

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1966

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ENROLLED

SENATE BILL NO. 20

(By Mr. McCourt and Mr. Floyd)

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PASSED January 5 1966

In Effect Ninety days from Passage

FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 2-14-66

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**Senate Bill No. 20**

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[Passed February 5, 1966; in effect ninety days from passage.]

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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, designated article eleven-b, relating to the authority of the board of governors of West Virginia University to issue revenue bonds to finance the construction of new facilities, buildings and structures, including the cost of acquisition of land therefor and the necessary equipment thereof, for West Virginia University, and to issue revenue bonds to refund bonds issued and outstanding under the provisions of said article eleven-b and preceding article eleven-a, and to pledge as security for such bonds certain enrollment, tuition and other fees collected at the university.

*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, designated article eleven-b, to read as follows:

**Article 11-b. Revenue Bonds for University Facilities, Buildings and Structures.**

**Section 1. Board of Governors of West Virginia University Authorized to Issue Revenue Bonds for Certain Capital Improvements.**—The board of governors of West Virginia University shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed twenty million dollars in principal amount thereof, to refund bonds issued and outstanding under and pursuant to the provisions of article eleven-a of this chapter and this article and to finance the cost of providing new facilities, buildings and structures for West Virginia University including, but not limited to, buildings and structures suitable for use as an academic building, library, laboratory, research facility, maintenance or storage or utility facility and other facilities related thereto or es-

15 sential or convenient for the instruction of students or  
16 the conducting of research or the operation of West Vir-  
17 ginia University as an institution for higher education,  
18 and also including athletic facilities and stadia as well  
19 as parking and other facilities, buildings or structures  
20 essential or convenient for the orderly conduct of West  
21 Virginia University as an institution for higher education,  
22 together with, in each case, land for current or future  
23 use in connection therewith and equipment and machinery  
24 and other similar items essential or convenient for the  
25 operation of a particular facility, building or structure  
26 in the manner for which its use is intended but not in-  
27 cluding such items as books, fuel, supplies or other items  
28 which are customarily deemed to result in a current  
29 operating charge. The principal of and interest on such  
30 bonds shall be payable solely from the special non-re-  
31 volving fund herein provided for such payment. The  
32 cost of any such facility, building or structure shall in-  
33 clude the cost of acquisition of land, the construction and  
34 equipment of any such facility, building or structure and  
35 the provision for roads, utilities and other services neces-

36 sary, appurtenant or incidental to such facilities, build-  
37 ings or structures, and shall also include all other charges  
38 or expenses necessary, appurtenant or incidental to the  
39 construction, financing and placing in operation of any  
40 such facility, building or structure.

**Sec. 2. Special University Capital Improvements Fund**

2 **Continued in State Treasury; Collections to Be Paid Into**  
3 **Special Fund; Authority of Board of Governors to Pledge**  
4 **Such Collections as Security for Revenue Bonds.**—The  
5 special non-revolving university capital improvements  
6 fund heretofore created in the state treasury pursuant  
7 to the provisions of article eleven-a of this chapter shall  
8 be continued and shall exist so long as any bonds issued  
9 pursuant to said article eleven-a or this article remain  
10 outstanding and unpaid. Subject only to the prior lien  
11 thereon of outstanding bonds heretofore issued pursuant  
12 to the provisions of article eleven-a of this chapter, on  
13 and after the first day of July, one thousand nine hundred  
14 sixty-six, there shall be paid into such special university  
15 capital improvements fund all fees collected under the  
16 provisions of section one, article one-a, chapter twenty-  
17 five of this code, from students at the university other

18 than students in the schools of medicine, medical tech-  
19 nology, dentistry, dental technology, nursing and phar-  
20 macy, except such fees as are now required by that section  
21 to be paid into other special funds: *Provided*, That any  
22 future allocation of all or any of such fees to other spe-  
23 cial funds shall, so long as any bonds issued pursuant  
24 to said article eleven-a of this article remain outstanding  
25 and unpaid, be expressly subordinate, junior and in-  
26 ferior to the requirements of and pledges made pursuant  
27 to this section.

28 The board of governors shall have authority to pledge  
29 all or such part of the revenue paid into the special uni-  
30 versity capital improvements fund as may be needed to  
31 meet the requirements of the sinking fund established in  
32 connection with any revenue bond issue authorized by  
33 this article, including a reserve fund for the payment of  
34 the principal of and interest on such revenue bond issue  
35 when other moneys in the sinking fund are insufficient  
36 therefor and including such additional margin of safety  
37 as may be provided in the resolution authorizing any  
38 issue of such bonds and in any trust agreement made in

39 connection therewith, and may provide in the resolution  
40 authorizing any issue of such bonds, and in any trust  
41 agreement made in connection therewith, for such priori-  
42 ties on the revenues paid into the special fund as may  
43 be necessary for the protection of the prior rights of the  
44 holders of bonds issued at different times under the pro-  
45 visions of this article.

46 Any balance remaining in the special university capital  
47 improvements fund after the board has issued the maxi-  
48 mum of twenty million dollars worth of bonds authorized  
49 by this article, and after the requirements of all sinking  
50 funds and reserve funds established in connection with  
51 the bonds issued pursuant to this article have been satis-  
52 fied, may and shall be used solely for the redemption of  
53 any of the outstanding bonds issued hereunder which  
54 by their terms are then redeemable, or for the purchase  
55 of such bonds at the market price, but at not exceeding  
56 the price, if any, at which such bonds shall in the same  
57 year be redeemable, and all bonds redeemed or purchased  
58 shall forthwith be cancelled and shall not again be issued.  
59 Whenever all outstanding bonds issued hereunder shall

60 have been paid, the special university capital improve-  
61 ments fund shall cease to exist and any balance then re-  
62 maining in such fund shall be transferred to the general  
63 revenue fund of the state. Thereafter all fees formerly  
64 paid into such special fund shall be paid into the gen-  
65 eral revenue fund of the state.

**Sec. 3. Board of Governors to Fix Fees.**—The board of  
2 governors shall fix, establish, maintain and collect the  
3 fees provided for in section one, article one-a, chapter  
4 twenty-five of this code, from students at the university  
5 other than students in the schools of medicine, medical  
6 technology, dentistry, dental technology, nursing and  
7 pharmacy, in amounts at least sufficient, at all times,  
8 after depositing in the other special funds such fees as  
9 are now required to be deposited therein pursuant to sec-  
10 tion one, article one-a, chapter twenty-five of this code,  
11 to provide revenues for deposit in the special university  
12 capital improvements fund which are adequate to pay the  
13 principal of and interest on the outstanding bonds here-  
14 tofore issued pursuant to article eleven-a of this chapter  
15 as the same mature and become due and to make all



16 reserve and other payments required by the proceedings  
17 which authorized such outstanding bonds, to pay the  
18 principal of and interest on any outstanding bonds issued  
19 pursuant to this article as the same mature and become  
20 due and to provide any margin of safety and reserve or  
21 other payments required by the resolution authorizing  
22 any issue of bonds pursuant to this article and any trust  
23 agreement made in connection therewith, and to make  
24 all other payments required by this article or any such  
25 proceedings, resolutions or trust agreements.

**Sec. 4. Issuance of Revenue Bonds.**—The issuance of  
2 revenue bonds under the provisions of this article shall  
3 be authorized by a resolution of the board of governors,  
4 which shall recite an estimate by the board of the cost of  
5 the proposed facilities, buildings or structures; and shall  
6 provide for the issuance of bonds in an amount sufficient,  
7 when sold as hereinafter provided, to provide moneys  
8 sufficient to pay such cost, less the amount of any other  
9 funds available for the construction of the facilities,  
10 buildings or structures from any appropriation, grant or  
11 gift therefor. Such resolution shall prescribe the rights

12 and duties of the bondholders and the board, and for such  
13 purpose may prescribe the form of the trust agreement  
14 hereinafter referred to. The bonds shall be of such series,  
15 bear such date or dates, mature at such time or times not  
16 exceeding thirty years from their respective dates, bear  
17 interest at such rate or rates not exceeding five per cent  
18 per annum, payable semiannually; be in such denomi-  
19 nations; be in such form, either coupon or fully registered  
20 without coupons, carrying such registration, exchange-  
21 ability and interchangeability privileges; be payable in  
22 such medium of payment and at such place or places;  
23 be subject to such terms of redemption at such prices not  
24 exceeding one hundred five per cent of the principal  
25 amount thereof, and be entitled to such priorities on the  
26 revenues paid into the special university capital improve-  
27 ments fund as may be provided in the resolution authoriz-  
28 ing the issuance of the bonds or in any trust agreement  
29 made in connection therewith. The bonds shall be signed  
30 by the governor, and by the president of the board of  
31 governors, under the great seal of the state, attested by  
32 the secretary of state, and the coupons attached thereto

33 shall bear the facsimile signature of the president of the  
34 board. In case any of the officers whose signatures appear  
35 on the bonds or coupons cease to be such officers before  
36 the delivery of such bonds, such signatures shall never-  
37 theless be valid and sufficient for all purposes the same  
38 as if such officers had remained in office until such de-  
39 livery.

40 Such bonds shall be sold in such manner as the board  
41 may determine to be for the best interest of the state,  
42 taking into consideration the financial responsibility of  
43 the purchaser, the terms and conditions of the purchase,  
44 and especially the availability of the proceeds of the bonds  
45 when required for payment of the cost of such facilities,  
46 buildings or structures, such sale to be made at a price  
47 not lower than a price which, when computed upon  
48 standard tables of bond values, will show a net return of  
49 not more than five per cent per annum to the purchaser  
50 upon the amount paid therefor. The proceeds of such  
51 bonds shall be used solely for the payment of the cost of  
52 such facilities, buildings or structures, and shall be de-  
53 posited in the state treasury in a special fund and checked

54 out as provided by law for the disbursement of other  
55 state funds. If the proceeds of such bonds, by error in  
56 calculation or otherwise, shall be less than the cost of  
57 such facilities, buildings or structures, additional bonds  
58 may in like manner be issued to provide the amount of the  
59 deficiency; and unless otherwise provided for in the reso-  
60 lution or trust agreement hereinafter mentioned, shall be  
61 deemed to be of the same issue, and shall be entitled to  
62 payment from the same fund, without preference or  
63 priority, as the bonds before issued for such facilities,  
64 buildings or structures. If the proceeds of bonds issued  
65 for such facilities, buildings or structures 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 to  
69 the preparation of definitive bonds, the board may, under  
70 like restrictions, issue temporary bonds with or without  
71 coupons, exchangeable for definitive bonds upon their  
72 issuance. The term "cost", as used in this section, shall be  
73 deemed to include all of the items contemplated by the  
74 use of this term in section one of this article.

**Sec. 5. Issuance of Revenue Refunding Bonds.**—The  
2 issuance of revenue refunding bonds under the provisions  
3 of this article shall be authorized by resolution of the  
4 board of governors and shall otherwise be subject to the  
5 limitations, conditions and provisions of section four of  
6 this article. Such revenue refunding bonds may be issued  
7 in an amount sufficient to pay (1) the principal of any  
8 outstanding bonds heretofore issued pursuant to the pro-  
9 visions of article eleven-a of this chapter or this article  
10 (hereinafter referred to as “outstanding bonds”); (2) the  
11 redemption premium, if any, on such outstanding bonds  
12 on the prior redemption thereof; (3) the interest due and  
13 payable on such outstanding bonds to and including the  
14 first date upon which said outstanding bonds are callable  
15 prior to maturity, not exceeding, however, ten years from  
16 the date of issuance of such revenue refunding bonds, or  
17 the dates upon which the principal of said outstanding  
18 bonds matures before such first date on which the same  
19 are callable prior to maturity, including any interest  
20 theretofore accrued and unpaid; and (4) all expenses of  
21 the issuance and sale of said revenue refunding bonds,

22 including all necessary financial and legal expenses, and  
23 also including the creation of initial debt service reserve  
24 funds. Any moneys in the sinking or reserve funds or  
25 other funds for the outstanding bonds may be used for  
26 the purposes stated in (1), (2), (3) and (4) above or may  
27 be deposited in a sinking fund or reserve fund or other  
28 funds for the issue of bonds which have been issued  
29 wholly or in part for the purpose of such refunding. Such  
30 amount of the proceeds of the revenue refunding bonds  
31 as shall be sufficient for the payment of the principal,  
32 interest and redemption premiums, if any, on such out-  
33 standing bonds which will not be due and payable im-  
34 mediately shall be deposited in trust, for the sole purpose  
35 of making such payments, with the treasurer of the state  
36 of West Virginia. Any of the moneys so deposited in  
37 trust may, prior to the date on which such moneys will  
38 be needed for the payment of principal, interest and re-  
39 demption premiums, if any, on such outstanding bonds,  
40 be invested and reinvested in direct obligations of the  
41 United States of America.

**Sec. 6. Bonds May Be Issued for Combined Purposes.—**

2 The board of governors may authorize by one resolution  
 3 a single issue of bonds for the combined purposes of re-  
 4 funding the outstanding bonds as herein authorized and  
 5 financing one or more of the facilities, buildings and  
 6 structures herein authorized.

**Sec. 7. Bonds Shall Be Negotiable Instruments.—**The

2 revenue bonds, revenue refunding bonds and bonds issued  
 3 for combined purposes under the provisions of this article  
 4 shall, independently of the requirements of any other  
 5 provision of law and solely by virtue of the provisions of  
 6 this section, be and have all the qualities and incidents  
 7 of negotiable instruments.

**Sec. 8. Trust Agreements 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, as  
 5 trustee for the holders of bonds issued hereunder, setting  
 6 forth therein such duties of the board in respect to the  
 7 payment of the bonds, the fixing, establishing and collect-  
 8 ing of the fees hereinbefore referred to, the acquisition,

9 construction, improvement, maintenance, operation, re-  
10 pair and insurance of authorized facilities, buildings or  
11 structures, the conservation and application of all moneys,  
12 the security for moneys on hand or on deposit, and the  
13 rights and remedies of the trustee and the holders of the  
14 bonds, as may be agreed upon with the original purchas-  
15 ers of such bonds; and including therein provisions re-  
16 stricting the individual right of action of bondholders as  
17 is customary in trust agreements respecting bonds and  
18 debentures of municipal corporations, protecting and en-  
19 forcing the rights and remedies of the trustee and the  
20 bondholders, and providing for approval by the original  
21 purchasers of the bonds of the appointment of consulting  
22 engineers and of the security given by those who contract  
23 to construct such facilities, buildings or structures and  
24 for approval by the consulting engineers of all contracts  
25 for construction. Any such agreement entered into by the  
26 board shall be binding in all respects on such board and  
27 its successors from time to time in accordance with its  
28 terms; and all the provisions thereof shall be enforceable  
29 by appropriate proceedings at law or in equity, or other-  
30 wise.



**Sec. 9. Sinking Fund for Payment of Bonds.**—From the  
2 special university capital improvements fund the board  
3 shall, subject only to the prior lien thereon of the out-  
4 standing bonds heretofore issued pursuant to the pro-  
5 visions of article eleven-a of this chapter, make periodic  
6 payments to the state sinking fund commission in an  
7 amount sufficient to meet the requirements of any issue of  
8 bonds sold under the provisions of this article, as specified  
9 in the resolution of the board authorizing the issue thereof  
10 and in any trust agreement entered into in connection  
11 therewith. The payments so made shall be placed by the  
12 commission in a special sinking fund which is hereby  
13 pledged to and charged with the payment of the principal  
14 of the bonds of such issue and the interest thereon, and  
15 to the redemption or repurchase of such bonds, such sink-  
16 ing fund to be a fund for all bonds of such issue without  
17 distinction or priority of one over another, except as may  
18 be provided in the resolution authorizing such issue of  
19 bonds. The moneys in the special sinking fund, less such  
20 reserve for payment of principal and interest as may be  
21 required by the resolution of the board authorizing the

22 issue and any trust agreement made in connection there-  
23 with, may be used for the redemption of any of the out-  
24 standing bonds payable from such fund which by their  
25 terms are then redeemable, or for the purchase of bonds  
26 at the market price, but at not exceeding the price, if any,  
27 at which such bonds shall in the same year be redeemable;  
28 and all bonds redeemed or purchased shall forthwith be  
29 cancelled and shall not again be issued.

**Sec. 10. Credit of State Not Pledged.**—No provisions  
2 of 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. 11. Bonds Exempt From Taxation.**—All bonds  
2 issued by the board under the provisions of this article,  
3 and the interest thereon, shall be exempt from taxation  
4 by the state of West Virginia, or by any county, school  
5 district, municipality or other political subdivision thereof.

**Sec. 12. Conflicting Laws Repealed.**—The powers con-  
2 ferred by this article shall be in addition and supple-

3 mental to the existing powers of the board of governors.  
4 The provisions of any other law or laws conflicting with  
5 the provisions of this article shall be and the same are  
6 hereby superseded to the extent of any such conflict.

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

*Roy Parker*  
Chairman Senate Committee

*James W. Loop*  
Chairman House Committee

Originated in the Senate.

Takes effect *thirty days from* Passage.

*Thomas Meyer*  
Clerk of the Senate

*W. Blankenship*  
Clerk of the House of Delegates

*Howard Robinson*  
President of the Senate

*H. Laban White*  
Speaker House of Delegates

The within *approved* this the *14<sup>th</sup>*  
day of *February*, 1966.

*Street C. Smith*  
Governor

FEB 14 11 58 AM '66  
OFFICE OF THE GOVERNOR



PRESENTED TO THE  
GOVERNOR

RECEIVED

Date 2/10/66

Time 11:55 AM

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SECRETARY OF STATE  
STATE OF WEST VIRGINIA

RDR