

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4799

(By  *Delegate Phillips*)

— ● —

Passed *March 10,* 1990

In Effect *July 1, 1990* ~~Passage~~

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4799
(By DELEGATE PHILLIPS)

[Passed March 10, 1990; in effect July 1, 1990.]

AN ACT to repeal article three, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section five, article two of said chapter five-b; to amend said chapter five-b by adding thereto a new article, designated article two-d; to amend and reenact sections one, two, four, five, six, six-a, seven, eight, ten, twelve, twelve-b, thirteen, fifteen, seventeen and eighteen, article one of chapter five-b; to amend and reenact section three, article two, chapter five-b; and to amend article two of said chapter by adding thereto a new section, designated section two-a; all relating to creating the division of tourism and parks; short title; legislative findings; sections created; appointment; compensation and qualifications of commissioner; general powers of the division; sections created; continuation of civil service coverage for persons employed in the former department of commerce; program and policy action statement; submission to joint committee on government and finance; section of tourism; purpose; powers and duties generally; section of advertising and promotion; purpose; powers and duties generally; section of product marketing; purpose; powers and duties generally; section of parks and recreation created; duties; records and equipment previously transferred

from the department of natural resources to the department of commerce; funds; conveyance of Grandview State Park to the national park service; governor; director of the division of natural resources and director of the division of tourism and parks; section of parks and recreation; incorporating Moncove Lake public hunting and fishing area as a state park to be named Moncove Lake State Park; contracts for operation of commissaries; renewal option; purchase of investment and price determination; master plan development; public hearing on proposed contracts; promulgation of rules; purpose; powers and duties generally; acquisition of former railroad subdivision for establishment of Greenbrier River trail; development; protection; operation and maintenance of trail; correlation of projects and services; sunset provision; governor's office of community and industrial development; general powers of the office; divisions created; creation of the West Virginia guaranteed work force program; short title; definitions; development of business and industrial training program; funding of program; program activities; reports to Legislature and governor and joint commission on vocational, technical, and occupational education; and marketing of program.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. DIVISION OF TOURISM AND PARKS.

§5B-1-1. Short title.

- 1 This chapter shall be known and may be cited as "The
- 2 Economic Development Act of 1990."

§5B-1-2. Legislative findings.

1 It is hereby determined and declared as a matter of
2 legislative finding:

3 (a) That seriously high unemployment exists in many
4 areas of the state;

5 (b) That economic insecurity due to unemployment
6 undermines the health, safety and general welfare of the
7 people of the entire state;

8 (c) That the absence of employment and business
9 opportunities for youth is a serious threat and has
10 resulted in families leaving the state to find opportu-
11 nities elsewhere, adversely affecting the tax base of the
12 state, counties and municipalities;

13 (d) That the present and future welfare of the people
14 of the state require as a public purpose a renewed effort
15 toward the promotion and development of business
16 enterprises with potential to help;

17 (e) That the legislative and executive branches of
18 state government must seek out and recruit exception-
19 ally qualified individuals and organizations to adminis-
20 ter, advise and manage the state's economic develop-
21 ment programs;

22 (f) That the state's leaders of business, labor, educa-
23 tion and government must cooperate and advance
24 together on common ground, with the common purpose
25 of the economic revitalization of our state; and

26 (g) That the industrial products and natural resources
27 of the state need to be more thoroughly managed,
28 developed and promoted and the various industries
29 better coordinated and developed to provide a healthy
30 industry environment that will decrease unemployment,
31 promote the use of, while also protecting the renewable
32 natural resources of West Virginia, and otherwise
33 provide for the economic revitalization of our state.

34 In recognition of these findings, it is in the best
35 interest of the citizens of this state to transfer the
36 management and responsibility of the division of parks
37 and recreation to the division of tourism and parks.

§5B-1-4. Division created; appointment, compensation and qualifications of commissioner.

1 Effective the first day of July, one thousand nine
2 hundred ninety, there is hereby created in the executive
3 branch of state government a division of tourism and
4 parks and the office of commissioner of tourism and
5 parks. The commissioner shall be the chief executive
6 officer of the division with control and supervision of its
7 operations and shall be appointed by the governor with
8 the advice and consent of the Senate and shall be paid
9 a salary of sixty-five thousand dollars a year. The
10 commissioner shall have control and supervision of the
11 division and shall be responsible for the work of each
12 of its sections. Under the control and supervision of the
13 commissioner, each section director shall be responsible
14 for the work of his section. The commissioner shall have
15 the authority to employ such assistants as may be
16 necessary for the efficient operation of the division.

17 The commissioner may appoint such deputy commis-
18 sioners and assign them such duties as may be necessary
19 for the efficient management and operation of the
20 division.

§5B-1-5. General powers of the division.

1 (a) The division of tourism and parks shall have the
2 authority and duty to:

3 (1) Promote, encourage and facilitate the expansion
4 and development of markets for West Virginia products
5 and services and the state's national and international
6 image and prestige by any and all reasonable methods;

7 (2) Compile periodically a census of the crafts, trades,
8 skills and occupations of all adult persons in the state,
9 in cooperation with other agencies, and analyze and
10 publish the information in such form as to be most
11 valuable to business and industry;

12 (3) Advertise and publicize the material, economic
13 quality of life, recreational and other advantages of the
14 state which render it a desirable place for commerce
15 and residence;

16 (4) Collect, compile and distribute information and
17 literature concerning the advantages and attractions of
18 the state, its historic and scenic points of interest and
19 the highway, transportation and other facilities of the
20 state;

21 (5) Plan and carry out a program of information and
22 publicity designed to attract to West Virginia tourists,
23 visitors and other interested persons from outside the
24 state;

25 (6) Manage the state's park and recreation system for
26 the benefit of the people of this state, and effectively
27 promote and advertise the same to increase public
28 knowledge and use thereof;

29 (7) To acquire for the state in the name of the division
30 of tourism and parks by purchase, lease or agreement,
31 or accept or reject for the state, in the name of the
32 division, gifts, donations, contributions, bequests or
33 devises of money, security or property, both real and
34 personal, and any interest in such property, including
35 lands and water, for state park or recreational areas for
36 the purpose of providing public recreation: *Provided,*
37 That any sale, exchange or transfer of such property
38 shall be subject to the procedures of article one-a,
39 chapter twenty of this code: *Provided, however,* That no
40 lands or waters which, on or before December thirty-
41 first, one thousand nine hundred eighty-five, were part
42 of the state's system of parks, or which were held or used
43 for recreational purposes, shall be subject to such sale,
44 exchange or transfer, by the division: *Provided further,*
45 That nothing herein contained shall be construed to
46 prevent the division from selling, transferring or
47 conveying to any other division or agency of this state
48 any lands or waters to which it has title and which was
49 sold, conveyed or transferred to the division from the
50 division or agency to which it is being sold, conveyed or
51 transferred.

52 (8) Make recommendations to the governor and the
53 Legislature of any legislation deemed necessary to
54 facilitate the carrying out of any of the foregoing powers
55 and duties, and to exercise any other power that may

56 be necessary or proper for the orderly conduct of the
57 business of the division and the effective discharge of the
58 duties of the division; and

59 (9) To cooperate and assist in the production of motion
60 pictures and television and other communications.

**§5B-1-6. Sections created; continuation of civil service
coverage for persons employed in the former
department of commerce.**

1 There is hereby created within the division of tourism
2 and parks:

- 3 (1) The section of tourism;
- 4 (2) The section of advertising and promotion;
- 5 (3) The section of sales and marketing; and
- 6 (4) The section of parks and recreation.

7 Each said section shall be under the control of a
8 director to be appointed by the commissioner who shall
9 be qualified by reason of exceptional training and
10 experience in the field of activities of his respective
11 section and shall serve at the will and pleasure of the
12 commissioner. The commissioner shall have authority to
13 establish such additional sections as may be determined
14 necessary to carry out the purposes of this chapter.

15 All persons employed on the effective date of this
16 chapter in the department of commerce, the duties and
17 functions of which have been transferred to the division
18 of tourism and parks created by virtue of the provisions
19 of the economic development act of one thousand nine
20 hundred ninety, are hereby assigned and transferred to
21 the division of tourism and parks, and no person's
22 employment shall be eliminated, nor shall any person's
23 salary, benefits or position classification be reduced or
24 diminished by reason of the provisions of this chapter.
25 All persons affected shall retain their coverage under
26 the civil service system and all matters relating to job
27 classification, job tenure, salary and conditions of
28 employment shall remain in force and effect from and
29 after the effective date of this chapter: *Provided*, That
30 nothing herein shall prohibit the disciplining or

31 dismissal of any employee for cause, or the dismissal of
32 any nonclassified supervising employees appointed by
33 the governor and serving at the will and pleasure of the
34 governor.

§5B-1-6a. Program and policy action statement; submission to joint committee on government and finance.

1 The division of tourism and parks, the office of
2 community and industrial development and any other
3 authorities, boards, commissions, corporations or other
4 entities created or amended under chapters five-b and
5 article eleven, chapter eighteen-b of this code, shall
6 prepare and submit to the joint committee on govern-
7 ment and finance on/or before the first day of De-
8 cember, one thousand nine hundred ninety, and each
9 year thereafter, a program and policy action statement
10 which shall outline in specific detail according to the
11 purpose, powers and duties of the office or section, its
12 procedure, plan and program to be used in accomplish-
13 ing its goals and duties as required under this article.

§5B-1-7. Section of tourism; purpose; powers and duties generally.

1 It shall be the duty of the section of tourism:

2 (a) To promote and enhance the tourist industry and
3 improve tourist facilities and attractions;

4 (b) To compile a listing of all tourist facilities in this
5 state, whether public or private, including, but not
6 limited to, state parks and forests, camping grounds,
7 back-packing and hiking trails, public and private
8 hunting areas (including the game or fowl indigenous
9 thereto), fishing lakes, ponds, rivers and streams
10 (including the type of fish indigenous thereto; and the
11 dates of the stocking thereof), ski resorts and areas, ice
12 skating rinks or facilities, rifle and pistol target practice
13 areas, skeet and other shooting facilities, archery
14 ranges, swimming pools, lakes, ponds, rivers and
15 streams, hotels, motels, resorts and lodges (including
16 any attendant restaurant, banquet, meeting or conven-
17 tion facilities or services), health spas or mineral water

18 or spring water health facilities, museums, cultural
19 centers, live performance theaters, colleges, schools,
20 universities, technical centers, airports, railroad sta-
21 tions, bus stations, river docks, boating areas, govern-
22 ment or military installations (which are not restricted
23 to public access), historical places, markers or places of
24 events, birthplaces of famous West Virginians, or any
25 other thing of like kind and nature, and to develop
26 relative thereto a series of films, videotapes, pamphlets,
27 brochures and other advertising or promotional media,
28 and to distribute the same in such a manner as to
29 enhance the public's knowledge about West Virginia
30 and its many attractions;

31 (c) Develop a plan for tourist facility expansion and
32 new development, including financing;

33 (d) To develop a system, means and mechanism to
34 distribute the promotional media described in subdivi-
35 sion (b) of this section, both nationally and internation-
36 ally; and to make the same available to travel agents,
37 tour groups, senior citizen organizations, airlines,
38 railroads, bus companies, newspapers, magazines, radio
39 and television stations, and the travel editors thereof; to
40 develop, in cooperation with the division of highways, a
41 series of information stations along interstate and other
42 major highways of this state, utilizing existing rest stop
43 areas and other areas at or near the main points of
44 egress and ingress of this state for the purpose of
45 making said information available to the public at large;

46 (e) To develop and implement a marketing strategy,
47 employing radio, television, magazine and newspaper
48 advertising, or any combination thereof, in those major
49 metropolitan areas of the nation, in order to attract the
50 residents thereof to visit and enjoy the tourist facilities
51 of this state;

52 (f) To encourage, cooperate with and participate in,
53 any group or organization, including regional travel
54 councils, the purpose of which is to promote and
55 advertise, or encourage the use of, tourist facilities in
56 West Virginia;

57 (g) To provide professional assistance, technical

58 advice or marketing strategies to any privately owned
59 facility or attraction, as described in subdivision (b) of
60 this section, which is open and available to the general
61 public, which has developed or is attempting to develop
62 its own advertising program;

63 (h) To employ, train and supervise a corps of infor-
64 mation specialists or tour guides in state park and
65 facilities only who possess, or through their employment
66 and training will possess, specific knowledge and
67 information about the historic, scenic, cultural, indus-
68 trial, educational, governmental, recreational and
69 geographical significance of the state and the various
70 facilities or attractions described in subdivision (b) of
71 this section. In hiring the information specialists herein
72 provided, special preference shall be given to senior
73 citizens (those over sixty-two years of age) and college
74 students who are bona fide residents of the state and
75 enrolled in any college or university of this state,
76 whether public or private, all of whom shall be hired
77 on a part-time basis and whose periods of employment
78 may be seasonable;

79 (i) To assist tour groups, travel agencies, public
80 carriers or other entities of like kind or nature in
81 developing a program of preplanned tours, visits or
82 vacations in West Virginia; and, in conjunction there-
83 with, to coordinate the activities of said tour groups,
84 travel agencies, public carriers or other entities with the
85 services offered by any of the facilities set forth in
86 subdivision (b) of this section; and to encourage said
87 facilities to offer special or discount rates to any party
88 traveling with said tour groups, travel agencies, public
89 carriers or other entities of like kind or nature; and

90 (j) To cooperate with the division of highways, in
91 developing a system of informational highway signing
92 relating to the recreational, scenic, historic and trans-
93 portational facilities and attractions of the state that
94 comply with the current federal and state regulations
95 as related to outdoor advertising and signing as
96 required by the Manual of Uniform Traffic Control
97 Devices.

§5B-1-8. Section of advertising and promotion; purpose; powers and duties generally.

1 It shall be the duty of the section of advertising and
2 promotion:

3 (a) Based upon the information, statistics, facts,
4 studies and conclusions produced by or for the
5 governor's office of community and industrial develop-
6 ment, to develop a program of advertising strategies and
7 plans to inform the public at large and specific target
8 groups about various aspects of the state of West
9 Virginia, including, but not limited to, agriculture,
10 natural resources, timber and timber byproducts, coal,
11 oil, gas and their byproducts, existing industries and
12 existing and proposed industrial sites, educational,
13 research and technical institutions, the labor force,
14 transportation, public utilities, navigable waterways,
15 rivers, lakes and streams, taxation, revenue bonding
16 availability and assistance, governmental rules and
17 regulations relative to business and industry, and any
18 other fact, statistic or item of information which is or
19 may be helpful to or of interest to any corporation,
20 partnership, association, individual or individuals who
21 or which is or may be interested in engaging in business
22 in the state of West Virginia;

23 (b) To develop such films, videotapes, computer
24 software, phonograph records, tape recordings, pam-
25 phlets, brochures, booklets, information sheets, radio,
26 television or newspaper advertising, magazine inserts,
27 advertisements or supplements, billboards or any other
28 thing of like kind or nature which is, or may be, likely
29 to inform the public at large or any specifically targeted
30 group or industry about the benefits of living in,
31 investing in, producing in, buying from, contracting
32 with, or in any other way related to, the state of West
33 Virginia or any business, industry, agency, institution or
34 other entity therein;

35 (c) To employ or contract with such professional or
36 technical experts or consultants as may be necessary to
37 create and produce the items set forth in subdivision
38 (b) of the section;

39 (d) To spend such sums of money as may be necessary,
 40 within legislative appropriation therefor, to purchase
 41 advertising time or space in or upon any medium
 42 generally engaged or employed for said purpose to
 43 distribute or disseminate the items of advertising
 44 described in subdivision (b) of this section;

45 (e) To provide professional assistance, technical
 46 advice or marketing strategies to any privately owned
 47 business or industry in this state which has developed
 48 or is attempting to develop its own advertising program;

49 (f) To cooperate with, or participate in, any group or
 50 organization, whether public or private, the purpose of
 51 which is to promote, enhance or develop a positive image
 52 of the state of West Virginia or any business, industry,
 53 institution or facility therein;

54 (g) To use such resources as are available to it to
 55 distribute the items of advertising and promotion
 56 described in subdivision (b) of this section, to such
 57 group or groups, audience or audiences, corporations,
 58 partnerships, associations, including public and private
 59 colleges and universities, and to individuals, who or
 60 which are, or may be, interested in some aspect of the
 61 state of West Virginia;

62 (h) To engage in, participate in, promote or sponsor,
 63 such trade shows, fairs, information seminars or
 64 symposiums, or other event or events of like kind and
 65 nature, including privately funded trade shows, fairs,
 66 information seminars or symposiums, or other event or
 67 events of like kind and nature, whether located within
 68 or without this state, or beyond the borders of the
 69 United States, to promote generally the state of West
 70 Virginia or to assist any business, industry or other
 71 entity, whether public or private, in promoting, adver-
 72 tising or advancing the reputation of the state of West
 73 Virginia or any corporation, association, partnership,
 74 institution, business, industry or other entity which is,
 75 or may be, likely to produce additional employment or
 76 employment opportunities, business or business oppor-
 77 tunities in the state of West Virginia; and

78 (i) To perform such other duties or functions, or to

79 engage in such other activities, as the commissioner may
80 from time to time direct.

**§5B-1-10. Section of sales and marketing; purpose;
powers and duties generally.**

1 It shall be the duty of the section of sales and
2 marketing:

3 (a) To develop such programs as are necessary for the
4 promotion and marketing of West Virginia arts, crafts
5 and products, and to implement said program in this
6 state, in the United States and in other countries;

7 (b) To design, develop and create, or to provide for the
8 design, development and creation of, such films,
9 videotapes, pamphlets, brochures, and other advertising
10 and promotional media, and to distribute the same in
11 such a manner as to enhance the public's knowledge of
12 West Virginia arts, crafts and products;

13 (c) To sponsor or participate in trade shows, trade
14 fairs or other events the purpose of which is to display,
15 sell, or increase public awareness of, West Virginia arts,
16 crafts and products;

17 (d) To design and implement a program of direct
18 sales of West Virginia arts, crafts and products; and to
19 provide for the publication and distribution of a catalog
20 which adequately displays and describes the arts, crafts
21 and products being offered for sale, employing such
22 direct mail or other means of distribution as the director
23 deems appropriate;

24 (e) To cooperate with artists, craftsmen, guilds,
25 cooperatives and other organizations, the purposes of
26 which are to enhance or promote West Virginia arts,
27 crafts and products, and to assist said artists, craftsmen,
28 guilds, cooperatives and organizations in the develop-
29 ment of their own marketing programs;

30 (f) To develop markets in West Virginia, other states
31 and other nations for said arts, crafts and products by
32 employing persons who shall act as sales agents for said
33 arts, crafts and products;

34 (g) To cooperate with other governmental divisions,

35 and with other groups, guilds, cooperatives or other
 36 entities, whether public or private, the purpose of which
 37 is to further enhance and promote the sale, use,
 38 distribution or public knowledge of West Virginia arts,
 39 crafts and products; and

40 (h) To perform such other duties or functions, or to
 41 engage in such other activities, as the director may from
 42 time to time direct.

**§5B-1-12. Section of parks and recreation created; duties,
 records and equipment previously trans-
 ferred from the department of natural
 resources to the department of commerce;
 funds.**

1 (a) The duties, powers and functions of the section of
 2 parks and recreation within the division of natural
 3 resources previously transferred to the department of
 4 commerce are hereby transferred to the division of
 5 tourism and parks.

6 (b) All books, papers, maps, charts, plans, literature
 7 and other records, and all equipment in the possession
 8 of the department of commerce shall be delivered or
 9 turned over to the division of tourism and parks.

10 (c) The division of tourism and parks shall have the
 11 duty and authority to administer those properties which
 12 are a part of the state parks and public recreation
 13 system, but the legal title to such properties shall
 14 remain with the department of natural resources.

15 (d) All existing contracts and obligations of the
 16 division of parks and recreation shall remain in full
 17 force and effect and any existing contracts and obliga-
 18 tions relating to parks and recreation shall be per-
 19 formed by the division of tourism and parks.

20 (e) The unexpended balance existing on the effective
 21 date of this chapter in any appropriation made to the
 22 division of commerce is hereby transferred and approp-
 23 riated to the division of tourism and parks.

24 The director of the division of natural resources and
 25 the commissioner of tourism and parks shall cooperate

26 fully and exercise their powers to facilitate the devel-
27 opment of new or the expansion of existing park
28 facilities, including but not limited to, the authorities as
29 set forth in this chapter relating to the division of
30 tourism and parks, and as set forth in section twenty,
31 article one, chapter twenty of this code, relating to the
32 division of natural resources, as amended from time to
33 time.

**§5B-1-12b. Conveyance of Grandview State Park to the
National Park Service; governor, director
of the division of natural resources and
director of the division of tourism and
parks.**

1 The governor and the director of the division of
2 natural resources may convey, within one year of the
3 effective date of this section, the lands and property of
4 Grandview State Park to the National Park Service of
5 the government of the United States of America:
6 *Provided*, That the National Park Service agrees to
7 accept the conveyance: *Provided, however*, That the
8 division of natural resources shall hold public hearings
9 prior to making said conveyance. At least one public
10 hearing shall be held in the county where the park is
11 located.

12 The commissioner of the division of tourism and parks
13 shall cooperate with and aid the division of natural
14 resources in the conveyance. The conveyance is subject
15 to the provisions of article one-a, chapter twenty of the
16 code of West Virginia, one thousand nine hundred
17 thirty-one, as amended.

**§5B-1-13. Section of parks and recreation; purpose;
powers and duties generally.**

1 It shall be the duty of the section of parks and
2 recreation to have within its jurisdiction and
3 supervision:

4 (a) All state parks and state recreation areas, includ-
5 ing all lodges, cabins, swimming pools, motorboating
6 and all other recreational facilities therein, except the
7 roads therein which, by reason of section one, article

8 four, chapter seventeen of this code, are transferred to
9 the state road system and to the responsibility of the
10 commissioner of highways with respect to the construc-
11 tion, reconstruction and maintenance of the roads or any
12 future roads for public usage on publicly owned lands
13 in future state parks, state forests and public hunting
14 and fishing areas;

15 (b) The authority and responsibility to do the neces-
16 sary cutting and planting of vegetation along road
17 rights-of-way in state parks and recreational areas;

18 (c) The administration of all laws and regulations
19 relating to the establishment, development, protection,
20 use and enjoyment of all state parks and state recrea-
21 tional facilities consistent with the provisions of this
22 article: *Provided*, That nothing herein shall be construed
23 to assign to the section of parks and recreation of the
24 division of tourism and parks the law-enforcement
25 duties set forth in article seven, chapter twenty of this
26 code, which duties shall remain the responsibility of the
27 division of natural resources;

28 (d) The Berkeley Springs sanitarium in Morgan
29 County shall be continued as a state recreational facility
30 under the jurisdiction and supervision of the division of
31 tourism and parks and shall be managed, directed and
32 controlled as prescribed here in this article and in
33 article one, chapter twenty of this code.

34 The commissioner shall have and is hereby granted all
35 of the powers and authority and shall perform all of the
36 functions and duties with regard to Berkeley Springs
37 sanitarium that were previously vested in and per-
38 formed by the director of the division of natural
39 resources, who shall no longer have such power and
40 authority and whose power and authority with regard
41 to Berkeley Springs sanitarium is hereby abolished;

42 (e) The Washington Carver camp in Fayette County
43 is hereby transferred from the division of natural
44 resources to the commissioner who shall have the
45 jurisdiction and supervision of the camp subject to the
46 jurisdiction and authority of the division of culture and
47 history as provided under section thirteen, article one,

48 chapter twenty-nine of this code. The commissioner shall
49 manage the Washington Carver camp as a state
50 recreational facility and a component of the state park
51 system;

52 (f) The improved recreational area of Camp Creek
53 State Forest in Mercer County, as delineated according
54 to section three, article one-a, chapter nineteen of this
55 code, is hereby renamed as the Camp Creek State Park
56 and under that name shall be managed as a state
57 recreational facility;

58 (g) The improved recreational area of Moncove Lake
59 public hunting and fishing area, consisting of all
60 improved recreational facilities, including all land
61 between the lake and private property beginning at the
62 main entrance on secondary route eight to the first
63 stream on the southwest side of the improved recrea-
64 tional area, approximately two hundred feet southwest
65 of the private property corner where it meets the
66 Roxalia Springs trail, thence northwest to a stream and
67 along this stream northward to and across the Diamond
68 Hollow trail to the area boundary, thence continuing
69 around area boundary to the lake shore, thence follow-
70 ing the lake shore around the shoreline to meet the line
71 drawn from the main entrance where the boundary
72 begins. This area is hereby renamed as the Moncove
73 Lake State Park and under that name shall be managed
74 as a state recreational facility: *Provided*, That the
75 boundary, as herein described, shall be plainly marked
76 within ninety days of the effective date of this act; and

77 (h) The commissioner of the division of tourism and
78 parks shall be primarily responsible for the execution
79 and administration of the provisions herein as an
80 integral part of the parks and recreation program of the
81 state and shall organize and staff his section for the
82 orderly, efficient and economical accomplishment of
83 these ends.

**§5B-1-15. Contracts for operation of commissaries,
restaurants, recreational facilities and
other establishments limited to ten years'
duration; renewal at option of commis-**

sioner; termination of contract by the commissioner; contracts for development of revenue producing facilities within the state parks and recreational facilities; level of investment of contracts; term of investment contract; reservation of option to renew; and, purchase of investment in event of default and price determination upon such event.

1 (a) When it is deemed necessary by the commissioner
 2 to enter into a contract with a person, firm or corpora-
 3 tion for the operation of a commissary, restaurant,
 4 recreational facility or other such establishment within
 5 the state parks and public recreation system, such
 6 contract shall be for a duration not to exceed ten years,
 7 but a contract so made may provide for an option to
 8 renew at the commissioner's discretion for an additional
 9 term or terms not to exceed ten years at the time of
 10 renewal.

11 Any contract entered into by the commissioner shall
 12 provide an obligation upon the part of the operator that
 13 he or she maintain a level of performance satisfactory
 14 to the commissioner, and shall further provide that any
 15 such contract may be terminated by the commissioner
 16 in the event he or she determines that such performance
 17 is unsatisfactory and has given the operator reasonable
 18 notice thereof.

19 (b) When it is deemed necessary by the commissioner
 20 to enter into a contract with a person, firm or corpora-
 21 tion for the development of revenue producing facilities
 22 within the state parks and public recreation system for
 23 a period of more than ten years, such contract shall be
 24 at least a one million dollar level of investment for such
 25 revenue producing facilities. The term of the investment
 26 contract may be up to twenty-five years of duration at
 27 the determination of the commissioner and based upon
 28 the amount of the investment and the achievement of the
 29 environmental, recreational and cultural goals of the
 30 state park or recreation areas system of this state.

31 Any contract so entered into may provide for an option

32 to renew at the discretion of the commissioner for an
33 additional term not to exceed an additional fifteen year
34 term at the time of renewal.

35 Any such investment contract entered into by the
36 commissioner shall contain a provision for the purchase
37 of the investment upon an event of default on the part
38 of the investor on the contract. Such purchase may be
39 exercised only for default. The purchase price of the
40 investment shall be determined by determining a
41 percentage by dividing the number of years remaining
42 in the term of the contract at the time of default by the
43 number of years of the term of the contract and then
44 reducing the purchase price by such percentage of the
45 amount of the investment. The amount of the investment
46 shall be the actual cost of constructing the facilities, not
47 including overhead, called for in the contract, as
48 certified by a certified public accountant at the time the
49 facilities are completed. The contract shall provide that
50 the payments to the defaulting investor shall be made
51 in equal payments yearly during the remaining period
52 of the term of the contract.

53 (c) The commissioner may not solicit nor enter into
54 contracts, except for the operation of a commissary,
55 restaurant or marina for a period of less than ten years,
56 until a master plan for the administration of that state
57 park or recreation area has been developed. He or she
58 shall supervise the preparation of the plan and may
59 utilize the staff of the department of natural resources
60 or any other state governmental agency whose expertise
61 he or she desires to enlist in the preparation thereof. The
62 commissioner shall solicit public participation and
63 involvement in all stages of the preparation of the plan
64 and in the preparation of any requests for proposals for
65 the development of a revenue producing facility, as
66 described herein, with a contract duration in excess of
67 ten years. The plan shall be consistent with the
68 environmental, recreational and cultural goals of the
69 state park and recreation areas system of the state and,
70 to the extent practical with the public comments and
71 input received during plan development.

72 (d) If the commissioner considers a proposal for the

73 development of a revenue producing facility, as des-
74 cribed herein, such proposal shall be made available to
75 the public in a convenient location in the county wherein
76 the proposed facility may be located. The commissioner
77 shall publish a notice of the proposal by Class I legal
78 advertisement in accordance with the provisions of
79 article three, chapter fifty-nine of this code. The
80 publication area is the county in which the proposed
81 facility would be located. Any citizen may communicate
82 by writing to the commissioner his or her opposition or
83 approval to such proposal within a period of not less
84 than thirty days from the date of the publication of
85 notice.

86 (e) No contract of a term greater than ten years may
87 be entered into by the commissioner until a public
88 hearing is held in the vicinity of the location of the
89 proposed facility with at least two weeks notice of such
90 hearing by Class I publication pursuant to section two,
91 article three, chapter fifty-nine of this code. The
92 commissioner shall make findings prior to rendering a
93 decision on any proposed contract of a duration of more
94 than ten years. All studies, records, documents and
95 other materials which are considered by the commis-
96 sioner in making such findings as required herein shall
97 be made available for public inspection at the time of
98 the publication of the notice of public hearing and at a
99 convenient location in the county where the proposed
100 development may be located.

101 The commissioner shall make rules in accordance
102 with chapter twenty-nine-a of this code, for the conduct
103 of the hearing required by this section. Persons attend-
104 ing such hearings shall be permitted a reasonable
105 opportunity to be heard on the proposed development.

106 At such hearing the commissioner shall present in
107 writing the following findings and supporting state-
108 ments therefor:

109 (1) That the proposed development will not deprive
110 users of the state park or recreational area of existing
111 recreational facilities in any significant fashion;

112 (2) That the proposed development will not have

113 substantial negative impact on the environmental,
114 scenic or cultural qualities of the said park or area; and

115 (3) That the proposed development, considered as a
116 whole, is of benefit to the recreational goals of the state
117 and is consistent with the master plan developed for that
118 park or recreational area.

119 (f) Following a public hearing as prescribed herein
120 any interested person may submit to the commissioner
121 written comments on the proposed development. All
122 comments made at a hearing, in addition to those
123 received in writing within thirty days after any such
124 hearing, shall be considered by the commissioner in the
125 determination of whether to approve the proposed
126 development.

127 (g) The commissioner may not enter into any contract
128 of a duration of more than ten years unless all proce-
129 dures and requirements as prescribed by this section
130 have been complied with.

131 (h) The commissioner shall make a decision whether
132 to approve any proposal to enter into a contract for a
133 duration of more than ten years within sixty days after
134 the conclusion of the hearing as specified herein.

**§5B-1-16. Acquisition of former railroad subdivision for
establishment of Greenbrier River Trail;
development, protection, operation and
maintenance of trail.**

1 (a) The commissioner may acquire from the West
2 Virginia railroad maintenance authority approximately
3 seventy-five miles of right-of-way along the former
4 Greenbrier subdivision of the Chessie Railroad System
5 between Caldwell in Greenbrier County and Cass in
6 Pocahontas County to be developed as the "Greenbrier
7 River Trail." The acquired property shall be operated
8 under the authority of the division of tourism and parks
9 and used for:

10 (1) The construction and maintenance of barriers for
11 the protection of the trail from motorized vehicular
12 traffic and for the protection of adjacent public and
13 private property; and

14 (2) The development, construction, operation and
15 maintenance of bicycle and hiking trails, horseback
16 trails, primitive camping facilities and other compatible
17 recreational facilities to be so designated by the
18 commissioner.

§5B-1-17. Correlation of projects and services.

1 The commissioner of the division of tourism and parks
2 shall correlate and coordinate his park and recreation
3 programs, projects and developments with the functions
4 and services of other offices and sections of the division
5 and other agencies of the state government so as to
6 provide, consistent with the provisions of this chapter,
7 suitable and adequate facilities, landscaping, personnel
8 and other services at and about all state parks and
9 public recreation facilities under his jurisdiction.

§5B-1-18. Sunset provision.

1 Unless sooner terminated by law, the division of
2 tourism and parks shall terminate on the first day of
3 July, one thousand nine hundred ninety-three, in
4 accordance with the provisions of article ten, chapter
5 four of this code.

**ARTICLE 2. OFFICE OF COMMUNITY AND INDUSTRIAL
DEVELOPMENT.**

§5B-2-2a. General powers of the office.

1 The office of community and industrial development
2 shall have the authority and duty to:

3 (1) Promote and encourage the location and develop-
4 ment of new business in the state and the maintenance
5 and expansion of existing business;

6 (2) Investigate and study conditions affecting West
7 Virginia business, industry and commerce; collect and
8 disseminate information, and engage in technical
9 studies, scientific investigations, statistical research and
10 educational activities necessary or useful for the proper
11 execution of the powers and duties of the department;

12 (3) Plan and develop an effective economic informa-
13 tion service that will directly assist business, education
14 and labor and also encourage businesses outside the

15 state to use industrial office facilities, professional,
16 labor, financial and recreational facilities, services and
17 products from within the state;

18 (4) Encourage and develop commerce with other
19 states and nations and devise methods of removing trade
20 barriers that hamper the free flow of commerce between
21 this and other states and nations and for these purposes
22 cooperate with governmental, quasi-public and private
23 organizations in formulating and promoting the adop-
24 tion of compacts and agreements helpful to commerce
25 and labor;

26 (5) Conduct or encourage research designed to further
27 new and more extensive uses of the natural, human,
28 professional, technical and other resources of the state
29 with a view to the development of new products,
30 industrial processes, services and markets;

31 (6) Compile periodically a census of business and
32 industry in the state, in cooperation with other agencies,
33 and analyze and publish the information in such form
34 as to be most valuable to business and industry;

35 (7) Study long-range trends and developments in the
36 industries, commerce and economic health of the state,
37 and analyze the reasons underlying such trends; study
38 costs and other factors affecting successful operation
39 and location of businesses within the state;

40 (8) Initiate, promote and conduct, or cause to be
41 conducted, research designed to further new and more
42 extensive uses and consumption of natural and other
43 resources and their by-products; and for such purposes,
44 to enter into contracts and agreements with research
45 laboratories maintained by educational or endowed
46 institutions in this state;

47 (9) To establish as an independent entity at West
48 Virginia University in cooperation with and involving
49 other West Virginia colleges and universities a center
50 for economic research. The center shall be under the
51 control and supervision of a director, who shall be
52 appointed by the president of West Virginia University.
53 The center shall employ such staff economists or

54 statisticians, such research assistants and secretaries,
55 each of whom shall serve on a part-time basis and may
56 be members of the faculty or staff of West Virginia
57 University or any other college or university in the state.
58 In addition, the center may employ student interns;

59 (10) The center shall provide the governor's office of
60 community and industrial development, commissioner
61 of tourism and parks and the Legislature, with an
62 analysis of the quality of economic data pertaining to
63 West Virginia. The center shall recommend ways to
64 obtain additional information necessary to better
65 understand the state's economy and to devise better
66 economic development strategies. The center is directed
67 to establish priorities and coordinate its economic
68 research functions with the governor and the Legisla-
69 ture. To accomplish this purpose the advisory board
70 created for the institute of public affairs in section one,
71 article twenty-six-b, chapter eighteen of this code, shall
72 serve as the advisory board to the center. The director
73 of the center shall serve as the chairman of the advisory
74 board. The center shall publish results of its research,
75 maintain a comprehensive library with supporting
76 computer data bases and shall, upon request, provide a
77 review of the economy and major policy issues to the
78 joint committee on government and finance;

79 (11) During its first year of operation, the center shall
80 include in its research topics the desirability of estab-
81 lishing a detailed gross state products series, modeled
82 after the national income and products accounts and the
83 desirability of constructing a periodic input/output table
84 for the state. It shall review the quality of current
85 statistics relating to employment and prices and
86 statistics relating to poverty and the distribution of
87 income and wealth. The center may study the feasibility
88 of, and, based upon such study establish a West Virginia
89 econometric model project;

90 (12) Where deficiencies are found in existing data
91 sources, the center shall publish conclusions regarding
92 the benefits to be derived from gathering additional or
93 better information and shall make operational recom-
94 mendations on the best possible methods for obtaining

95 the desired information;

96 (13) The director of the center or members of its staff
97 shall meet on a regular basis with the director of the
98 governor's office of community and industrial develop-
99 ment, the commissioner of tourism, and parks other
100 officials of the department and members of the Legis-
101 lature to provide the results of its research and to
102 provide policy advice and analysis;

103 (14) The center shall develop and maintain an inven-
104 tory of research efforts of universities and colleges and
105 other institutions or businesses within the state and a
106 register of scientific and technological research facilities
107 in the state. That function may be performed by
108 contract with the center for education and research with
109 industry of the board of regents;

110 (15) The governor's office of community and indus-
111 trial development shall assist, promote, encourage,
112 develop and advance economic prosperity and employ-
113 ment throughout this state by fostering the expansion
114 of exports of manufactured goods and services to foreign
115 purchasers and the investment of capital by foreign
116 countries in this state;

117 (16) The governor's office of community and indus-
118 trial development shall cooperate and act in conjunction
119 with other organizations, public and private, the objects
120 of which are the promotion and advancement of export
121 trade and foreign investment activities in the state of
122 West Virginia;

123 (17) The governor's office of community and indus-
124 trial development shall consider establishing a source of
125 funding credit guarantees and insurance to support
126 export development not otherwise available to West
127 Virginia small and medium sized businesses;

128 (18) The governor's office of community and indus-
129 trial development shall develop a strategic plan for the
130 economic development of the state, its regions and
131 specific industries including tourism, manufacturing,
132 timber, agriculture and other rural development, coal,
133 oil, gas and other extractive resources, retail, service,

134 distribution and small businesses. Such a plan shall
135 emphasize a coordinated effort of the public and private
136 sector toward balanced growth for the state. Such plan
137 shall include, but is not limited to, the following:

138 (A) Assessing the state's economic strengths and
139 weaknesses;

140 (B) Developing and recommending short, interme-
141 diate and long-term economic goals and plans, together
142 with options;

143 (C) Identifying barriers to economic growth and
144 diversification in the state;

145 (D) Recommending implementation procedures and
146 options utilizing and maximizing existing public and
147 private mechanism;

148 (E) Fostering and supporting scientific and techno-
149 logical research in this state in cooperation with the
150 federal government, the various offices and divisions of
151 the department of commerce and other state and local
152 governmental agencies, educational institutions, non-
153 profit institutions and organizations, business enter-
154 prises and others concerned with scientific and techno-
155 logical research development;

156 (F) Developing a program to attract investment in
157 research and development in high technology industries;

158 (G) Conducting a series of studies to determine the
159 feasibility of constructing, natural gas transmission
160 lines, electric power generating facilities and coal
161 processing plants to be owned, either in whole or in part,
162 or to be operated, either in whole or in part, by the state
163 of West Virginia; and

164 (H) Maintaining a library of research materials,
165 including computer data bases, to accomplish the goals
166 of the division.

§5B-2-3. Divisions created.

1 There are hereby created within the office of commun-
2 ity and industrial development:

3 (1) The division of community development;

- 4 (2) The division of financial and technical assistance;
- 5 (3) The division of administration;
- 6 (4) The division of industrial development;
- 7 (5) The division of employment and training;
- 8 (6) The division of small business development;
- 9 (7) The division of small business; and

10 Each said division shall be under the control of a
11 director to be appointed by the director of the office of
12 community and industrial development and who shall be
13 qualified by reason of exceptional training and expe-
14 rience in the field of activities of his respective division
15 and shall serve at the will and pleasure of the director.

16 The governor is hereby authorized to establish and
17 maintain foreign trade offices, personnel for same and
18 attendant services.

**ARTICLE 2D. WEST VIRGINIA GUARANTEED WORK FORCE
PROGRAM.**

§5B-2D-1. Short title.

- 1 This article shall be known and may be cited as the
- 2 “West Virginia Guaranteed Work Force Program”.

§5B-2D-2. Definitions.

- 1 (a) “GOCID” shall mean the Governor’s Office of
- 2 Community and Industrial Development;
- 3 (b) “Employer” shall mean an individual, partnership,
- 4 corporation, or other legal entity that employs or plans
- 5 to employ skilled workers;
- 6 (c) “Retraining and Job Upgrade” shall mean the
- 7 specialized training that is given to an identified level
- 8 of employees to enable them to advance to a higher level
- 9 of employment;
- 10 (d) “Program” shall mean the West Virginia Guarant-
- 11 eed Work Force Program established pursuant to
- 12 section three;
- 13 (e) “Training” shall mean custom-designed training
- 14 given to employees or prospective employees of new or

15 expanding businesses and industries within the state.

16 (f) "Training provider" shall mean any persons, public
 17 or private educational institutions, agencies, companies
 18 or other entities that may be utilized for training or
 19 consultative services for an employer.

§5B-2D-3. Training program.

1 The GOCID shall develop a business and industrial
 2 training program, the purpose of which is to provide
 3 assistance for new or expanding businesses for the
 4 training, retraining or upgrading of the skills of
 5 potential employees. The program shall emphasize
 6 employee training specifically designed to accommodate
 7 the needs of individual employers. The program shall
 8 encourage the expansion of existing businesses and
 9 industries within the state, promote retention of
 10 businesses and industries within the state, promote
 11 retention of existing jobs within the state, prevent
 12 economic and industrial out-migration, and assist in the
 13 relocation of out-of-state businesses and industries in the
 14 state. Under this program, GOCID may pay up to one
 15 hundred percent (100%) or one thousand dollars
 16 (\$1,000), per employee, whichever is less, of the training
 17 costs of new employees in firms creating at least fifty
 18 (50) jobs in a one year period. Training assistance may
 19 also be provided to existing businesses in cases in which
 20 training, retraining or upgrading services will result in
 21 the creation of additional jobs: *Provided, however,* That
 22 GOCID may pay up to one hundred percent (100%) or
 23 one thousand dollars (\$1,000) per employee, whichever
 24 is less, for the training, retraining or upgrading.
 25 Training costs associated with this program will be paid
 26 directly by GOCID to the training provider.

27 Provision of training services will depend upon
 28 employer hiring performance and projections which
 29 meet the fifty (50) jobs per year requirement. The State
 30 of West Virginia guarantees if employer satisfaction is
 31 not achieved, GOCID will upon a review of the program
 32 with the employer and the training provider arrange
 33 retraining of employees to meet the employer's specifi-
 34 cations and satisfaction: *Provided, however,* That in no

35 instance may the cost of training and retraining an
36 employee exceed two thousand dollars (\$2,000).

§5B-2D-4. Funds.

1 The funds made available by this section shall
2 supplement but not displace funds available through
3 existing programs conducted by employers themselves
4 and public programs such as the Job Training Partner-
5 ship ACT (JTPA), the Carl D. Perkins Vocational
6 Education Act, the Stewart B. McKinney Homeless
7 Assistance Act, and the JOBS Act, or apportionment
8 fund allocated to the community colleges, regional
9 occupational centers and programs, or other local
10 educational agencies. In addition, it is further the
11 intention of the Governor's Office of Community and
12 Industrial Development that the program established
13 pursuant to this section shall not replace, parallel,
14 supplant, compete with, or duplicate in any way
15 existing, approved apprenticeship programs.

16 The fund shall consist of all moneys which may be
17 transferred to it by the West Virginia Economic
18 Development Authority (WVEDA) and also any contri-
19 butions, grants or bequests received from federal,
20 private or other sources. Appropriations made from the
21 funds shall be for the purpose of providing contractual
22 services through GOCID for vocational related training
23 or retraining provided by public or private training
24 institutions within West Virginia and for contracted
25 services through the GOCID for vocational related
26 training, retraining or upgrading provided by public or
27 private training institutions located outside of West
28 Virginia and for vocational related training or retrain-
29 ing provided on site, within West Virginia by any
30 training provider as defined in this article.

§5B-2D-5. Program activities.

1 The primary concern in the provision of training
2 services shall be the needs and type of services identified
3 by the employer. A college or university, community
4 college or area vocational education center shall be
5 given initial consideration to provide any training,
6 retraining, or job upgrade training. The employer will

7 have the opportunity to participate in the selection of a
8 training provider. Training services may begin upon
9 execution of a written agreement between GOCID and
10 the employer.

11 Program activities, may include, but not be limited to
12 the following:

13 (a) Perform a job skills analysis and design a training
14 curriculum for an employer.

15 (b) Recruit and refer trainee applicants to an
16 employer.

17 (c) Provide off site preemployment training, or on site
18 preemployment training if off site preemployment
19 training is not practical, to prospective employees of a
20 new or expanding business or industry and to existing
21 employees for purposes of retraining or upgrading.

22 (d) Retrain employees in response to a technological
23 change.

24 (e) Provide job upgrade training if the training will
25 increase the employer's total work force.

26 (f) Contract with persons, public or private educa-
27 tional institutions, agencies, or other bodies for training
28 or consultative services for an employer.

29 (g) Provide materials and supplies used in the
30 training process, instructors with specialized skills,
31 instructional training aids and equipment, consultative
32 services relative to highly specific or technical data, and
33 other services.

34 (h) Assist a foreign employer locating or expanding in
35 this state by familiarizing the employer's foreign
36 personnel with the work attitudes, work methods,
37 expectations, customs, and life style of employees who
38 work within this state.

39 (i) Take other action that is considered to be necessary
40 or desirable for the furtherance of this act.

41 (j) No funds shall be awarded or reimbursed to any
42 business or industry for the training, retraining or
43 upgrading of skills of potential employees with the

44 purpose of replacing or supplanting employees engaged
45 in an authorized work stoppage.

§5B-2D-6. Reporting.

1 The office shall file a report with the legislature and
2 the Governor at the end of each fiscal year, commencing
3 June thirtieth, one thousand nine hundred ninety. This
4 report shall include the following:

5 (a) The number of persons trained and their
6 demographics.

7 (b) The number of persons placed in employment.

8 (c) The number of employers for which persons have
9 been trained and placed.

10 (d) The number of persons trained and placed for
11 each employer.

12 (e) The types of work for which persons have been
13 trained.

14 (f) The source of training fund.

15 (g) The overall effectiveness of this act in contributing
16 to economic stabilization and business and industrial
17 growth within this state. In addition, the Governors
18 Office of Community and Industrial Development shall
19 report on a quarterly basis to the joint commission on
20 vocational, technical and occupational education, the
21 following as they relate to the training program
22 established by this article:

23 (1) The names of all companies approved for training
24 during the reporting quarter.

25 (2) The names of all companies receiving funding for
26 training during the reporting quarter.

27 (3) The amount and source of funds utilized for each
28 training program.

29 (4) The type of training being delivered.

30 (5) The number of employees trained.

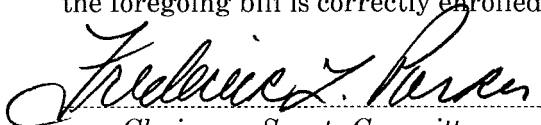
31 (6) Those agencies providing the training.

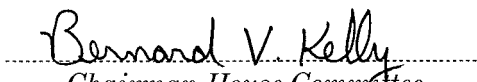
§5B-2D-7. Marketing.

- 1 The Governor's Office of Community and Industrial
- 2 Development shall market and promote the program.

Enr. Com. Sub. for H. B. 4799] 32

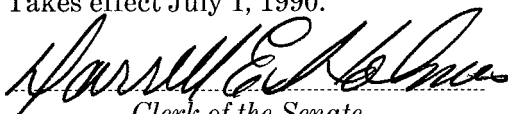
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

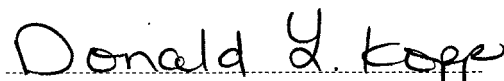

Chairman Senate Committee

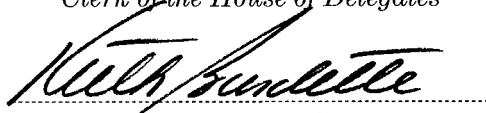

Chairman House Committee


Originating in the House.

Takes effect July 1, 1990.

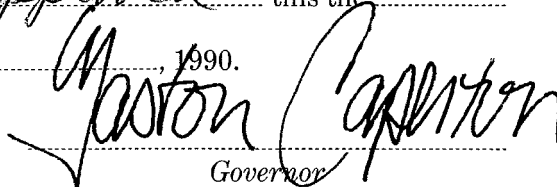

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 30th
day of March, 1990.


Governor

PRESENTED TO THE
GOVERNOR

Date 3/30/90

Time 4:00 pm

RECEIVED
1990 MAR 30 PM 5:04
OFFICE OF THE
SECRETARY OF
REVENUE