WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED
SENATE BILL NO. 131

(By Mr. CONANT and MR. GREGG)

PASSED March 8, 1969
In Effect from Passage

FILED IN THE OFFICE
JOHN D. ROBERFLED, IV
SECRETARY OF STATE
THIS DATE 3-17-69
ENROLLED

Senate Bill No. 131

(By Mr. McCourt and Mr. Carrigan)

[Passed March 8, 1969; in effect from passage.]

AN ACT to repeal sections three, four, five, six, seven, eight, nine, ten, eleven, twelve and thirteen, article four, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section eighteen, article one, chapter four; section six, article seven, chapter five; section two, article nine, chapter five; section nine, article ten, chapter five; sections one, two-a, three, four and five, article one, chapter five-a; sections one, two, ten, thirteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-two, twenty-three, twenty-four, twenty-five and twenty-seven, article two, chapter five-a; section eighteen, article three, chapter five-a; sections one and six, article four, chapter five-a; section three, article seven,
chapter six; section eleven, article three, chapter twelve; section twenty-three, article two, chapter fourteen; section two, article two, chapter fifteen; sections six and seven, article one, chapter twenty; section one-b, article one-a, chapter twenty-five; and sections five and six, article fourteen, chapter twenty-nine, all of said code; and to amend article two, chapter five-a of said code by adding thereto a new section, designated section thirty-four, all relating to the duties and authority of the governor under section fifty-one, article six of the constitution of West Virginia and responsibilities of the governor and various state departments, officers and agencies with regard to the budget bill, budget document, and other reports, statements, estimates, requests, proposals, recommendations and procedures related to the budget, state funds and revenues; governor's authority to fix or approve compensation for certain state officers and employees; power of the governor to prescribe duties for the department of finance and administration; governor's authority to approve bonds required of certain state officers and employees; designation of the budget division of the department of finance and ad-
ministration as staff agency for the governor; governor's authority of immediate supervision of commissioner of the department of finance and administration as director of the budget; preparation and submission of tentative budget to the governor; reports to the governor on condition of state revenues and funds; prohibition of transfers of amounts between items of appropriation; reserves for emergencies; quarterly allotments; expenditures of excess in collections; reduction of appropriations; system of management accounting; personnel classification and uniform salary and wage scales with exceptions; special revenue fund of the purchasing division of the department of finance and administration; major repairs to and alterations of capitol buildings, governor's mansion and grounds there-of; location of certain state offices; right of appeal to governor from application of authority under chapter five-a of the code, relating to the department of finance and administration; amounts necessary for personnel, stationery, equipment, supplies, services and travel for certain state offices; out-of-state travel rules and regulations; payment of dues or membership in organizations; inclusion of
awards recommended by the court of claims; and relating to the office hours of the department of natural resources and director thereof.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five, six, seven, eight, nine, ten, eleven, twelve and thirteen, article four, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section eighteen, article one, chapter four; section six, article seven, chapter five; section two, article nine, chapter five; section nine, article ten, chapter five; sections one, two-a, three, four and five, article one, chapter five-a; sections one, two, ten, thirteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-two, twenty-three, twenty-four, twenty-five and twenty-seven, article two, chapter five-a; section eighteen, article three, chapter five-a; sections one and six, article four, chapter five-a; section three, article seven, chapter six; section eleven, article three, chapter twelve; section twenty-three, article two, chapter fourteen; section two, article two, chapter fifteen; sections six and seven, article one, chapter twenty; section one-b, article one-a, chapter twenty-five; and sections five and six, article fourteen, chapter twenty-nine, all
of said code, be amended and reenacted; and that article two, chapter five-a of said code be amended by adding thereto a new section, designated section thirty-four, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 1. OFFICERS, MEMBERS AND EMPLOYEES; APPROPRIATIONS; INVESTIGATIONS; DISPLAY OF FLAG; RECORDS.

§4-1-18. Legislature to prepare digest of budget bill; distribution.

The Legislature, acting by its appropriate committees, shall consider the budget bill, the budget document and matters relating thereto, and following such consideration and upon the passage of the budget bill by the Legislature, the Legislature shall prepare a digest or summary of the budget bill containing detailed information similar to that included in the budget document submitted to the Legislature by the governor but including amendments of legislative committees, and as finally enacted by the Legislature. Such digest or summary shall be prepared at the direction of and approved by mem-
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bers of the conferees committee on the budget and shall
be included in the journals of the Legislature or printed
as a separate document, and copies shall be furnished to
the governor, commissioner of finance and administration,
and the various state spending units for such use as may
be deemed proper.

CHAPTER 5. GENERAL POWERS AND DUTIES OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY
GENERAL; BOARD OF PUBLIC WORKS; STATE BUILD-
ING COMMISSION; SOCIAL SECURITY AGENCY; PUBLIC
RECORDS MANAGEMENT AND PRESERVATION ACT;
DEPARTMENT OF COMMERCE; WEST VIRGINIA PUBLIC
EMPLOYEES' RETIREMENT ACT; HUMAN RIGHTS COM-
MISSION; WEST VIRGINIA ANTIQUITIES COMMISSION;
PUBLIC EMPLOYEES' AND TEACHERS' RECIPROCAL
SERVICE CREDIT ACT.

ARTICLE 7. SOCIAL SECURITY AGENCY.

§5-7-6. Contribution fund; appropriations thereto.

(a) There is hereby established a special fund to be
known as the contribution fund. Such fund shall con-
sist of and there shall be deposited in such fund: (1) All
contributions, interest, and penalties collected under sections four and five. (2) All moneys appropriated thereto under this article. (3) All moneys paid to the state pursuant to any agreement entered into under subsection (b) of section three of this article. (4) Any property or securities and earnings thereof acquired through the use of moneys belonging to the fund. (5) Interest earned upon any moneys in the fund. (6) All sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. Subject to the provisions of this article, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof consistent with the provisions of this article.

(b) The contribution fund shall be established and held separate and apart from any other funds or moneys of
the state and shall be used and administered exclusively for the purpose of this article. Withdrawals from such fund shall be made for, and solely for (A) payment of amounts required to be paid to the federal agency pursuant to an agreement entered into under section three; (B) payment of refunds provided for in subsection (c) of section four of this article; and (C) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

(c) From the contribution fund the custodian of the fund shall pay to the federal agency such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section three, and applicable federal law.

(d) The treasurer of the state shall be ex officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of this article and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.
(e) (1) There are hereby authorized to be appropriated annually to the contribution fund, in addition to the contributions collected and paid into the contribution fund under sections four and five, to be available for the purposes of subsections (b) and (c) of this section until expended, such additional sums as are found to be necessary in order to make the payments to the federal agency which the state is obligated to make pursuant to an agreement entered into under section three.

(2) The state agency shall submit to the governor, at least ninety days in advance of the beginning of each regular session of the Legislature, an estimate of the amounts authorized to be appropriated to the contribution fund by paragraph (1) of this subsection for the next appropriation period.

ARTICLE 9. DEPARTMENT OF COMMERCE.

§5-9-2. Advisory board established; composition; appointment, term and qualifications of members; authority generally; meetings and expenses.

There is hereby established an advisory board for the department of commerce. The board shall be composed
of seven members appointed by the governor for terms of four years and until their successors are appointed and qualified. There shall be at least one member appointed from each congressional district, and not more than four members shall be of the same political party. The first two members appointed shall serve for a period of one year; the second two for a period of two years; the next two for a period of three years; and the remaining member for a period of four years. Thereafter, all such appointments shall be made for a term of four years, except that in case of a vacancy, the appointment shall be made to fill the unexpired term. The members of the board shall be citizens and residents of the state, selected with special reference to their training and experience in relation to the principal activities required of the department of commerce, and for their ability and fitness to perform their duties within the purposes of this article. The board shall serve the department of commerce in an advisory capacity only. It shall have the authority and it shall be its duty:
(1) To advise with the commissioner of commerce concerning all administrative rules and regulations to be issued by the department.

(2) To advise with the commissioner of commerce as to all budget proposals to be submitted to the governor.

(3) To advise with the commissioner of commerce concerning such studies of economic conditions, travel promotion and industrial development as it may consider appropriate.

(4) To advise with the commissioner of commerce on any other matters applicable to the department of commerce if requested by the governor.

The board shall meet at the call of the commissioner of commerce, and each member of the board shall receive his actual and necessary traveling expenses incurred in the performance of his duties.

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-9. Chairman and vice chairman; executive secretary; employees; treasurer; legal advisor; actuary.

(a) The board of trustees shall elect from its own number a chairman and a vice chairman.
(b) The board of trustees shall appoint an executive secretary of the retirement system. The executive secretary shall be the chief administrative officer of the system; and he shall not be a member of the board. He shall perform such duties as are required of him in this article and as the board shall from time to time delegate to him. The compensation of the executive secretary shall be fixed by the board subject to the approval of the governor. He shall, with the approval of the board of trustees, employ such administrative, technical, and clerical employees as shall be required in the proper operation of the system.

(c) The state treasurer shall be treasurer of the retirement system and the custodian of its funds. All bonds and other investments purchased according to the provisions of this article shall forthwith be deposited with the state treasurer. It shall be his duty to collect the principal thereof and the interest and dividends thereon as the same become due and payable, and when so collected deposit same to the credit of the retirement system. All disbursements from the funds of the system shall be
made by the state treasurer only upon written certification duly authorized by a continuing or specific resolution adopted by the board of trustees. He shall furnish the board with a statement of the retirement system securities in his safekeeping as the board shall from time to time request.

(d) The attorney general shall be the legal advisor to the board of trustees.

(e) The board of trustees shall appoint an actuary who shall be the technical advisor to the board regarding the operation of the retirement system on an actuarial basis.

CHAPTER 5A. DEPARTMENT OF FINANCE AND ADMINISTRATION.

ARTICLE 1. DEPARTMENT OF FINANCE AND ADMINISTRATION.

§5A-1-1. Definitions.

For the purpose of this chapter:

“Commissioner” means the commissioner of finance and administration and, as used in article two of this chapter, the director of the budget.

“Director” means the director of the division referred to in the heading of the article in which the word appears.
“Spending unit” means a department, agency or institution of the state government for which an appropriation is requested, or to which an appropriation is made by the Legislature.

“Spending officer” means the executive head of a spending unit, or a person designated by him.

“Commodities” means supplies, material, equipment, contractual services, and any other articles or things used by or furnished to a department, agency or institution of the state government.

“Contractual services” shall include telephone, telegraph, electric light and power, water and similar services.

“Printing” means printing, binding, ruling, lithographing, engraving and other similar services.

“Expendable commodities” means those commodities which, when used in the ordinary course of business, will become consumed or of no market value within the period of one year or less.

“Removable property” means any personal property not permanently affixed to or forming a part of real estate.
"Nonprofit workshops" means an establishment (a) where any manufacture or handiwork is carried on, and (b) which is operated either by a public agency or by a cooperative or by a nonprofit private corporation or nonprofit association, in which no part of the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual, and (c) which is operated for the primary purpose of providing remunerative employment to blind and severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board of vocational education, division of vocational rehabilitation.


The commissioner shall have control and supervision of the department of finance and administration and shall be responsible for the work of each of its employees. The commissioner shall have the authority to employ such assistants as may be necessary for the efficient operation of the department. The commissioner, the division heads
and the employees of the department shall perform the
duties herein specified and shall also perform such other
duties as the governor may prescribe.


The council of finance and administration is hereby created and shall be composed of ten members, four of whom shall serve ex officio and six of whom shall be appointed as herein provided. The ex officio members shall be the governor, attorney general, the state treasurer and the state auditor. From the membership of the Legislature, the president of the Senate shall appoint three senators as members of the council, not more than two of whom shall be members of the same political party, and the speaker of the House shall appoint three delegates as members of the council, not more than two of whom shall be members of the same political party. Members of the council appointed by the president of the Senate and the speaker of the House shall serve at the will and pleasure of the officer making their appointment. The commissioner of finance and administration shall serve as chairman of the council. Meetings of the council shall be
upon call of the chairman or a majority of the members thereof.

The council shall serve the department of finance and administration in an advisory capacity only, and shall have the following duties:

(1) To advise with the commissioner as to all budget proposals to be submitted to the governor;

(2) At the time of the submission of the proposed budget to the governor, to report to the governor its conclusions concerning the proposed budget and any additions, modifications or adjustments that it may care to suggest;

(3) To advise with the commissioner concerning such studies of government and administration as it may consider appropriate;

(4) To advise with the commissioner in the preparation of studies designed to provide long-term capital planning and finance for state institutions and agencies.

Members of the council shall be paid all necessary expenses incurred in the discharge of their duties.
§5A-1-4. Reports by commissioner.

1 The commissioner shall make an annual report to the
2 governor concerning the conduct of the department and
3 the administration of the state finances. He shall also
4 make such other reports as the governor may require.

§5A-1-5. Oath and bond of commissioner; bonds for directors
and employees.

1 The commissioner, before entering upon the duties of
2 his office, shall take and subscribe to the oath prescribed
3 by section 5, article IV of the constitution. He shall exe-
4 cute a bond in the penalty of twenty-five thousand
5 dollars, approved by the governor, in form prescribed by
6 the attorney general and conditioned upon the faithful
7 performance of his duties and the accounting for all
8 money and property coming into his hands by virtue of
9 his office. The oath and bond shall be filed with the secre-
10 tary of state. The division heads and all other employees
11 shall be covered by bonds in cases where the commis-
12 sioner thinks it necessary, which bonds shall be in the
13 penalty prescribed by the commissioner and shall be filed
14 with the secretary of state.
ARTICLE 2. BUDGET DIVISION.

§5A-2-1. Powers and duties of budget division.

1 The budget division shall act as staff agency for the governor in the exercise of his powers and duties under section 51, article VI of the state constitution, and shall exercise and perform the other powers and duties conferred upon it by this article.

§5A-2-2. General powers and duties of commissioner as director of budget.

1 The commissioner, under the immediate supervision of the governor, shall have the power and duty to:

3 (1) Exercise general supervision of, and make rules and regulations for, the government of this division;

3 (2) Prepare, in accordance with this article, requests for appropriations, estimates of cost and the contents of the state budget into a tentative budget for submission to the governor;

3 (3) Administer the budget in accordance with this article;

3 (4) Serve as staff agency to the governor in the consideration of requests for appropriations and the preparation of the budget document;
(5) Make such investigations and submit such reports as the governor may require;
(6) Make a continuous study of state expenditures and make such recommendations to the governor for the more economical use of state funds as he shall find practicable;
(7) Render assistance to spending officers with respect to the fiscal affairs of spending units;
(8) Exercise such other powers as are vested in him by this article, or which may be appropriate to the discharge of his duties.

§5A-2-10. Preparation of tentative budget and submission to governor.

The commissioner shall prepare for the consideration of the governor a tentative budget for the fiscal year next ensuing. The budget shall state actual receipts and expenditures for the fiscal year next preceding, estimated receipts and expenditures for the current fiscal year, recommended expenditures for the current fiscal year as shown in the legislative digest, and it shall state also the requested amounts, or estimates, for the fiscal year next ensuing with respect to:
10 (1) Appropriations requested by each spending unit 
11 and requested general appropriations;
12 (2) The amount of the total of each appropriation to 
13 be paid out of collections;
14 (3) Amounts and purposes of appropriations requested 
15 other than for spending units of the state;
16 (4) Revenue of each of the funds of the state;
17 (5) A summary statement of requests and revenues 
18 showing the amount of an anticipated surplus or deficit;
19 (6) Balances carried forward to July first from fiscal 
20 year next preceding on all reappropriated accounts from 
21 general revenue fund and general school fund;
22 (7) Percentage of increase or decrease by comparison 
23 of recommended appropriation for next ensuing year 
24 with current fiscal year.
25 On or before November fifteenth, the commissioner 
26 shall submit the tentative budgets to the governor. The 
27 commissioner shall convey to the governor all explana-
28 tory and justification statements and statements of per-
29 sonnel requirements of spending units as reported and 
30 filed in his office.

1 The commissioner shall ascertain the collection of the
2 revenue of the state, and shall determine each quarter of
3 the fiscal year the proportion which the amount actually
4 collected bears to the collection estimated for that period.
5 The commissioner shall certify to the governor and the
6 legislative auditor, as soon as possible after the close of
7 each quarter, and at such other times as the governor
8 may request, the condition of the state revenues and of
9 the several funds of the state. For the purposes of this
10 section, the commissioner shall have the authority to
11 require all necessary estimates and reports from any
12 spending unit of the state government.


1 The commissioner, with the approval of the governor,
2 may require that an expenditure schedule provide for
3 a reserve for emergencies out of the total amount appro-
4 priated to the spending unit. The amount of the reserve
5 shall be determined by the commissioner in consulta-
6 tion with the spending officer.
§5A-2-17. Requests for quarterly allotments; approval or reduction by governor.

At least thirty days prior to the beginning of each quarter of the fiscal year, each spending officer shall submit to the commissioner a request for an allotment of public funds sufficient to operate the unit during the ensuing quarter in accordance with the approved expenditure schedule.

The commissioner shall examine the requests and, if he finds that the amounts requested are in accordance with the approved expenditure schedules and are in accordance with sound fiscal policy, he shall submit the requests to the governor. The commissioner shall also submit a summary statement showing the amounts expended under the budget for each preceding quarter of the fiscal year and the total amount requested for allotment during the ensuing quarter.

The governor shall consider the amount of requests for allotment and the collection of revenues. If the governor finds that the collection of revenue warrants the expenditure of the amount requested in the allotment, he shall
20 approve the allotment of funds for the ensuing quarter
21 and send copies of the requests to the legislative auditor
22 after approval. If the governor finds that the collection
23 of revenue does not warrant the allotment of the re-
24 quested amount, he may reduce the amount of allotments
25 pending the collection of sufficient revenue.


1 The expenditures of a spending unit during a quarter
2 of the fiscal year shall not exceed the amount of the
3 approved allotment, unless the governor approves the
4 expenditure of a larger amount. Any amounts remain-
5 ing unexpended at the close of the quarter shall be
6 available for reallocation and expenditure during any
7 succeeding quarter of the same fiscal year.


1 Notwithstanding any other provision of law to the con-
2 trary, there shall be no transfer of amounts between items
3 of appropriation, and moneys appropriated for any par-
4 ticular purpose shall not be spent by a spending unit for
5 any other purpose.
§5A-2-20. Expenditure of excess in collections; notices to auditor and treasurer.

1 If the amount actually collected by a spending unit exceeds the amount which it is authorized to expend from collections, the excess in collections shall be set aside in a special surplus fund for the spending unit. Expenditures from this fund shall be made only in accordance with the following procedure:

7 The spending officer shall submit to the commissioner:
8   (1) A plan of expenditure showing the purposes for which the surplus is to be expended, and
9   (2) A justification statement showing the reasons why the expenditure is necessary and desirable.

12 The commissioner shall submit the request to the governor with his recommendation.

14 If the governor approves the plan of expenditure and justification statement, and is satisfied that the expenditure is required to defray the additional cost of the service or activity of the spending unit, and that the expenditure is in accordance with sound fiscal policy, he may authorize the use of the surplus during the current fiscal
20 year. Notices of such authorization shall be sent to the
21 state auditor, the state treasurer and the legislative
22 auditor.
23 An expenditure from a special surplus fund without
24 the authorization of the governor, or other than in ac-
25 cordance with this section, shall be an unlawful use of
26 public funds.

1 The governor may reduce appropriations according to
2 any of the methods set forth in sections twenty-three,
3 twenty-four and twenty-five of this article.

§5A-2-23. Same—Pro rata reduction of appropriations from
general revenue.
1 If the governor determines that the amounts, or parts
2 thereof, appropriated from the general revenue cannot be
3 expended without creating an overdraft or deficit in the
4 general fund, he may instruct the commissioner to reduce
5 equally and pro rata all appropriations out of general
6 revenue in such a degree as may be necessary to prevent
7 an overdraft or a deficit in the general fund.
§5A-2-24. Same—Pro rata reduction of appropriations from other funds.

1 The governor in the manner set forth in section twenty-three may reduce appropriations from:

2 (1) Funds supported by designated taxes or fees;

3 (2) Fees or other collections set aside for the support of designated activities or services.

4 Each fund and each fee or collection account shall be treated separately, but appropriations from the same fund or account shall be treated equally and reduced pro rata.


1 If the governor determines that the reductions authorized in sections twenty-three and twenty-four will dangerously impair the existence of the essential services of government, he may instruct the commissioner to reduce the amount to be expended from separate appropriations in accordance with the following method:

2 (1) The commissioner shall first classify appropriations as follows:
Class One: For agencies collecting revenue and administering the fiscal operations of government, including the offices and departments of the tax commissioner, auditor, treasurer, and sinking fund commission;

Class Two: For agencies vested with the supervision, control, and direction of executive policy and law enforcement, including the governor's office, the attorney general's office, the department of finance and administration, and the department of public safety;

Class Three: For state institutions, educational, charitable and corrective;

Class Four: For other departments and services of the state government;

Class Five: For transfers from the general fund.

(2) The commissioner shall first reduce the appropriations from Class Five and then, if necessary, for the other classes in descending numerical order as follows: Class Four, Class Three, Class Two, Class One. All reductions shall be in multiples of five percent, but a fixed relationship shall be maintained between the classes which shall be measured by a difference of five percent
in the rate of reduction. The maximum reduction shall not exceed twenty-five percent in Class Five and in the other classes it shall be proportioned according to the following table:

<table>
<thead>
<tr>
<th>Classes</th>
<th>Five</th>
<th>Four</th>
<th>Three</th>
<th>Two</th>
<th>One</th>
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<tr>
<td>Percent</td>
<td>5%</td>
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<td>of reductions</td>
<td>10%</td>
<td>5%</td>
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<td>from</td>
<td>15%</td>
<td>10%</td>
<td>5%</td>
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<tr>
<td>total</td>
<td>20%</td>
<td>15%</td>
<td>10%</td>
<td>5%</td>
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</tr>
<tr>
<td>appropriations</td>
<td>25%</td>
<td>20%</td>
<td>15%</td>
<td>10%</td>
<td>5%</td>
</tr>
</tbody>
</table>


1 The commissioner shall formulate the requirements of a system of management accounting for the planning, management, reporting, and control of state expenditures. The requirements shall include methods for recording the collection of all income, amounts available for expenditure, obligations, encumbrances and disbursements for each spending unit, and publication of a detailed statement of receipts and expenditures of state moneys. The system shall include the accounts to be kept by the commissioner, the auditor, and the treasurer. The com-
missioner shall, after the system has been approved by the governor, require its use by all spending units.

The governor is hereby authorized to direct by executive order, not inconsistent with the provisions of this article, the transfer of such records, equipment, personnel, and appropriations between the departments of finance and administration, the auditor, and the treasurer as may be necessary to effectuate the purposes of central accounting and reporting.

§5A-2-34. Personnel classification of offices and employments in state government and agencies.

With the exception of those institutions under the control of the state board of education and the board of governors of West Virginia University, and with the exception of classified service positions and pay provided for in section eight, article six, chapter twenty-nine of this code, the commissioner, with the approval of the governor, shall classify the offices and employments in the state government and its agencies, into a personnel classification which reflects the differences in training, experience, ability and responsibility required for differ-
ent types or kinds of service or employment, and shall
establish uniform salary and wage scales within each
class.

The governor shall require the state board of educa-
tion and the board of governors of West Virginia Univer-
sity to prepare and apply personnel classifications to the
institutions under their control.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-18. Special fund; purposes; how composed.

There is hereby created a special revenue fund to be
administered by the director to finance and facilitate the
following functions of the director:

(1) Purchase in volume and for maintenance of stocks
and commodities to supply the needs of state depart-
ments;

(2) Performance of state departments of all mimeo-
graphing, photostating, microfilming, multilithing, multi-
graphing, and other work as provided by section thirty-
three of this article.

The amount of the fund may be fixed and changed by
the governor upon the recommendation of the com-
If at the end of each fiscal year the cash balance plus value of commodity inventories on hand exceeds the amount so fixed, the excess in cash shall be transferred by the governor upon recommendation of the commissioner to the general revenue fund and become a part of the general revenue of the state. The fund shall be composed of the following:

(1) The cash balance and inventories of the fund here-tofore established by this section;

(2) Charges made by the director for commodities sold and services rendered to the state departments as herein described: Provided, That charges shall not exceed total cost to the fund, which total cost shall include storage, supplies, equipment and salaries and wages of employees necessary to supply commodities and services in addition to purchase price of commodities.

ARTICLE 4. GENERAL SERVICES DIVISION.

§5A-4-1. Care, control and custody of capitol buildings and grounds; messenger and telephone services.

The director shall be charged with the full responsibility for the care, control and custody of the capitol buildings and in this connection he shall:
(1) Furnish janitors for the capitol buildings and grounds, together with all the departments therein, or connected therewith, regardless of the budget or budgets, departmental or otherwise, from which such janitors are paid, and shall furnish janitorial supplies, light, heat and ventilation for all the rooms and corridors of the buildings. Under the direction of the president of the Senate and speaker of the House of Delegates, the director shall have charge of the halls and committee rooms of the two houses and any other quarters at the state capitol provided for the use of the Legislature or its staff, and keep the same properly cleaned, warmed and in good order, and shall do and perform such other duties in relation thereto as either house may require;

(2) Furnish messenger service to the various state departments. Department heads shall be consulted with reference to the amount of messenger service required for their departments. Janitor-messengers, or messengers, shall receive from the director compensation for total services in the same manner as other employees are paid;
(3) Have immediate control and direction of the switchboard telephone service for the various departments of the state capitol. Changes in telephone instruments or equipment in the various departments of the state capitol shall be referred to the director, and payment for any such changes will not be honored unless such changes have been approved by the director. A simple accounting system shall be installed and maintained by the director for all telephone service to the state departments;

(4) Landscape and take care of the lawns and gardens;

(5) Direct the making of all minor repairs to and alterations of the capitol buildings and governor's mansion and the grounds of such buildings and mansion. Major repairs and alterations shall be made under the supervision of the director, subject to the direction of the governor.

The offices of the assistants and employees appointed to perform these duties shall be located where designated by the governor, except that they shall not be located in any of the legislative chambers, offices, rooms or halls.
Office hours shall be so arranged that emergency or telephone service shall be available at all times. The hours of employment shall be so arranged that janitorial service shall not interfere with other employment during regular office hours.

§5A-4-6. Right of appeal from interference with functioning of agency.

Upon occasion of a showing that the application of the authority vested under the provisions of this chapter may interfere with the successful functioning of any department, institution or agency of the government, such department, institution or agency may have the right of appeal to the governor for review of the case and the decision or conclusion of the governor shall govern in such cases.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-3. Provision for clerical assistance, stationery, offices, traveling expenses and contingent fund.

It shall be the duty of the governor to ascertain and report to the Legislature at each regular session the
amount deemed necessary to provide each of the officers mentioned in section two of this article with sufficient clerical and office assistance, stationery and equipment for the proper discharge of the duties of the office, and, where offices are not furnished in the capitol building, with proper offices and light, heat and janitor's services for the same; and where any such officer is required in the proper discharge of the duties of his office to travel or journey from place to place, the amount necessary to provide for such purpose; and, where the circumstances may warrant it, the amount necessary to provide for a contingent fund to cover stationery, blank books, blanks, advertising, printing, fuel, lights, postage, express charges, office supplies, furniture, and any other necessary article that may not be otherwise specially provided for.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS AND EXPENDITURES.

§12-3-11. Travel expenses; rules to be promulgated concerning same; dues to voluntary organizations; recruitment expenses for institutions of higher education.

The governor shall promulgate rules and regulations concerning out-of-state travel by state officials and em-
employees, except those in the legislative and judicial branches of state government and except for the attorney general, auditor, secretary of state, treasurer and commissioner of agriculture and their employees. The Legislature, the supreme court of appeals and the attorney general, auditor, secretary of state, treasurer and commissioner of agriculture shall promulgate rules and regulations concerning out-of-state travel for their respective branches and departments of state government. Copies of such rules and regulations shall be filed with the auditor, and the secretary of state. It shall be unlawful for the auditor to issue a warrant in payment of any claim for out-of-state travel expenses incurred by a state officer or employee unless such claim meets all the requirements of the rules and regulations so filed.

Payment for dues or membership in annual or other voluntary organizations shall be made from the proper item or appropriation after an itemized schedule of such organizations, together with the amount of such dues or membership, has been submitted to the budget director and approved by the governor.
24 It shall be lawful for the governing board of any state
25 institution of higher education to authorize the payment
26 of traveling expenses incurred by any person invited
27 to visit the campus or other facilities of such institution to
28 be interviewed concerning his possible employment by
29 such governing board or agent thereof.

CHAPTER 14. CLAIMS DUE AND AGAINST THE STATE.

ARTICLE 2. CLAIMS AGAINST THE STATE.

§14-2-23. Inclusion of awards in budget.

1 The clerk shall certify to the director of the budget,
2 on or before the twentieth day of November of each year,
3 a list of all awards recommended by the court to the
4 Legislature for appropriation. The clerk may certify sup-
5 plementary lists to the governor to include subsequent
6 awards made by the court. The governor shall include all
7 awards so certified in his proposed budget bill transmitted
8 to the Legislature.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-2. Appointment of inspector, other commissioned officers,
noncommissioned officers, troopers and civilian em-
ployees.

1 The superintendent shall appoint, from the enlisted
membership of the department, an inspector with the rank of lieutenant colonel who shall be next in authority to the superintendent, and for the purpose of operating and maintaining the executive offices, training school, scientific laboratory, keeping records relating to crimes and criminals, coordinating traffic safety activities and maintaining a system of supplies and accounting and carrying on other necessary services, he shall appoint not more than one major, one captain, four lieutenants, two master sergeants, four sergeants, three corporals and six troopers. In addition the superintendent may appoint, from the enlisted membership of the department, not more than four other lieutenants for duties consisting of technical or scientific examination of evidence in criminal cases, but no member shall be appointed to fill these vacancies in the grade of lieutenant unless (1) he shall have completed four years' study at an accredited college or university and hold a bachelor's degree from such college or university and (2) such member shall have actually conducted numerous examinations of physical evidence in criminal cases and have been
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23 qualified in a court of record of this state to testify as an
24 expert witness with respect thereto.
25 The superintendent shall appoint such civilian em-
26 ployees as may be necessary.
27 The inspector, major, captains, lieutenants, master ser-
28 geants, sergeants, corporals and troopers shall be en-
29 rolled and enlisted as members of the department of
30 public safety and shall be entitled to wear the insignia
31 of rank as provided by law or authorized by department
32 regulations.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-6. Offices and office hours.

1 The director shall arrange with the general services
2 division of the department of finance and administration
3 for adequate office space, accommodations and facilities
4 for the department of natural resources in the state
5 capitol offices. The department of finance and adminis-
6 tration shall make such office accommodations and facili-
7 ties available and shall provide for orderly servicing and
8 maintenance thereof. The offices of the director and of
the department shall be opened and staffed for business transactions and services during regular hours.

§20-1-7. Additional powers, duties and services of director.

In addition to all other powers, duties and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

1. With the advice of the commission, prepare and administer, through the various divisions created by this chapter, a long-range comprehensive program for the conservation of the natural resources of the state which best effectuates the purpose of this chapter and which makes adequate provisions for the natural resources laws of the state;

2. Sign and execute in the name of the state by the "department of natural resources" any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships or individuals;

3. Conduct research in improved conservation methods and disseminate information matters to the residents of the state;
(4) Conduct a continuous study and investigation of the habits of wildlife, and for purposes of control and protection to classify by regulation the various species into such categories as may be established as necessary;

(5) Prescribe the locality in which the manner and method by which the various species of wildlife may be taken, or chased, unless otherwise specified by this chapter;

(6) Fix by regulation the open seasons and the bag, creel, size, age, weight and sex limits with respect to wildlife in this state;

(7) Hold at least six meetings each year at such times and at such points within the state, as in the discretion of the director may appear to be necessary and proper for the purpose of giving interested persons in the various sections of the state an opportunity to be heard concerning open seasons for their respective areas, before such seasons and bag limits are fixed;

(8) Suspend open hunting seasons upon any or all wildlife in any or all counties of the state with the prior approval of the governor in case of an emergency such as
a drought, forest fire hazard or epizootic of disease among
wildlife. The suspension shall continue during the exist-
ence of the emergency and until rescinded by the direc-
tor. Suspension, or reopening after such suspension, of
open seasons may be made upon twenty-four hours' notice
by delivery of a copy of the order of suspension or re-
opening to the wire press agencies at the state capitol;
(9) Supervise the fiscal affairs and responsibilities of
the department;
(10) Designate such localities as he shall determine to
be necessary and desirable for the perpetuation of any
species of wildlife;
(11) Enter private lands to make surveys or inspec-
tions for conservation purposes, to investigate for viola-
tions of provisions of this chapter, to serve and execute
warrants and processes, to make arrests and to otherwise
effectively enforce the provisions of this chapter;
(12) Acquire for the state in the name of the "depart-
ment of natural resources" by purchase, condemnation,
lease or agreement, or accept or reject for the state, in the
name of the department of natural resources, gifts, dona-
tions, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, including lands and waters, which he deems suitable for the following purposes:

(a) For state forests for the purpose of growing timber, demonstrating forestry, furnishing or protecting watersheds or providing public recreation;

(b) For state parks or recreation areas for the purpose of preserving scenic, esthetic, scientific, cultural, archaeological or historical values or natural wonders, or providing public recreation;

(c) For public hunting, trapping, or fishing grounds or waters for the purpose of providing areas in which the public may hunt, trap or fish, as permitted by the provisions of this chapter, and the rules and regulations issued hereunder;

(d) For fish hatcheries, game farms, wildlife research areas and feeding stations;

(e) For the extension and consolidation of lands or waters suitable for the above purposes by exchange of other lands or waters under his supervision;
(f) For such other purposes as may be necessary to carry out the provisions of this chapter;

(13) Capture, propagate, transport, sell or exchange any species of wildlife as may be necessary to carry out the provisions of this chapter;

(14) Sell, with the approval in writing of the governor, timber for not less than the value thereof, as appraised by a qualified appraiser appointed by the director, from all lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the office of the director and shall be available for public inspection. When the appraised value of the timber to be sold is more than five hundred dollars, the director, before making sale thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which the timber is located. The timber so advertised shall be sold at not less
than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise for bids. If the foregoing provisions of this section have been complied with, and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he deems appropriate, but the sale price shall not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section shall extend for a period of more than ten years. And all contracts heretofore entered into by the state for the sale of timber shall not be validated by this section if the same be otherwise invalid. The proceeds arising from the sale of the timber so sold, shall be paid to the treasurer of the state of West Virginia, and shall be credited to the department and used exclusively for the purposes of this chapter;
(15) Sell or lease, with the approval in writing of the governor, coal, oil, gas, sand, gravel and any other minerals that may be found in the lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The director, before making sale or lease thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which such lands are located. The minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give bond for the proper performances of the sales contract or lease as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise the bids. The proceeds arising from any such sale or lease shall be paid to the treasurer of the state of West Virginia and shall be credited to the department and used exclusively for the purposes of this chapter;

(16) Exercise the powers granted by this chapter for the protection of forests, and regulate fires and smoking
in the woods or in their proximity at such times and in such localities as may be necessary to reduce the danger of forest fires;

(17) Cooperate with departments and agencies of state, local and federal governments in the conservation of natural resources and the beautification of the state;

(18) Report to the governor each year all information relative to the operation and functions of his department and he shall make such other reports and recommendations as may be required by the governor, including an annual financial report covering all receipts and disbursements of the department of each fiscal year, and he shall deliver such report to the governor on or before the first day of December next after the end of the fiscal year so covered. A copy of such report shall be delivered to each house of the Legislature when convened in January next following;

(19) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into, and assume responsibility for the custody
and preservation of all papers and documents pertaining
to his office, except as otherwise provided by law;

(20) Offer and pay, in his discretion, rewards for in-
formation respecting the violation, or for the apprehen-
sion and conviction of any violators, of any of the pro-
visions of this chapter;

(21) Require such reports as he may deem to be neces-
sary from any person issued a license or permit under
the provisions of this chapter, but no person shall be re-
quired to disclose secret processes or confidential data of
competitive significance;

(22) Purchase as provided by law all equipment neces-
sary for the conduct of his department;

(23) Conduct and encourage research designed to
further new and more extensive uses of the natural re-
sources of this state and to publicize the findings of such
research;

(24) Encourage and cooperate with other public and
private organizations or groups in their efforts to publicize
the attractions of the state;

(25) Accept and expend, without the necessity of ap-
propriation by the Legislature, any gift or grant of money
made to the department for any and all purposes specified
in this chapter, and he shall account for and report on all
such receipts and expenditures to the governor;
(26) Cooperate with the state historian and other appro-
priate state agencies in conducting research with refer-
ence to the establishment of state parks and monuments
of historic, scenic and recreational value, and to take such
steps as may be necessary in establishing such monuments
or parks as he deems advisable;
(27) Maintain in his office at all times, properly in-
dexed by subject matter, and also, in chronological
sequence, all rules and regulations made or issued
under the authority of this chapter. Such records
shall be available for public inspection on all
business days during the business hours of working
days;
(28) Delegate the powers and duties of his office, ex-
cept the power to execute contracts, to appointees and
employees of the department, who shall act under the
direction and supervision of the director and for whose
acts he shall be responsible;
(29) Conduct schools, institutes and other educational programs, apart from or in cooperation with other governmental agencies, for instruction and training in all phases of the natural resources programs of the state; and

(30) Promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him by the provisions of this chapter and take such other steps as may be necessary in his discretion for the proper and effective enforcement of the provisions of this chapter: Provided, That all rules and regulations relating to articles five and five-a of this chapter shall be promulgated by the water resources board.

CHAPTER 25. COMMISSIONER OF PUBLIC INSTITUTIONS.

ARTICLE 1A. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS.

§25-1A-1b. Collection, disposition and use of additional registration fee; creation of special capital improvements fund; revenue bonds.

In addition to all other fees imposed by the governing boards of state institutions of higher education, there
is hereby imposed and the governing board of each state institution of higher education is hereby directed to provide for the collection of an additional registration fee from all students in the amounts as hereinafter provided. For full-time students at each state institution of higher education, the additional registration fee shall be fifty dollars per semester. The board of governors of West Virginia University and the West Virginia board of education shall have authority to increase such additional registration fee at any institution of higher education under their respective control for students who are non-residents of this state. For all part-time students and for all summer school students, the respective governing boards shall impose and collect such fee in proportion to, but not exceeding, that paid by full-time students.

The fee imposed by this section shall be in addition to the maximum fees allowed to be collected under the provisions of section one of this article and shall not be limited thereby. Refunds of such fee may be made in the same manner as any other fee collected at state institutions of higher education.
There is hereby created in the state treasury a special capital improvements fund, to be expended by the board of governors of West Virginia University for the benefit of West Virginia University and Potomac State College of West Virginia University, as provided in this section. On and after the first day of July, one thousand nine hundred sixty-three, there shall be paid into such special fund all proceeds of the additional registration fees collected from students at West Virginia University and at Potomac State College.

There is hereby created in the state treasury a special capital improvements fund, to be expended by the West Virginia board of education for the benefit of the state institutions of higher education under its control, as provided in this section. On and after the first day of July, one thousand nine hundred sixty-three, there shall be paid into such special fund all proceeds of the additional registration fees collected from students at such institutions.

The respective boards may make expenditures from such special capital improvements funds at the various
state institutions of higher education under their control
to finance in whole or in part, together with any federal,
state or other grants or contributions, any one or more
of the following purposes: (1) The acquisition of land or
any rights or interest therein. (2) The construction or
acquisition of new buildings. (3) The renovation or con-
struction of additions to existing buildings. (4) The ac-
quision of furnishings and equipment for any such
buildings. (5) The construction or acquisition of any other
capital improvements or capital educational facilities
at such state institutions of higher education, includ-
ing any roads, utilities or other properties, real or per-
sonal, or for other purposes necessary, appurtenant or
incidental to the construction, acquisition, financing and
placing in operation of such buildings, capital improve-
ments or capital educational facilities.

The respective boards, at their discretion, may use the
moneys in such special capital improvements funds to
finance the costs of the above purposes on a cash basis,
or may from time to time issue revenue bonds of the
state as provided in this section to finance all or part of
such purposes and pledge all or any part of the moneys in such special funds for the payment of the principal of and interest on such revenue bonds, and for reserves therefor. Any pledge of such special funds for such revenue bonds shall be a prior and superior charge on such special funds over the use of any of the moneys in such funds to pay for the cost of any of such purposes on a cash basis: Provided, That any expenditures from such special funds, other than for the retirement of revenue bonds, may only be made by the board of governors of West Virginia University and the West Virginia board of education to meet the cost of a predetermined capital improvements program for one or more of the state institutions of higher education under their control, in such order of priority as shall have been agreed upon by the respective boards and presented to the governor for inclusion in the annual budget bill, and only with the approval of the Legislature as indicated by direct appropriation for the purpose.

Such revenue bonds may be authorized and issued from time to time by the respective boards to finance in whole
or in part the purposes provided in this section in an aggregate principal amount not exceeding the amount which the respective boards shall determine can be paid as to both principal and interest and reasonable margins for a reserve therefor from the moneys in such special funds.

The issuance of such revenue bonds shall be authorized by a resolution adopted by the respective board, and such revenue bonds shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates; bear interest at such rate or rates not exceeding five per centum per annum; be in such form either coupon or registered, with such exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places, within or without the state; be subject to such terms of prior redemption at such prices not exceeding one hundred five per centum of the principal amount thereof; and shall have such other terms and provisions as such respective board shall determine. Such revenue bonds shall be signed by the governor and by the president of the
respective board authorizing the issuance thereof, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of the president of such respective board. Such revenue bonds shall be sold in such manner as the respective board may determine to be for the best interests of the state, such sale to be made at a price not lower than a price which will show a net return of not more than six per centum per annum to the purchaser upon the amount paid therefor computed to the stated maturity dates of such revenue bonds without regard to any right of prior redemption.

Such respective board may enter into trust agreements with banks or trust companies, within or without the state, and in such trust agreements or the resolutions authorizing the issuance of such bonds may enter into valid and legally binding covenants with the holders of such revenue bonds as to the custody, safeguarding and disposition of the proceeds of such revenue bonds, the moneys in such special funds, sinking funds, reserve funds, or any other moneys or funds; as to the rank
and priority, if any, of different issues of revenue bonds by the same board under the provisions of this section; as to the maintenance or revision of the amounts of such additional registration fees, and the terms and conditions, if any, under which such additional registration fees may be reduced; and as to any other matters or provisions which are deemed necessary and advisable by such respective board in the best interest of the state and to enhance the marketability of such revenue bonds.

After the issuance of any of such revenue bonds, the additional registration fees at the state institutions of higher education under the control of the board which issued the bonds shall not be reduced as long as any of such revenue bonds are outstanding and unpaid except under such terms, provisions and conditions as shall be contained in the resolution, trust agreement or other proceedings under which such revenue bonds were issued.

Such revenue bonds shall be and constitute negotiable instruments under the law merchant and the Negotiable Instruments Law of the state; shall, together with the interest thereon, be exempt from all taxation by the state
of West Virginia, or by any county, school district, municipality or political subdivision thereof; and such revenue bonds shall not be deemed to be obligations or debts of the state, and the credit or taxing power of the state shall not be pledged therefor, but such revenue bonds shall be payable only from the revenue pledged therefor as provided in this section.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 14. STATE COMMISSION ON AGING.

§29-14-5. Director.

1 After its citizen members have been appointed by the governor, the commission shall appoint a director who shall act as the chief administrative officer of the commission. He shall be a person who is professionally qualified by experience and training to assume the responsibilities of the position. The director's annual salary shall, within the limits of funds available, be fixed by the governor, and he may be reimbursed for travel and other necessary expenses actually incurred in the performance of his official duties. Requisition for such expenses shall be accompanied by a sworn and itemized statement which shall be filed with the auditor.
§29-14-6. Personnel.

1 The director shall, with the advice and consent of the
2 commission, appoint such other personnel as the com-
3 mission deems to be necessary for the efficient perform-
4 ance of the duties prescribed by this article. Within the
5 limits of funds available, and with the approval of the
6 governor, the commission may fix the compensation of
7 such other personnel, and may incur other expenses nec-
8 essary to the effective discharge of its powers and duties.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tupper
Chairman Senate Committee

Clayton E. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage

Clerk of the Senate

Clerk of the House of Delegates

Lloyd S. Jackson
President of the Senate

Archie Shaare Jr.
Speaker House of Delegates

The within approved this the 17th day of March, 1969.

Governor
PRESENTED TO THE GOVERNOR

Date 3/14/69
Time 2:20 P.M.