sec. 5. *Sinking Fund for Payment of Bonds.*—From the  
2 special Marshall college capital improvement fund the  
3 board shall make periodic payments to the state sink-  
4 ing fund commission in an amount sufficient to meet the  
5 requirements of any issue of bonds sold under the pro-  
6 visions of this article, as specified in the resolution of the  
7 board authorizing the issue and in any trust agreement  
8 entered into in connection therewith. The payments so  
9 made shall be placed by the commission in a special  
10 sinking fund which is hereby pledged to and charged  
11 with the payment of the principal of the bonds of such  
12 issue and the interest thereon, and to the redemption or  
13 repurchase of such bonds, such sinking fund to be a fund  
14 for all bonds of such issue without distinction or priority  
15 of one over another. The moneys in the special sinking

16 fund, less such reserve for payment of principal and in-  
17 terest as may be required by the resolution of the board  
18 authorizing the issue and any trust agreement made in  
19 connection therewith, may be used for the redemption of  
20 any of the outstanding bonds payable from such fund  
21 which by their terms are then redeemable, or for the  
22 purchase of bonds at the market price; but at not exceed-  
23 ing the price, if any, at which such bonds shall in the  
24 same year be redeemable; and all bonds redeemed or pur-  
25 chased shall forthwith be cancelled and shall not again  
26 be issued.

Sec. 6. *Credit of State Not Pledged.*—No provisions of  
2 this article shall be construed to authorize the board at  
3 any time or in any manner to pledge the credit or taxing  
4 power of the state, nor shall any of the obligations or  
5 debts created by the board under the authority herein  
6 granted be deemed to be obligations of the state.

Sec. 7. *Bonds Exempt from Taxation.*—All bonds issued  
2 by the board under the provisions of this article shall be  
3 exempt from taxation by the state of West Virginia, or  
4 by any county, school district or municipality thereof.

Sec. 8. *Conflicting Laws Repealed.*—The powers conferred by this article shall be in addition and supplemental to the existing powers of the board of education. The provisions of any other law or laws conflicting with the provisions of this article shall be and the same are hereby superseded to the extent of any such conflict.

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

*[Signature]*  
Chairman Senate Committee

*[Signature]*  
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

*[Signature]*  
Clerk of the Senate

*[Signature]*  
Clerk of the House of Delegates

*[Signature]*  
President of the Senate

*[Signature]*  
Speaker House of Delegates

The within approved this the 14  
day of February, 1956.

*[Signature]*  
Governor



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SECRETARY OF STATE