ENROLLED

House Bill No. 757
(By Mr. Watson and Mr. Seibert)

[Passed February 12, 1970; in effect from passage.]

AN ACT to repeal sections forty-four and forty-five, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said chapter by adding thereto a new article, designated article eight, relating to the creation of a new division within the department of finance and administration which division shall be known as the state agency for surplus property, providing for the regulation and control of the acquisition of surplus property acquired from the federal government and for its distribution to donable state agencies and institutions.

Be it enacted by the Legislature of West Virginia:

That sections forty-four and forty-five, article three, chapter five-a of the code of West Virginia, one thousand nine hundred
ARTICLE 8. STATE AGENCY FOR SURPLUS PROPERTY.

§5A-8-1. State agency for surplus property created as division.

There is hereby established within the department of finance and administration a division to be known as the state agency for surplus property.

§5A-8-2. Commissioner of finance and administration director of state agency for surplus property; duties.

The commissioner of finance and administration is hereby designated as the director of the state agency for surplus property, and with respect to the acquisition of federal surplus property, the agency shall be subject to the supervision and direction of the commissioner of finance and administration. He, as director of the agency, shall prescribe the duties which shall be assigned to the personnel of the state agency for surplus property.

§5A-8-3. Authority and duties of the state agency for surplus property.

(a) The state agency for surplus property is hereby authorized and empowered (1) to acquire from the United
States of America such property, including equipment, materials, books or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for educational purposes or public health purposes, including research; (2) to warehouse property acquired; and (3) to distribute the property to tax supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges and universities within the state, and to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities within the state which have been held exempt from taxation under section 101 (6) of the United States Internal Revenue Code.

(b) For the purpose of executing its authority under this article, the state agency for surplus property is authorized and empowered to adopt, amend or rescind rules and regulations as may be deemed necessary, and take other action necessary and suitable in the administration of this article, including the enactment and promulgation of rules and regulations necessary to bring
this article and its administration into conformity with any federal statutes or rules and regulations promulgated under federal statutes for the acquisition and disposition of surplus property.

(c) The state agency for surplus property is authorized and empowered to appoint advisory boards or committees necessary to the end that this article and the rules and regulations promulgated hereunder conform with federal statutes and rules and regulations promulgated under federal statutes for the acquisition and disposition of surplus property.

(d) The state agency for surplus property is authorized and empowered to take action, make expenditures and enter into contracts, agreements and undertakings for and in the name of the state, require reports, and make investigations as may be required by law or regulation of the United States of America in connection with the receipt, warehousing and distribution of property received by the state agency for surplus property from the United States of America.

(e) The state agency for surplus property is au-
authorized and empowered to act as a clearing house of information for the public and private nonprofit institutions and agencies referred to in subsection (a) of this section, to locate property available for acquisition from the United States of America, to ascertain the terms and conditions under which the property may be obtained, to receive requests from the above-mentioned institutions and agencies and to transmit to them all available information in reference to the property, and to aid and assist the institutions and agencies in every way possible in the consummation or acquisition or transactions hereunder.

(f) The state agency for surplus property, in the administration of this article, shall cooperate to the fullest extent consistent with the provisions of this article, with the departments or agencies of the United States of America and shall make reports in the form and containing the information the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any
of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for property donable or donated to the state.

§5A-8-4. Power of department of finance and administration and director to delegate authority.

1 The commissioner of finance and administration, as director of the state agency for surplus property, may delegate to any employee of the agency such power and authority as he deems reasonable and proper for the effective administration of this article. The director of the agency may, in his discretion, bond any person in the employ of the state agency for surplus property, handling moneys, signing checks or receiving or distributing property from the United States of America under authority of this article.

§5A-8-5. Warehousing, transfer, etc., charges.

1 Any charges made or fees assessed by the state agency for surplus property for the acquisition, warehousing, distribution or transfer of any property acquired by donation from the United States of America for educational purposes or public health purposes, including
research, shall be limited to those reasonably related
to the costs of care and handling in respect to its acquisi-
tion, receipts, warehousing, distribution or transfer by
the state agency for surplus property. All charges desig-
nated herein shall be used by the state agency for surplus
property to defray the general operating expenses of such
state agency for surplus property.

§5A-8-6. Department of agriculture and other agencies ex-
empted from application of article.

Notwithstanding any provisions or limitations of this
article, the state department of agriculture and any other
state departments or agencies hereafter so designated
are authorized and empowered to distribute food, food
stamps, surplus commodities and agricultural products
under contracts and agreements with the federal gov-
ernment or any of its departments or agencies, and the
state department of agriculture and any other state
departments or agencies hereafter so designated are
authorized and empowered to adopt rules and regulations
in order to conform with federal requirements and stan-
dards for such distribution and also for the proper dis-
13 tribution of such food, food stamps, commodities and
14 agricultural products. To the extent set forth above and
15 in this section, the provisions of this article shall not
16 apply to the state department of agriculture and any
17 other state departments or agencies hereafter so desig-
18 nated for the purposes set forth in this section.

§5A-8-7. Severability.

1 If any provision of this article is declared unconstitu-
2 tional or invalid by a court of competent jurisdiction,
3 that decision shall not affect the validity of the remaining
4 provisions of this article or the article in its entirety,
5 and to that end the provisions of this article are severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Turner
Chairman Senate Committee

Clayton C. Dauvilet
Chairman House Committee

Originated in the House.

Takes effect from passage.

J. Irvin Rollins
Clerk of the Senate

O. G. Blankenship
Clerk of the House of Delegates

Lloyd J. Jackson
President of the Senate

Sam J. Broadley
Speaker House of Delegates

The within __________ this the ______________ day of ______________, 1970.

Arch D. Shaner Jr.
Governor
PRESENTED TO THE
GOVERNOR

Date 2/14/70
Time 2:47 p.m.