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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

— ● —

# ENROLLED

HOUSE BILL No. 4596

(By Delegate Spencer )

— ● —

Passed March 7, 1992

In Effect Ninety Days From Passage

**ENROLLED**  
**H. B. 4596**  
(By DELEGATE SPENCER)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact sections nineteen, twenty and twenty-one, article twenty-three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article one, chapter eighteen-b; to amend and reenact section four, article two of said chapter; ~~to amend and reenact section four, article two of said chapter;~~ to further amend said article <sup>two</sup>~~one~~ by adding thereto a new section, designated section seven; and to amend and reenact section one, article eight of said chapter, all relating to the University of West Virginia College of Graduate Studies; changing the name to West Virginia Graduate College; relating to powers and duties of governing boards of state institutions of higher education; authorizing rents, fees and charges collected in connection with the occupancy of dormitories at such institutions to be pledged for the payment of bonds issued for dormitory construction or improvement, establishing procedures for the issue and sale of such bonds; relating to Potomac State College of West Virginia University; authorizing the board of trustees to sell certain properties; and providing for the use of the proceeds therefrom.

*ok  
Am B*

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

That sections nineteen, twenty and twenty-one, article twenty-three, chapter eighteen of the code of West Virginia,

one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section two, article one, chapter eighteen-b of said code be amended and reenacted; that section four, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seven; and that section one, article eight of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 23. ADDITIONAL POWERS, DUTIES AND RESPONSIBILITIES OF GOVERNING BOARDS OF STATE INSTITUTIONS OF HIGHER EDUCATION.**

**§18-23-19. Payment of principal and interest of construction bonds from revenues of dormitories, homes and refectories; redemption of bonds.**

1 Whenever bonds are issued for the construction,  
2 erection or equipment of dormitories, homes or refecto-  
3 ries, or for the improvement or equipment of existing  
4 dormitories, homes or refectories, or for any or all of  
5 such purposes, as joint or several projects, for which a  
6 single or several issues of bonds may be issued within  
7 the discretion of the governing boards, rents, fees and  
8 charges shall be fixed, charged and collected in  
9 connection with the use or occupancy of, or service to  
10 be thereby rendered and furnished by, dormitories,  
11 homes or refectories of the particular state educational  
12 institution as the governing board thereof shall deter-  
13 mine, and shall be so fixed or adjusted, as to provide  
14 a fund sufficient to pay the principal and interest of  
15 each such issue of bonds and to provide an additional  
16 fund to pay the cost of maintaining, repairing, operating  
17 and insuring such dormitories, homes or refectories.  
18 Whenever bonds are issued to finance, the construction  
19 and erection of dormitories, homes or refectories  
20 together with additions or extensions to an existing  
21 dormitory, home or refectory for students or teachers at  
22 state educational institutions, the revenues derivable  
23 from all such dormitories, homes or refectories of the  
24 particular state educational institution as the governing  
25 board thereof shall determine, may be pledged to  
26 provide a fund sufficient to pay the principal and

27 interest of such issue of bonds and of any other bonds  
28 thereafter issued for the same purpose, and to provide  
29 an additional fund to pay the cost of maintaining,  
30 repairing, operating and insuring such dormitories,  
31 homes or refectories. Except as may otherwise be  
32 provided in the trust agreement authorized in section  
33 seventeen of this article, the rents, fees and charges  
34 from the dormitories, homes or refectories for which a  
35 single issue of bonds is issued, except such part thereof  
36 as may be necessary to pay such cost of maintaining,  
37 repairing, operating and insuring during any period in  
38 which such cost is not otherwise provided for (during  
39 which period the rents, fees and charges may be reduced  
40 accordingly), shall be transmitted each month to the  
41 municipal bond commission and by it placed in a special  
42 fund which is hereby pledged to and charged with the  
43 payment of the principal of such bonds and the interest  
44 thereon, and to the redemption or repurchase of such  
45 bonds, such special fund to be a fund for all such bonds  
46 without distinction or priority of one over another. The  
47 moneys in such special fund, less a reserve for payment  
48 of interest, if not used by the municipal bond commis-  
49 sion, within a reasonable time for the purchase of bonds  
50 for cancellation at a price not exceeding the market  
51 price and not exceeding the redemption price, shall be  
52 applied to the redemption by lot of any bonds which by  
53 their terms are then redeemable, at the redemption  
54 price then applicable: *Provided*, That if said revenue  
55 bonds are sold to and purchased by the United States  
56 of America or any federal or public agency or depart-  
57 ment created under and by virtue of the laws of the  
58 United States of America, then at the option of the  
59 United States of America or such federal or public  
60 agency or department in lieu of such moneys being  
61 transmitted to the municipal bond commission and by  
62 it placed in a special fund, the rents, fees and charges  
63 from such dormitories, homes or refectories, except such  
64 part thereof as may be necessary to pay such cost of  
65 maintaining, repairing, operating and insuring as  
66 provided aforesaid, may be transmitted and paid to a  
67 trustee designated and named by the United States of  
68 America or such federal or public agency or department

69 in its agreement and contract with the appropriate  
70 governing board, for the payment of the principal of  
71 such bonds and the interest thereon, under such terms  
72 and conditions as may be agreed upon.

**§18-23-20. When dormitories, homes or refectories become property of state.**

1 When the particular bonds for any dormitory or  
2 dormitories, home or homes, refectory or refectories,  
3 and the interest on such bonds, shall have been paid, or  
4 a sufficient amount has been provided for their payment  
5 and shall continue to be held for that purpose, the said  
6 dormitories, homes or refectories shall thereafter be  
7 exclusively the property of the state of West Virginia,  
8 and thereafter the rents, fees and charges collected for  
9 the use or occupancy of, or service rendered and  
10 furnished by, such dormitories, homes or refectories  
11 shall be paid into the state board of investments as  
12 provided by the provisions of section two, article two,  
13 chapter twelve of this code, as amended, and used and  
14 expended for the benefit of the institution where  
15 collected: *Provided*, That nothing in this section pre-  
16 cludes any governing board from pledging such rents,  
17 fees and charges to pay the principal and interest on any  
18 bonds thereafter issued to construct new, or to improve  
19 existing dormitories, homes or refectories pursuant to  
20 section nineteen of this article. Such rents, fees and  
21 charges shall be paid as may be provided in a trust  
22 agreement authorized pursuant to section seventeen of  
23 this article, and in the absence of such trust agreement,  
24 as provided in section nineteen of this article.

**§18-23-21. State debt not to be incurred for dormitories, homes, or refectories; federal and private assistance; provisions separable.**

1 Nothing in these sections dealing with dormitories,  
2 homes or refectories shall be so construed or interpreted  
3 as to authorize or permit the incurring of state debt of  
4 any kind or nature as contemplated by the constitution  
5 of this state in relation to the state debt. The dormito-  
6 ries, homes or refectories herein are of the character  
7 described as self-liquidating projects under the laws of

8 the United States.

9 Any governing board authorized to issue bonds under  
10 the provisions of this article is authorized and empow-  
11 ered to accept loans or grants or temporary advances for  
12 the purpose of paying part or all of the cost of construc-  
13 tion of the dormitories, homes or refectories and the  
14 other purposes herein authorized, from the United  
15 States of America or such federal or public agency or  
16 department of the United States or any private agency,  
17 corporation or individual, which temporary advances  
18 may be repaid out of the proceeds of the bonds autho-  
19 rized to be issued under the provisions of this article and  
20 to enter into the necessary contracts and agreements to  
21 carry out the purposes hereof with the United States of  
22 America or such federal or public agency or department  
23 of the United States, or with any private agency,  
24 corporation or individual. The provisions and parts of  
25 this section are separable and are not matters of mutual  
26 essential inducement, and it is the intention to confer the  
27 whole or any part of the powers herein provided for, and  
28 if any of the sections or provisions, or parts thereof, are  
29 for any reason illegal or invalid, it is the intention that  
30 the remaining sections and provisions or parts thereof  
31 shall remain in full force and effect.

#### §18B-1-2. Definitions.

1 The following words when used in this chapter and  
2 chapter eighteen-c of this code shall have the meaning  
3 hereafter ascribed to them unless the context clearly  
4 indicates a different meaning:

5 (a) "Governing board" or "board" means the univer-  
6 sity of West Virginia board of trustees or the board of  
7 directors of the state college system, whichever is  
8 applicable within the context of the institution or  
9 institutions referred to in this chapter or in other  
10 provisions of law;

11 (b) "Governing boards" or "boards" means both the  
12 board of trustees and the board of directors;

13 (c) "Community colleges" means Southern West  
14 Virginia Community College, West Virginia Northern

15 Community College, and any institution of higher  
16 education which has been designated as a community  
17 college by the board of directors under the provisions  
18 of section four, article three of this chapter;

19 (d) "Directors" or "board of directors" mean the board  
20 of directors of the state college system created pursuant  
21 to article three of this chapter or the members thereof;

22 (e) "Higher educational institution" means any insti-  
23 tution as defined by sections 401(f), (g), (h) of the federal  
24 higher education facilities act of 1963, as amended;

25 (f) "Post-secondary vocational education programs"  
26 means any college-level course or program beyond the  
27 high school level provided through an institution of  
28 higher education which results in or may result in the  
29 awarding of a two-year associate degree, under the  
30 jurisdiction of the board of directors;

31 (g) "Rule" or "rules" mean a regulation, standard,  
32 policy or interpretation of general application and  
33 future effect;

34 (h) "Senior administrator" means the person hired by  
35 the governing boards in accordance with section one,  
36 article four of this chapter, with such powers and duties  
37 as may be provided for in section two of said article four;

38 (i) "State college" means Bluefield State College,  
39 Concord College, Fairmont State College, Glenville  
40 State College, Shepherd College, West Liberty State  
41 College, West Virginia Institute of Technology, or West  
42 Virginia State College;

43 (j) "State college system" means the state colleges and  
44 community colleges, and also shall include post-secon-  
45 dary vocational education programs in the state, as those  
46 terms are defined in this section;

47 (k) "State institution of higher education" means any  
48 university, college or community college in the state  
49 university system or the state college system as those  
50 terms are defined in this section;

51 (l) "Trustees" and "board of trustees" mean the  
52 university of West Virginia board of trustees created

53 pursuant to article two of this chapter or the members  
54 thereof;

55 (m) "University of West Virginia" and "state univer-  
56 sity system" means the multi-campus, integrated  
57 university of the state, consisting of West Virginia  
58 University including West Virginia University at  
59 Parkersburg, Potomac State College of West Virginia  
60 University and the West Virginia University School of  
61 Medicine; Marshall University including the Marshall  
62 University School of Medicine; the West Virginia  
63 Graduate College; and the West Virginia School of  
64 Osteopathic Medicine; and

65 (n) "University" means the multi-campus, integrated  
66 university of the state, consisting of West Virginia  
67 University including West Virginia University at  
68 Parkersburg, Potomac State College of West Virginia  
69 University and the West Virginia University School of  
70 Medicine; Marshall University including the Marshall  
71 University School of Medicine; the West Virginia  
72 Graduate College; or the West Virginia School of  
73 Osteopathic Medicine.

**§18B-2-4. Establishment and operation of graduate  
college; transfer of programs, etc., of Kana-  
wha Valley Graduate Center of West Virgi-  
nia University.**

1 The power of the board of regents, effective July one,  
2 one thousand nine hundred seventy-two, to establish,  
3 name, maintain and operate a graduate college whose  
4 major administrative offices are located in Kanawha  
5 county shall be transferred to the board of trustees  
6 effective July one, one thousand nine hundred eighty-  
7 nine, and shall be known as the "University of West  
8 Virginia College of Graduate Studies".

9 Effective the first day of July, one thousand nine  
10 hundred ninety-two, the graduate college herein estab-  
11 lished shall henceforth be known as the "West Virginia  
12 Graduate College". Any references in this code to the  
13 University of West Virginia College of Graduate  
14 Studies, the West Virginia College of Graduate Studies  
15 or the College of Graduate Studies shall, upon said

16 effective date, mean the West Virginia Graduate  
17 College.

18 The board of trustees shall employ a president and  
19 such staff and faculty as determined appropriate for the  
20 school, appoint an advisory board consistent with section  
21 one, article six of this chapter and shall exercise general  
22 determination, control, supervision and management of  
23 the financial, business and educational policies and  
24 affairs of the graduate college. The college shall be  
25 authorized to offer, in their entirety or in cooperation  
26 with other institutions, such curricula, programs,  
27 courses and services and confer such graduate degrees  
28 as may be approved by the board of trustees. The  
29 trustees shall fix tuition and establish and set other fees  
30 to be charged students as it deems appropriate, includ-  
31 ing the establishment of special fees for specific  
32 purposes. Special fees shall be paid into special funds  
33 and used only for the purposes for which collected. The  
34 board of trustees may allocate from the appropriations  
35 for the state university system for the operation and  
36 capital improvement of the graduate college.

37 All programs, activities, operations, accounts, and  
38 resources of the Kanawha Valley Graduate Center of  
39 West Virginia University which were transferred to the  
40 graduate college, and the title to all property of the  
41 Kanawha Valley Graduate Center of West Virginia  
42 University which was transferred to or later vested in  
43 the graduate college, shall be transferred to and remain  
44 vested in the trustees. The trustees are authorized to  
45 enter into contracts on behalf of the graduate college  
46 with public and private educational institutions, agen-  
47 cies and boards; with governmental agencies; and with  
48 corporations, partnerships and individuals for the use of  
49 physical facilities, equipment and for the performance  
50 of instructional or other services.

## ARTICLE 2. UNIVERSITY OF WEST VIRGINIA BOARD OF TRUSTEES.

**§18B-2-7. Authorization to sell all or part of Potomac state college of West Virginia university parcels of land located in New Creek and Keyser commonly known as the Potomac**

**state college farm listed on the public lands  
inventory as 1PSC6. PSC Parcel No. 6,  
1PSC14. PSC Parcel No. 14 and 1PSC16.  
PSC Parcel No. 16.**

1 (a) The board of trustees is hereby authorized and  
2 empowered to sell those parcels of land located on New  
3 Creek and Keyser Districts, Mineral County, West  
4 Virginia, commonly known as the Potomac State College  
5 Farm and listed on the Potomac State College index  
6 description of parcel use and list of parcels of lands and  
7 on the public lands inventory as: (1) 1PSC6. PSC Parcel  
8 No. 6, containing approximately 223.17 acres, (2)  
9 1PSC14. PSC Parcel No. 14, containing approximately  
10 8.25 acres and (3) 1PSC 16. PSC Parcel No. 16,  
11 containing approximately 180.6 acres.

12 (b) Each parcel may be subdivided and sold in parts,  
13 however all sales shall be accomplished through public  
14 auction, the terms of which shall be to achieve the  
15 highest price for such parcels whether in whole or in  
16 part: *Provided*, That prior to such action the board of  
17 trustees shall have the properties appraised separately  
18 by two licensed appraisers and shall not sell the  
19 property for less than the average of the appraisals:  
20 *Provided, however*, That in the event of sale of all or part  
21 to the government of the United States of America,  
22 public auction shall not be required and sale price may  
23 be negotiated at or above the average of two separate  
24 valuation by licensed appraisers.

25 (c) Prior to public auction, the board of trustees shall  
26 schedule a public hearing to be held at a reasonable time  
27 and place within the county to allow interested members  
28 of the public to attend the hearing without undue  
29 hardship. Members of the public may be present, submit  
30 statements and testimony and question the college's  
31 representative appointed pursuant to this subsection.  
32 The board of trustees shall cause to be published a notice  
33 of the required public hearing. The notice shall be  
34 published as a Class II legal advertisement in com-  
35 pliance with the provisions of article three, chapter fifty-  
36 nine of this code and the publication area shall be the  
37 county in which the affected land is located. The public

38 hearing shall be held no earlier than the fourteenth  
39 successive day following the first publication of the  
40 notice. The notice shall contain the time and place of the  
41 public hearing along with a brief description of the  
42 affected land. In addition thereto, the board of trustees  
43 shall cause a copy of the required notice to be posted  
44 in a conspicuous place at the affected land for members  
45 of the public to observe. Such notice shall remain posted  
46 for two successive weeks prior to the date of the public  
47 hearing. The board of trustees shall appoint a represen-  
48 tative of the college who shall conduct the required  
49 public hearing. The college's representative shall have  
50 full knowledge of all the facts and circumstances  
51 surrounding the proposed sale.

52 (d) The proceeds from the sale of the property  
53 referred to shall be deposited in a special revenue  
54 account from which the board of trustees is hereby  
55 authorized to expend the fund for horticulture, agricul-  
56 ture and forestry facilities and programs at Potomac  
57 State College of West Virginia University: *Provided,*  
58 That the prioritized recommendations of the agriculture  
59 department advisory committee shall be considered by  
60 the agriculture department faculty and president of the  
61 college in the expenditure of the proceeds: *Provided,*  
62 *however,* That the advisory committee shall include one  
63 member each representing agricultural education,  
64 animal or dairy science, forestry, horticulture, and  
65 veterinary medicine, of which three shall be alumni of  
66 the agriculture department at the college.

**§18B-8-1. Definitions.**

1 As used in this article:

2 (a) "Schedule" or "salary schedule" means the grid of  
3 minimum salary figures listed in section two of this  
4 article;

5 (b) "Academic rank" means the position held by a  
6 faculty member as determined by the president,  
7 consistent with policy established by the governing  
8 board, and includes the positions of professor, associate  
9 professor, assistant professor and instructor; all other  
10 ranks are excluded from the provisions of this article;

11 (c) "Years of experience" means the actual number of  
12 years a person has been a full-time faculty member at  
13 an institution of higher education within this state.  
14 Employment for nine months shall equal one year of  
15 experience, but no faculty member may accrue more  
16 than one year of experience during any given academic  
17 year. Employment for less than full time, or less than  
18 nine months during any fiscal year, shall be prorated.  
19 In accordance with rules established by the governing  
20 boards, a faculty member may be granted additional  
21 years of experience for actual years of work or teaching  
22 experience at institutions other than institutions of  
23 higher education within this state;

24 (d) "Doctoral institutions" means West Virginia  
25 University and Marshall University at Huntington.  
26 Doctoral programs at Marshall University shall be  
27 selective and nonduplicative of West Virginia Univer-  
28 sity unless an exception is recommended by both  
29 institutions and approved by the board of trustees.  
30 "Master's II institutions" means West Virginia School of  
31 Osteopathic Medicine and the West Virginia Graduate  
32 College; "baccalaureate and two-year institutions"  
33 means Bluefield State College, Concord College, Fair-  
34 mont State College, Glenville State College, Shepherd  
35 College, West Liberty State College, West Virginia  
36 Institute of Technology, West Virginia State College,  
37 West Virginia University at Parkersburg, Southern  
38 West Virginia Community College, West Virginia  
39 Northern Community College and Potomac State  
40 College of West Virginia University and such other  
41 institutions as are designated community colleges by the  
42 board of directors;

43 (e) "Salary" means the total nine-month or ten-month  
44 salary paid from state funds to a full-time faculty  
45 member, or if other than nine or ten months, adjusted  
46 to a nine-month base salary;

47 (f) "Full-time faculty" means any faculty member  
48 designated as such by the president, consistent with  
49 approved policy of the appropriate governing board, and  
50 those persons with faculty rank who have research or  
51 administrative responsibilities;

52 (g) "Fiscal year" means twelve calendar months and  
53 begins on the first day of July and ends on the thirtieth  
54 day of June; and

55 (h) "Merit increases and salary adjustments" means  
56 the amount of additional salary increase allowed on a  
57 merit basis or to rectify salary inequities or accommo-  
58 date competitive market conditions, in accordance with  
59 policy established by the appropriate governing board.

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

*Strom Lick*

Chairman Senate Committee

*Ernest C. Moore*

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harrell B. B. B. B.*

Clerk of the Senate

*Donald L. Hopp*

Clerk of the House of Delegates

*Paul B. B. B.*

President of the Senate

*R. B. B. B.*

Speaker of the House of Delegates

The within *is approved* this the *1st* day of *April* 1992.

*Yaston Caperton*

Governor

PRESENTED TO THE

GOVERNOR

Date 3/12/92

Time 12:00 pm