

HB 4702

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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



SECOND ENROLLMENT

House Bill No. 4702

(By Delegates Michael, Mezzatesta, Doyle,
Clements, Leggett and Frederick)



Passed March 21, 1998

In Effect from Passage

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SECOND ENROLLMENT

H. B. 4702

(BY DELEGATES MICHAEL, MEZZATESTA, DOYLE,
CLEMENTS, LEGGETT AND FREDERICK)

[Passed March 21, 1998; in effect from passage.]

AN ACT to amend article six, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty; to amend and reenact sections one-a, two, three, four, five, eight, nine, ten and twenty-six, article twenty, chapter thirty-one of said code; to further amend said article by adding thereto three new sections, designated sections five-c, eight-a and nine-a; and to amend and reenact sections fourteen, fifteen and seventeen, article three, chapter thirty-three of said code, all relating to providing for the administrative structure and funding of juvenile and adult detention and corrections, construction, operations, maintenance and oversight; providing that the regional jail and correctional facility authority may finance certain costs through the investment management board; requiring the investment management board to invest certain funds available for investment from the public employees retirement system in the state's regional jail and correctional facility system; limiting the amount that may be transferred; loan repayment; requiring authority to certify a list of projects; rate of return on investments; creating funds; requiring lawsuit; specifying court where lawsuit shall be filed; providing that the authority may design, finance and

construct or renovate and repair juvenile facilities; adding definitions; revising the composition, powers and duties of the authority; revising the composition and scope of authority of the jail and correctional facility standards commission; creating a separate standards commission for juvenile facilities and providing for the appointment of members; specifying powers and duties of the juvenile facilities standards commission; authorizing the regional jail and correctional facility authority to construct new facilities or renovate existing facilities to be used for secure predisposition detention of juveniles, for juvenile transfer facilities and for juvenile correctional facilities and allowing said facilities to be adjacent to regional jails under certain circumstance; redefining the regional jail and correctional facility development fund; including discretionary oversight of juvenile facilities under the jurisdiction of the legislative oversight committee on regional jails and correctional facilities; providing for the disposition of certain designated insurance tax revenues; eliminating obsolete and superfluous provisions; and providing a reasonable return on the investment by dedicating a portion of revenues generated from certain designated insurance taxes.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6. WEST VIRGINIA INVESTMENT MANAGEMENT BOARD.

§12-6-20. Investment with regional jail and correctional facility authority.

1 (a) The Legislature finds and declares:

2 (1) That the supreme court of appeals has determined
3 and ordered that the constitution of this state imposes a
4 duty on behalf of the state to make significant improve-
5 ments in the jail and correctional facility system, including
6 the duty to make capital improvements to facilities and to
7 pay for the cost of those improvements;

8 (2) That construction of capital improvements requires
9 that the cost of the facilities be financed over time; that
10 capital improvements cannot be funding out of the current
11 year appropriations of the Legislature; and that section
12 fifty-one, article six of the constitution prohibits the
13 Legislature amending the budget bill so as to create a
14 deficit;

15 (3) That while the supreme court of appeals is
16 empowered to interpret the laws, including the constitution
17 of the state, section one, article ten of the constitution
18 grants to the Legislature the power of taxation; section
19 fifty-one, article six of the constitution grants to the
20 Legislature the power of appropriation; and section one,
21 article five of the constitution prohibits any branch of
22 government from exercising powers properly belonging
23 to another;

24 (4) That the enacting of new taxes, or the diversion of
25 revenues from other essential departments and functions
26 of government, in order to support capital improvements
27 in jails and correctional facilities, is not in the interests of
28 the people of the state represented in the Legislature, and
29 is specifically rejected by the Legislature in its exercise of
30 its legitimate constitutional powers;

31 (5) That the decision of the supreme court of appeals,
32 imposing a duty on the state to construct and pay for
33 capital improvements to jails and correctional facilities
34 arising out of the Bill of Rights of the United States
35 constitution declared ratified in the year one thousand
36 seven hundred ninety-one, and the state constitution of the
37 year one thousand eight hundred sixty-three, constitutes a
38 prior liability of the state within the meaning of section

39 four, article ten of the constitution and an exception to the
40 constitutional limitation on contracting state debt;

41 (6) That the construction of capital improvements of
42 jail and correctional facilities may be funded through
43 funds available for investment through the West Virginia
44 investment management board, invested in such a manner
45 as to be assured as high a rate of return as would be
46 earned if these funds were otherwise invested, and repaid
47 by the state as provided in this article.

48 (b) The investment management board shall upon
49 request of the regional jail and correctional facility
50 authority transfer moneys as an investment, from funds
51 available for investment from the public employees
52 retirement system, to the regional jail and correctional
53 facility authority. The amount transferred may not exceed
54 one hundred fifty million dollars in the aggregate and
55 shall be used for the purposes of financing construction of
56 regional jails, correctional facilities, juvenile detention
57 facilities, juvenile correctional facilities, or extensions,
58 renovations, improvements or additions thereto, or for the
59 replacement or renovation of existing facilities. If the
60 board has loaned money to the state building commission
61 under subsection (b), section nineteen of this article, the
62 total amount loaned shall be repaid to the board from
63 funds made available under the investment made pursuant
64 to this section. Prior to the expenditure of any of the
65 funds, the regional jail and correctional facility authority
66 shall certify to the joint committee on government and
67 finance a list of projects that are to be funded from the
68 invested funds. This certified list may not thereafter be
69 altered or amended other than by legislative enactment.
70 Funds shall be invested with the regional jail and
71 correctional facility authority as requested by the regional
72 jail and correctional facility authority. The money
73 invested shall earn a return at a rate equal to the
74 annualized rate of return earned by the core fixed-income
75 portfolio of the public employees retirement system over
76 the previous five years, plus one tenth of one percent:
77 *Provided*, That in all events this rate of return may not be
78 less than five percent per annum. The monthly rate of
79 return shall be calculated every quarter. The manner and

80 timing of the investment shall be determined by the board.
81 The total of the amounts invested may not exceed a total
82 of one hundred fifty million dollars during fiscal year one
83 thousand nine hundred ninety-eight, and fiscal year one
84 thousand nine hundred ninety-nine, cumulatively. The
85 authority to make the investment authorized by this
86 section expires on the thirtieth day of June, one thousand
87 nine hundred ninety-nine.

88 (c) There is created in the state treasury a regional jail
89 and correctional facility investment fund dedicated to the
90 payment of investment earnings and the return of capital
91 invested under this section. The treasurer shall administer
92 the fund. The fund is an interest-bearing account with
93 interest earned credited to and deposited back into the
94 fund. The fund consists of amounts required to be
95 deposited by section fourteen, article three, chapter
96 thirty-three of this code.

97 (d) The treasurer shall, monthly, transfer amounts
98 from the regional jail and correctional facility investment
99 fund to the board that are sufficient to allow investment
100 earnings to be paid and the capital invested returned in
101 substantially equal amounts by the thirty-first day of
102 August, two thousand twenty-three: *Provided*, That the
103 amount of investment earnings paid and the capital
104 invested returned during the fiscal year beginning the first
105 day of July, one thousand nine hundred ninety-eight, may
106 not exceed ten million dollars. Payment representing
107 investment earnings and the return of capital invested shall
108 begin six months from the date the initial funds are
109 invested, or by the tenth day of January, one thousand
110 nine hundred ninety-nine, whichever is later.

111 (e) The board shall calculate the amount of the
112 projected annual investment earnings to be paid and the
113 capital invested to be returned and certify the amount to
114 the treasurer on the first day of December of each year,
115 until all investment earnings are paid and the total capital
116 invested is returned.

117 (f) As a condition precedent to the transfer and
118 investment of moneys by the investment management
119 board pursuant to subsection (b) of this section, either the

120 investment management board or the regional jail and
121 correctional authority shall have first caused a judicial
122 determination to be made by an appropriate action
123 initiated in the West Virginia supreme court of appeals
124 regarding the transfer of moneys by the investment
125 management board to the regional jail and correctional
126 facility authority as an investment from funds available for
127 investment from the public employees retirement system,
128 and to otherwise determine the constitutionality of the
129 provisions of Enrolled House Bill 4702, as enacted by the
130 Legislature in the year one thousand nine hundred
131 ninety-eight. This judicial determination shall be brought
132 as soon as practicable, but not later than thirty days
133 following the effective date of the amendments to this
134 section made by the Legislature in the year one thousand
135 nine hundred ninety-eight.

136 (g) The Legislature recognizes the fiduciary liability
137 and responsibility imposed on the board by this article
138 and by article six, chapter forty-four of this code. The
139 board, its trustees and employees, have no liability, either
140 personally or corporately with respect to the investment
141 provided for in this section and the loans made under
142 section nineteen of this article, if the investment and loans
143 are made in accordance with the respective provisions of
144 this section and section nineteen of this article.

145 (h) The regional jail and correctional facility authority
146 shall expend the funds invested under the provisions of
147 this section to proceed with the projects identified
148 pursuant to subsection (b) of this section.

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-1a. Legislative findings and purposes.

1 (a) The Legislature finds as follows:

2 (1) That some existing jails, adult correctional facilities
3 and juvenile detention and correctional facilities in this
4 state serve neither the best interests of the incarcerated

5 populations of the jails and facilities nor the citizens of
6 West Virginia;

7 (2) That due to time constraints established and
8 imposed by judicial decisions, it is imperative that the
9 Legislature give immediate and diligent attention to the
10 improvement of existing facilities and the construction
11 and maintenance of new facilities, as well as to the
12 development and implementation of new, innovative and
13 effective programs dealing with incarcerated persons;

14 (3) That the physical condition of some existing jails,
15 adult correctional facilities and juvenile facilities
16 contribute to a frustration of efforts to provide
17 rehabilitation, education, vocational training, and social
18 and psychological adjustment and improvement for
19 incarcerated persons, with the result that those existing
20 facilities are utilized largely for the limited purposes of
21 confinement;

22 (4) That there is a need to examine, understand and
23 implement various new and innovative trends which are
24 being advanced in the area of correctional institution
25 design, and to explore the developing alternatives to
26 incarceration which are being experimented with in other
27 jurisdictions; and

28 (5) That the revenues of this state, insofar as they are
29 currently used to maintain a traditional penal system, are
30 not efficiently utilized to provide facilities or produce
31 programs which could direct an adult or juvenile inmate's
32 or detainee's time and effort to prepare him or her for life
33 outside of confinement; nor do the revenues provide
34 corrections officials with the resources necessary to
35 address the issues and problems with which they are
36 confronted.

37 (b) The purposes of this article are as follows:

38 (1) To provide a cost-efficient system within this state
39 for the construction, maintenance and operation of adult
40 jails and correctional facilities;

41 (2) To develop and implement plans for the
42 renovation and improvement of existing facilities and the

43 design and construction of new facilities to better serve the
44 incarcerated and detained juvenile and adult populations
45 and the citizens of this state;

46 (3) To provide an environment in which new and
47 innovative corrections programs may be considered and
48 undertaken, and in which opportunities may be offered to
49 incarcerated persons to overcome personal deficiencies
50 which are educational, vocational, social or psychological
51 in nature; and

52 (4) To investigate the feasibility of individualizing and
53 classifying adult inmates according to their psychological
54 and physical conditions at the time they are incarcerated,
55 and the feasibility of designing for each such inmate a
56 plan for self-improvement and rehabilitation.

§31-20-2. Definitions.

1 Unless the context indicates clearly otherwise, as used
2 in this article:

3 (a) "Adjacent regional juvenile detention facility"
4 means a facility constructed or maintained on property
5 owned or controlled by the regional jail authority and
6 designed for the short term pre-adjudicatory detention of
7 juveniles, for the confinement of juveniles who are
8 awaiting transportation to or placement at another juvenile
9 detention facility or juvenile correctional facility and for
10 juveniles who are awaiting trial as an adult pursuant to
11 section ten, article five, chapter forty-nine of this code.

12 (b) "Authority" or "West Virginia Regional Jail
13 Authority" means the West Virginia regional jail and
14 correctional facility authority created by this article.

15 (c) "Board" means the governing body of the
16 authority.

17 (d) "Bonds" means bonds of the authority issued
18 under this article.

19 (e) "Cost of construction or renovation of a local jail
20 facility, regional jail facility or juvenile facility" means
21 the cost of all lands, water areas, property rights and
22 easements, financing charges, interest prior to and during

23 construction and for a period not exceeding six months
24 following the completion of construction, equipment,
25 engineering and legal services, plans, specifications and
26 surveys, estimates of costs and other expenses necessary or
27 incidental to determining the feasibility or practicability of
28 any project, together with any other expenses as may be
29 necessary or incidental to the financing and the
30 construction or renovation of the facilities and the placing
31 of the facilities in operation.

32 (f) "County" means any county of this state.

33 (g) "Federal agency" means the United States of
34 America and any department, corporation, agency or
35 instrumentality created, designated or established by the
36 United States of America.

37 (h) "Fund" means the regional jail and correctional
38 facility development fund provided in section ten of this
39 article, including those accounts that may be established
40 by the authority for accurate accounting of the
41 expenditure of public funds by that agency.

42 (i) "Government" means state and federal
43 government, and any political subdivision, agency or
44 instrumentality of the state or federal government,
45 corporate or otherwise.

46 (j) "Inmate" means any adult person properly
47 committed to a local or regional jail facility or a
48 correctional facility.

49 (k) "Local jail facility" means any county facility for
50 the confinement, custody, supervision or control of adult
51 persons convicted of misdemeanors, awaiting trial or
52 awaiting transportation to a state correctional facility.

53 (l) "Municipality" means any city, town or village in
54 this state.

55 (m) "Notes" means any notes as defined in section
56 one hundred four, article three, chapter forty-six of this
57 code issued under this article by the authority.

58 (n) "Correctional facility" means any correctional
59 facility, penitentiary or other correctional institution

60 operated by the division of corrections for the
61 incarceration of adults.

62 (o) "Regional jail facility" or "regional jail" means
63 any facility operated by the authority and used jointly by
64 two or more counties for the confinement, custody,
65 supervision or control of adult persons convicted of
66 misdemeanors or awaiting trial or awaiting transportation
67 to a state correctional facility.

68 (p) "Regional jail commission" means the
69 commission established in section eight of this article.

70 (q) "Revenues" means all fees, charges, moneys,
71 profits, payments of principal of, or interest on, loans and
72 other investments, grants, contributions and all other
73 income received by the authority.

74 (r) "Security interest" means an interest in the loan
75 portfolio of the authority which is secured by an
76 underlying loan or loans and is evidenced by a note issued
77 by the authority.

78 (s) "Work farm" has the same meaning as that term is
79 used in section twelve, article eight, chapter seven of this
80 code authorizing work farms for individual counties.

81 (t) "Juvenile detention facility" or "juvenile
82 detention center" means a facility operated by the
83 division of juvenile services for the short term
84 pre-adjudicatory detention of juveniles, for the
85 confinement of juveniles who are awaiting transportation
86 to or placement at another juvenile detention facility or
87 juvenile correctional facility and for juveniles who are
88 awaiting trial as an adult pursuant to section ten, article
89 five, chapter forty-nine of this code.

90 (u) "Juvenile correctional facility" means a facility
91 operated by the division of juvenile services for the post-
92 dispositional confinement of juveniles adjudicated of
93 offenses that would be criminal offenses if committed by
94 an adult.

§31-20-3. West Virginia regional jail and correctional facility authority; composition; appointment; terms; compensation and expenses.

1 There is hereby created the West Virginia regional jail
2 and correctional facility authority which shall be a body
3 corporate and a government instrumentality. The
4 authority shall have and is hereby granted all of the
5 powers and authority and shall perform all of the
6 functions and services heretofore vested in and performed
7 by the West Virginia regional jail and prison authority.
8 The West Virginia regional jail and prison authority is
9 hereby abolished. Wherever in this chapter and elsewhere
10 in law reference is made to the West Virginia regional jail
11 and prison authority, such reference shall henceforth be
12 construed and understood to mean the West Virginia
13 regional jail and correctional facility authority.

14 The authority shall be governed by a board of nine
15 members, seven of whom are entitled to vote on matters
16 coming before the authority. The complete governing
17 board shall consist of the commissioner of the division of
18 corrections; the director of the division of juvenile
19 services; the secretary of the department of military affairs
20 and public safety; the secretary of the department of
21 administration, or his or her designated representative;
22 three county officials appointed by the governor, no more
23 than two of which may be of the same political party; and
24 two citizens appointed by the governor to represent the
25 areas of law and medicine. The commissioner of the
26 division of corrections and the director of the division of
27 juvenile services shall serve in an advisory capacity and are
28 not entitled to vote on matters coming before the
29 authority. Members of the Legislature are not eligible to
30 serve on the board.

31 The governor shall nominate and, by and with the
32 advice and consent of the Senate, appoint the five
33 appointed members of the authority for staggered terms
34 of four years beginning the first day of July, one thousand
35 nine hundred eighty-nine. Of the members of the board
36 first appointed, one shall be appointed for a term ending
37 the thirtieth day of June, one thousand nine hundred

38 ninety-one, two shall be appointed for terms ending the
39 thirtieth day of June, one thousand nine hundred
40 ninety-two, and two shall be appointed for terms ending
41 the thirtieth day of June, one thousand nine hundred
42 ninety-three. As these original appointments expire, each
43 subsequent appointment shall be for a full four-year term.

44 Any appointed member whose term has expired shall
45 serve until his successor has been duly appointed and
46 qualified. Any person appointed to fill a vacancy shall
47 serve only for the unexpired term. Any appointed
48 member is eligible for reappointment. Members of the
49 authority are not entitled to compensation for services
50 performed as members but are entitled to reimbursement
51 for all reasonable and necessary expenses actually
52 incurred in the performance of their duties.

53 All members of the board of the authority shall
54 execute an official bond in a penalty of ten thousand
55 dollars, conditioned as required by law. Premiums on
56 such bond shall be paid from funds accruing to the
57 authority. Such bond shall be approved as to form by the
58 attorney general and as to sufficiency by the governor
59 and, when fully executed and approved, shall be filed in
60 the office of the secretary of state.

**§31-20-4. Governing body; organization and meetings;
quorum; administrative expenses.**

1 The governing body of the authority shall consist of
2 the voting members of the board as provided for in
3 section three of this article and shall exercise all the
4 powers given to the authority in this article. On the
5 second Monday of July of each odd-numbered year, the
6 board shall meet to elect a chairman and a secretary from
7 among its own members. The secretary of the department
8 of administration or his or her designated representative
9 shall serve as treasurer of the board. The board shall
10 otherwise meet quarterly, unless a special meeting is called
11 by its chairman.

12 A majority of the members of the board constitute a
13 quorum, and a quorum must be present for the board to
14 conduct business. Unless the bylaws require a larger

15 number, action may be taken by majority vote of the
16 members present.

17 The board shall prescribe, amend and repeal bylaws
18 and rules governing the manner in which the business of
19 the authority is conducted and shall review and approve
20 the budget prepared by the executive director annually.

21 The governor shall, with the advice and consent of the
22 Senate, appoint an executive director to act as its chief
23 executive officer, to serve at the will and pleasure of the
24 governor. The executive director is empowered to employ
25 any other personnel he or she determines necessary and
26 may appoint counsel and legal staff for the authority and
27 retain such temporary engineering, financial and other
28 consultants or technicians as may be required for any
29 special study or survey consistent with the provisions of
30 this article. The executive director is further empowered
31 to engage in negotiations and carry out plans to
32 implement the provisions of this article and to exercise
33 those powers listed in section five of this article on behalf
34 of the authority. The executive director shall prepare
35 annually a budget to be submitted to the board for its
36 review and approval.

37 All costs incidental to the administration of the
38 authority, including office expense, personal services
39 expense and current expense, shall be paid from the
40 regional jail and correctional facility development fund in
41 accordance with guidelines issued by the board of the
42 authority.

**§31-20-5. Powers and duties of the authority; bidding
procedures.**

1 Public hearings pursuant to this section shall be held
2 by the authority in convenient locations for public
3 comment on the establishment of regional jails. The
4 authority shall cause to be published at least two weeks in
5 advance of a hearing a Class II-0 legal advertisement, as
6 provided in section two, article three, chapter fifty-nine of
7 this code, setting forth the reason for the hearing and the
8 time, place and date thereof. The publication area shall be
9 each county which may be included in a region for the

10 purposes of a regional jail with the county in which the
11 public hearing is held.

12 In addition to the hearing requirements above, before
13 beginning construction of a new facility for use as a
14 regional jail or correctional facility or before beginning
15 renovation or acquisition of an existing facility for use as
16 a regional jail facility, which existing facility is not already
17 a jail, correctional facility or secure facility for the
18 detention of juveniles or persons otherwise involuntarily
19 committed or confined, the authority shall hold a hearing
20 for comment by all members of the public on all aspects
21 relating to the advisability of the use of the site for that
22 regional jail facility. The authority shall promulgate
23 legislative rules pursuant to chapter twenty-nine-a of this
24 code for the requirements for notice and other procedures
25 of said public hearings, which requirements shall be as
26 similar as practicable to those hearings conducted
27 regarding the construction of bridges by the West Virginia
28 department of highways.

29 The authority, as a public corporation and
30 governmental instrumentality exercising public powers of
31 the state, may exercise all powers necessary or appropriate
32 to carry out the purposes of this article, including, but not
33 limited to, the power:

34 (a) To acquire, own, hold and dispose of property, real
35 and personal, tangible and intangible.

36 (b) To lease property, whether as a lessee or lessor.

37 (c) To mortgage or otherwise grant security interests
38 in its property.

39 (d) To conduct examinations and investigations and to
40 hear testimony and take proof, under oath or affirmation
41 at public or private hearings, on any matter relevant to this
42 article and necessary for information on the construction
43 or renovation of any adult correctional facility or juvenile
44 facility or the establishment of any correctional facility
45 industries project.

46 (e) To issue subpoenas requiring the attendance of
47 witnesses and the production of books and papers relevant

48 to any hearing before the authority or one or more
49 members appointed by it to conduct any hearing.

50 (f) To apply to the circuit court having venue of the
51 offense to have punished for contempt any witness who
52 refuses to obey a subpoena, refuses to be sworn or
53 affirmed, or refuses to testify, or who commits any
54 contempt after being summoned to appear.

55 (g) To sue and be sued, implead and be impleaded,
56 and complain and defend in any court.

57 (h) To adopt, use and alter at will a corporate seal.

58 (i) To make rules for the management and regulation
59 of its affairs pursuant to article three, chapter
60 twenty-nine-a of this code.

61 (j) To appoint officers, agents and employees.

62 (k) To make contracts of every kind and nature and to
63 execute all instruments necessary or convenient for
64 carrying on its business, including contracts with any other
65 governmental agency of this state or of the federal
66 government or with any person, individual, partnership or
67 corporation to effect any or all of the purposes of this
68 article.

69 (l) Without in any way limiting any other subdivision
70 of this section, to accept grants from and enter into
71 contracts and other transactions with any federal agency.

72 (m) To borrow money and to issue its negotiable
73 bonds, security interests or notes and to provide for and
74 secure the payment thereof, and to provide for the rights
75 of the holders thereof, and to purchase, hold and dispose
76 of any of its bonds, security interests or notes: *Provided*,
77 That no bond or other obligation may be issued or
78 incurred unless and until the Legislature by concurrent
79 resolution has approved the purpose and amount of each
80 project for which proceeds from the issuance of the bond
81 or other obligation will be used.

82 (n) To sell, at public or private sale, any bond or other
83 negotiable instrument, security interest or obligation of the

84 authority in a manner and upon terms that the authority
85 considers would best serve the purposes of this article.

86 (o) To issue its bonds, security interests and notes
87 payable solely from the revenues or other funds available
88 to the authority therefor; and the authority may issue its
89 bonds, security interests or notes in such principal
90 amounts as it considers necessary to provide funds for any
91 purposes under this article, including:

92 (1) The payment, funding or refunding of the
93 principal of, interest on or redemption premiums on, any
94 bonds, security interests or notes issued by it whether the
95 bonds, security interests, notes or interest to be funded or
96 refunded have or have not become due.

97 (2) The establishment or increase of reserves to secure
98 or to pay bonds, security interests, notes or the interest
99 thereon and all other costs or expenses of the authority
100 incident to and necessary or convenient to carry out its
101 corporate purposes and powers. Any bonds, security
102 interests or notes may be additionally secured by a pledge
103 of any revenues, funds, assets or moneys of the authority
104 from any source whatsoever.

105 (p) To issue renewal notes or security interests, to issue
106 bonds to pay notes or security interests and, whenever it
107 considers refunding expedient, to refund any bonds by
108 the issuance of new bonds, whether the bonds to be
109 refunded have or have not matured except that no renewal
110 notes shall be issued to mature more than ten years from
111 date of issuance of the notes renewed and no refunding
112 bonds may be issued to mature more than twenty-five
113 years from the date of issuance.

114 (q) To apply the proceeds from the sale of renewal
115 notes, security interests or refunding bonds to the
116 purchase, redemption or payment of the notes, security
117 interests or bonds to be refunded.

118 (r) To accept gifts or grants of property, funds,
119 security interests, money, materials, labor, supplies or
120 services from the United States of America or from any
121 governmental unit or any person, firm or corporation, and

122 to carry out the terms or provisions of, or make
123 agreements with respect to, or pledge, any gifts or grants,
124 and to do any and all things necessary, useful, desirable or
125 convenient in connection with the procuring, acceptance
126 or disposition of gifts or grants.

127 (s) To the extent permitted under its contracts with the
128 holders of bonds, security interests or notes of the
129 authority, to consent to any modification of the rate of
130 interest, time of payment of any installment of principal or
131 interest, security or any other term of any bond, security
132 interest, note or contract or agreement of any kind to
133 which the authority is a party.

134 (t) To sell security interests in the loan portfolio of the
135 authority. The security interests shall be evidenced by
136 instruments issued by the authority. Proceeds from the
137 sale of security interests may be issued in the same manner
138 and for the same purposes as bond and note revenues.

139 (u) To propose legislative rules for promulgation, in
140 accordance with the provisions of article three, chapter
141 twenty-nine-a of this code, to implement and make
142 effective the powers, duties and responsibilities invested in
143 the authority by the provisions of this article and otherwise
144 by law.

145 (v) To assume the responsibility for operation and
146 management of regional jail facilities under the
147 jurisdiction of the state regional jail and correctional
148 facility authority. The authority shall provide for the
149 transportation of inmates between the regional jails and
150 local holding facilities for court appearances.

151 (w) To exercise all power and authority provided in
152 this article necessary and convenient to plan, finance,
153 construct, renovate, maintain and operate or oversee the
154 operation of regional jails and correctional facilities.

155 (x) To exercise all power and authority provided in
156 this article necessary and convenient to plan, finance,
157 construct, renovate, repair and replace juvenile detention
158 facilities and juvenile correctional facilities.

159 (y) To cooperate with the commission for distribution
160 of surplus foods and to authorize the executive director to
161 exercise all power and authority provided in this section
162 necessary to implement the pilot program for delivery of
163 leftover prepared foods at the regional jail located in
164 Marshall County, pursuant to section seventeen, article two,
165 chapter eighteen of this code.

**§31-20-5c. Additional powers and duties of the authority;
juvenile detention facilities.**

1 (a) The regional jail and correctional facility authority
2 shall complete a comprehensive study of all existing
3 juvenile detention facilities in the state of West Virginia no
4 later than the first day of October, one thousand nine
5 hundred ninety-eight. During the conduct of this study, all
6 state agencies shall provide the authority with any relevant
7 information and materials that the authority requests. This
8 study shall include an assessment of the physical
9 conditions of confinement within the existing juvenile
10 detention facilities and the relative need for facilities of
11 that type, taking into account the broad range of
12 alternatives that are available for juveniles who are in the
13 custody of the division of juvenile services.

14 (b) After completing this study, the authority shall
15 submit a report to the governor proposing a plan for the
16 establishment of regional juvenile detention facilities.

17 (c) The authority shall consider, but is not limited to,
18 the following when in developing the regional juvenile
19 detention facilities plan:

20 (1) All federal statutes and mandates concerning the
21 location, construction, operation, administration and
22 staffing of juvenile detention facilities;

23 (2) The relative physical condition of the juvenile
24 detention facilities located within the state;

25 (3) The transportation costs associated with the
26 establishment of centralized and regional juvenile
27 detention facilities, including, but not limited to, the costs
28 of transporting detained juveniles to court appearances
29 and for other necessary absences from the facility;

30 (4) The availability of medical services and
31 educational and recreational opportunities;

32 (5) Information received from public hearings;

33 (6) The relative savings in cost and efficiency of
34 providing regional juvenile detention services at facilities
35 located adjacent to existing regional jail facilities,
36 including moneys saved by the sharing of certain staff and
37 services, including food services, to the extent that such
38 sharing of resources is permitted by federal law and
39 guidelines;

40 (7) Available facilities located adjacent to existing
41 regional jails which may be used as regional juvenile
42 detention facilities, including, but not limited to, existing
43 county and state owned properties: *Provided*, That if the
44 authority determines that an existing facility meets
45 applicable standards, including all federal standards, or
46 could reasonably be made to meet the standards for a
47 regional juvenile detention facility, the authority may
48 proceed to acquire that existing facility and compensate
49 the owner thereof in an amount that may not exceed fair
50 market value.

**§31-20-8. Jail facilities standards commission; appointment;
compensation; vacancies; quorum.**

1 (a) A jail facilities standards commission of twelve
2 members is hereby created. The superintendent of the
3 state police or his or her designee shall serve as
4 chairperson of the commission and is eligible to vote on
5 matters before the commission. The governor shall
6 appoint two county sheriffs, to be chosen from a list of
7 three names provided by the president of the West
8 Virginia sheriffs' association, three county commissioners,
9 to be chosen from a list of five names provided by the
10 president of the West Virginia county commissioners'
11 association, and one chief of police, to be chosen from a
12 list of three names provided by the president of the West
13 Virginia police chiefs' association. Each of the
14 appointed members shall serve for a term of three years, is
15 eligible for reappointment and may vote on matters before
16 the commission. The executive director of the regional

17 jail and correctional facility authority, the commissioner
18 of the division of corrections, the commissioner of the
19 bureau of public health, the state fire marshal, and the
20 superintendent of schools or their designees shall be
21 members ex officio in an advisory capacity.

22 (b) Members of the commission shall serve without
23 compensation, but may be reimbursed by the regional jail
24 and correctional facility authority for reasonable and
25 necessary expenses incurred in the performance of their
26 duties. The regional jail and correctional facility authority
27 shall provide the commission with secretarial and other
28 necessary services.

29 (c) A vacancy among the appointed members of the
30 commission shall be filled, within thirty days, in the same
31 manner as the original appointment. A quorum consists
32 of four of the seven voting members.

§31-20-8a. Juvenile facilities standards commission; appointment; compensation; vacancies; quorum.

1 (a) A juvenile facilities standards commission
2 consisting of nine members is hereby created. The
3 governor shall appoint two citizen members who are
4 experienced and knowledgeable in the field of law
5 enforcement; one citizen member who is experienced and
6 knowledgeable in the field of juvenile development; and
7 one lay member. Each of these appointed members shall
8 serve for a term of three years and be eligible for
9 reappointment. The secretary of the department of
10 military affairs and public safety shall be a member ex
11 officio and shall serve as the commission's chairman. The
12 state fire marshal and the chairman of the juvenile justice
13 subcommittee of the governor's committee on crime,
14 delinquency and correction shall be members ex officio.
15 The director of the division of juvenile services and the
16 executive director of the regional jail and correctional
17 facility authority shall be members ex officio but shall
18 serve in an advisory capacity and are not entitled to vote
19 on matters coming before the commission.

20 (b) Members of the commission shall serve without
21 compensation, but may be reimbursed by the division of

22 juvenile services for reasonable and necessary expenses
23 incurred in the performance of their duties. The division
24 of juvenile services shall provide the commission with
25 secretarial and other necessary services.

26 (c) A vacancy among the appointed members of the
27 commission shall be filled, within thirty days, in the same
28 manner as the original appointment. A quorum consists
29 of four of the seven voting members.

**§31-20-9. Jail facilities standards commission: purpose,
powers and duties.**

1 (a) The purpose of the jail facilities standards
2 commission is to assure that proper minimum standards
3 and procedures are developed for jail facility operation,
4 maintenance and management of inmates for regional jails
5 and local jail facilities used as temporary holding facilities.
6 In order to accomplish this purpose, the commission shall:

7 (1) Prescribe standards for the maintenance and
8 operation of county and regional jails. The standards
9 shall include, but not be limited to, requirements assuring
10 adequate space, lighting and ventilation; fire protection
11 equipment and procedures; provision of specific personal
12 hygiene articles; bedding, furnishings and clothing; food
13 services; appropriate staffing and training; sanitation,
14 safety and hygiene; isolation and suicide prevention;
15 appropriate medical, dental and other health services;
16 indoor and outdoor exercise; appropriate vocational and
17 educational opportunities; classification; inmate rules and
18 discipline; inmate money and property; religious services;
19 inmate work programs; library services; visitation, mail
20 and telephone privileges; and other standards necessary to
21 assure proper operation: *Provided*, That the standards
22 developed for the construction, operation and
23 maintenance of jails apply only to jail facilities completed
24 after the fifth day of April, one thousand nine hundred
25 eighty-eight, and that the standards serve only as
26 guidelines for any jail facility in operation prior to that
27 date: *Provided, however*, That the commission shall
28 establish standards and procedures permitting and
29 implementing in those facilities the double bunking of

30 inmates in all appropriate cases to the extent that this
31 practice does not violate federal law;

32 (2) Propose legislative rules for promulgation
33 pursuant to the provisions of article three, chapter
34 twenty-nine-a of this code that are necessary to implement
35 the provisions of this article relating to jail facilities,
36 including, without limitation, minimum jail and work farm
37 standards which shall be proposed for promulgation on or
38 before the first day of July, one thousand nine hundred
39 ninety-nine: *Provided*, That rules filed by the jail and
40 correctional facilities standards commission and
41 authorized by the Legislature to be promulgated before
42 the amendment to this section enacted in the regular
43 session of the Legislature in the year one thousand nine
44 hundred ninety-eight remain in force except that such
45 previously promulgated rules no longer apply to: (i)
46 Correctional facilities; and (ii) jail facilities that were
47 originally constructed for use as a jail which were
48 completed and placed in operation before the fifth day of
49 April, one thousand nine hundred ninety-eight: *Provided*,
50 *however*, That such previously promulgated rules shall
51 serve as guidelines for those facilities that fall within the
52 specifications of (ii) herein;

53 (3) Develop a process for reviewing and updating the
54 jail and work farm standards pursuant to the provisions of
55 article three, chapter twenty-nine-a of this code as
56 necessary to assure that they conform to current law; and

57 (4) Report periodically to the regional jail and
58 correctional facility authority and the appropriate county
59 and municipal authorities to advise, recommend, and
60 direct actions to be taken by the authority, the county or
61 the municipality to implement proper minimum jail and
62 work farm standards.

63 (b) Notwithstanding any other provision of this code
64 to the contrary, any county commission providing and
65 maintaining a jail on the effective date of this article may
66 not be required to provide and maintain a jail after a
67 regional jail becomes available pursuant to the provisions
68 of article twenty, chapter thirty-one of this code, unless the
69 county commission determines that a facility is necessary:

70 *Provided*, That the county commission may provide and
71 maintain a holding facility which complies with the
72 standards set forth for holding facilities in legislative rules
73 promulgated by the jail facilities standards commission or
74 its predecessor, the jail and correctional facilities standards
75 commission.

**§31-20-9a. Juvenile facilities standards commission: purpose;
powers; and duties.**

1 The purpose of the commission is to assure that
2 proper minimum standards and procedures are developed
3 for juvenile detention and juvenile correctional facility
4 operation, maintenance and management. To this end,
5 the commission shall:

6 (1) Develop standards for the maintenance and
7 operation of juvenile detention and correctional facilities.
8 These standards shall include, but not be limited to,
9 requirements assuring adequate space, lighting and
10 ventilation; fire protection equipment and procedures;
11 provision of specific personal hygiene articles; bedding,
12 furnishings and clothing; food services; appropriate
13 staffing and training; sanitation, safety and hygiene;
14 isolation and suicide prevention; appropriate medical,
15 dental and other health services; indoor and outdoor
16 exercise; appropriate vocational and educational
17 opportunities; rules and discipline; religious services;
18 vocational programs; library services; visitation, mail and
19 telephone privileges; and other standards necessary to
20 assure proper operation.

21 (2) Propose legislative rules for promulgation
22 pursuant to article three, chapter twenty-nine-a of this
23 code, including, without limitation, the minimum standards
24 for juvenile detention and correctional facilities as
25 provided in subdivision (1) of this section not later than
26 the first day of January, one thousand nine hundred
27 ninety-nine.

28 (3) Develop a process for reviewing and updating
29 these standards as necessary to assure that they conform to
30 current law.

31 (4) Report periodically to the authority to advise and
32 recommend actions to be taken by the authority, if
33 necessary, to implement proper standards in the state's
34 juvenile detention and correctional facilities.

§31-20-10. Regional jail and correctional facility development fund.

1 (a) The regional jail and correctional facility
2 development fund is hereby created and shall be
3 composed of special accounts in the state treasury. The
4 fund shall operate as a revolving fund whereby all
5 appropriations and payments to the fund may be applied
6 and reapplied by the authority for the purposes of this
7 article. Separate accounts may be established within the
8 fund for the purpose of identification of various revenue
9 resources and payment of specific obligations. These
10 separate accounts may be used for purposes that include,
11 but are not limited to, the construction, renovation or
12 repair of specific facilities, cash control, facility
13 maintenance and for the individual operating accounts of
14 facilities operated by the authority. The authority may
15 create other separate accounts within the fund that it
16 determines are necessary for the efficient operation of the
17 authority.

18 (b) Revenues deposited into the fund shall be used to
19 make payments of interest and shall be pledged as security
20 for bonds, security interests or notes issued or
21 lease-purchase obligations entered into with another state
22 entity by the authority pursuant to this article.

23 (c) Whenever the authority determines that the balance
24 in the fund is in excess of the immediate requirements of
25 this article, it may request that the excess be invested until
26 needed. In this case the excess shall be invested in a
27 manner consistent with the investment of temporary state
28 funds. Interest earned on any money invested pursuant to
29 this section shall be credited to the fund.

30 (d) If the authority determines that funds held in the
31 fund are in excess of the amount needed to carry out the
32 purposes of this article, it shall take any action that is

33 necessary to release the excess and transfer it to the
34 general revenue fund of the state treasury.

35 (e) The fund shall consist of the following:

36 (1) Amounts raised by the authority by the sale of
37 bonds or other borrowing authorized by this article;

38 (2) Moneys collected and deposited in the state
39 treasury which are specifically designated by acts of the
40 Legislature for inclusion into the fund;

41 (3) Contributions, grants and gifts from any source,
42 both public and private, which may be used by the
43 authority for any project or projects;

44 (4) All sums paid by the counties pursuant to
45 subsection (h) of this section; and

46 (5) All interest earned on investments made by the
47 state from moneys deposited in this fund.

48 (f) The amounts deposited in the fund shall be
49 accounted for and expended in the following manner:

50 (1) Amounts raised by the sale of bonds or other
51 borrowing authorized by this article shall be deposited in a
52 separate account within the fund and expended for the
53 purpose of construction, renovation and repair of
54 correctional facilities, regional jails and juvenile detention
55 and correctional facilities for which need has been
56 determined by the authority;

57 (2) Amounts deposited from all other sources shall be
58 pledged first to the debt service on any bonded
59 indebtedness, including lease-purchase obligations entered
60 into by the authority with another state entity or other
61 obligation incurred by borrowing of the authority;

62 (3) After any requirements of debt service have been
63 satisfied, the authority shall requisition from the fund the
64 amounts that are necessary to provide for payment of the
65 administrative expenses of this article;

66 (4) The authority shall requisition from the fund after
67 any requirements of debt service have been satisfied the

68 amounts that are necessary for the maintenance and
69 operation of the correctional facilities or regional jails or
70 both that are constructed pursuant to the provisions of this
71 article and shall expend those amounts for that purpose.
72 The fund shall make an accounting of all amounts
73 received from each county by virtue of any filing fees,
74 court costs or fines required by law to be deposited in the
75 fund and amounts from the jail improvement funds of the
76 various counties. After the expenses of administration
77 have been deducted, the amounts expended in the
78 respective regions from those sources shall be in
79 proportion to the percentage the amount contributed to
80 the fund by the counties in each region bears to the total
81 amount received by the fund from those sources;

82 (5) Notwithstanding any other provisions of this
83 article, sums paid into the fund by each county pursuant
84 to subsection (h) of this section for each inmate shall be
85 placed in a separate account and shall be requisitioned
86 from the fund to pay for costs incurred at the regional jail
87 facility at which each inmate was incarcerated; and

88 (6) Any amounts deposited in the fund from other
89 sources permitted by this article shall be expended in the
90 respective regions based on particular needs to be
91 determined by the authority.

92 (g) After a regional jail facility becomes available
93 pursuant to this article for the incarceration of inmates,
94 each county within the region shall incarcerate all persons
95 whom the county would have incarcerated in any jail prior
96 to the availability of the regional jail facility in the
97 regional jail facility except those whose incarceration in a
98 local jail facility used as a local holding facility is
99 specified as appropriate under the standards and
100 procedures developed pursuant to section nine of this
101 article and who the sheriff or the circuit court elects to
102 incarcerate therein.

103 (h) When inmates are placed in a regional jail facility
104 pursuant to subsection (g) of this section, the county shall
105 pay into the regional jail and correctional facility
106 development fund a cost per day for each incarcerated
107 inmate to be determined by the regional jail and

108 correctional facility authority according to criteria and by
109 procedures established by legislative rules proposed for
110 promulgation pursuant to article three, chapter
111 twenty-nine-a of this code to cover the costs of operating
112 the regional jail facilities of this state to maintain each
113 inmate. The per diem costs for incarcerating inmates may
114 not include the cost of construction, acquisition or
115 renovation of the regional jail facilities: *Provided*, That
116 each regional jail facility operating in this state shall keep
117 a record of the date and time that an inmate is
118 incarcerated, and a county may not be charged for a
119 second day of incarceration for an individual inmate until
120 that inmate has remained incarcerated for more than
121 twenty-four hours. Thereafter, in cases of continuous
122 incarceration, subsequent per diem charges shall be made
123 upon a county only as subsequent intervals of twenty-four
124 hours pass from the original time of incarceration.

§31-20-26. Legislative oversight committee.

1 The president of the Senate and the speaker of the
2 House of Delegates shall each designate five members of
3 their respective houses, at least one of whom shall be a
4 member of the minority party, to serve on a legislative
5 oversight committee charged with immediate and ongoing
6 oversight of the authority and the commissions, and
7 functions and duties of the authority and the commissions
8 created by this article. This committee shall report
9 regularly at each legislative session on the implementation
10 of the purposes set forth in section one-a of this article. It
11 shall regularly investigate all matters relating to integrity,
12 probity and foresight in funding, operating and planning
13 the correctional system on state, regional and county
14 levels, and may include the planning, funding,
15 constructing and operating of juvenile detention and
16 correctional facilities. Specifically, the committee shall
17 study and make recommendations to the Legislature as to
18 the revision of the system of classifying adult inmates, with
19 a view variously to decreasing the prison population
20 confined in "maximum security" facilities and to
21 designating and meeting the needs of inmates classified as
22 elderly, disabled or otherwise handicapped. In addition,
23 the committee may study and make recommendations to

24 the Legislature relating to the system of juvenile detention
25 and juvenile corrections.

26 The committee shall further study and inform the state
27 judiciary of the impact of sentencing on the composition
28 of the prison population in proportion to the use of
29 facilities. It shall recommend alternatives to long-term
30 sentencing, and shall recommend measures to improve the
31 quality of correctional staff and facilitate
32 nonconfrontational contacts with inmates. The committee
33 shall investigate means to structure inmates' time to ensure
34 genuine and willing reaccommodations to societal norms;
35 shall probe and coordinate all available means for funding
36 state, regional and county correctional facilities; and shall
37 contract with penal experts to study these issues in
38 appropriate depth and perspective. Annually, to predict a
39 prudent use of available funds, the committee shall study
40 the profile of the inmate population with regard to its age
41 and social background and needs.

42 The committee shall recommend to the Legislature the
43 funding required to execute these functions. It shall meet
44 regularly with the governing body of the authority
45 established in this article to determine what may be
46 required for full and timely compliance with all federal
47 mandates and court-ordered changes in the correctional
48 system and shall recommend funding for these changes.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-14. Annual financial statement and premium tax return; remittance by insurer of premium tax, less certain deductions; special revenue fund created.

1 (a) Every insurer transacting insurance in West
2 Virginia shall file with the commissioner, on or before the
3 first day of March, each year, a financial statement made
4 under oath of its president or secretary and on a form
5 prescribed by the commissioner. The insurer shall also,
6 on or before the first day of March of each year subject to
7 the provisions of section fourteen-c of this article, under
8 the oath of its president or secretary, make a premium tax

9 return for the previous calendar year, on a form
10 prescribed by the commissioner showing the gross amount
11 of direct premiums, whether designated as a premium or
12 by some other name, collected and received by it during
13 the previous calendar year on policies covering risks
14 resident, located or to be performed in this state and
15 compute the amount of premium tax chargeable to it in
16 accordance with the provisions of this article, deducting
17 the amount of quarterly payments as required to be made
18 pursuant to the provisions of section fourteen-c of this
19 article, if any, less any adjustments to the gross amount of
20 the direct premiums made during such calendar year, if
21 any, and transmit with the return to the commissioner a
22 remittance in full for the tax due. The tax is the sum
23 equal to two percent of the gross direct premiums,
24 including dividends, by whatever name called, on
25 participating policies applied in reduction of premiums,
26 less premiums returned to policyholders because of
27 cancellation of policies, and also includes any additional
28 tax due under section fourteen-a of this section. All taxes
29 received by the commissioner shall be paid into the
30 insurance tax fund created in subsection (b) of this
31 section.

32 (b) There is created a special revenue fund in the state
33 treasury which is designated the "insurance tax fund."
34 This fund is not part of the general revenue fund of the
35 state. It consists of all amounts deposited in the fund
36 pursuant to subsection (a) of this section, sections fifteen
37 and seventeen of this article, any appropriations to the
38 fund, all interest earned from investment of the fund and
39 any gifts, grants or contributions received by the fund.
40 The treasurer shall administer the fund.

41 (c) The treasurer shall dedicate and transfer from the
42 insurance tax fund to the regional jail and correctional
43 facility investment fund created under the provisions of
44 section twenty, article six, chapter twelve of this code, on
45 or before the tenth day of each month, an amount equal to
46 one twelfth of the projected annual investment earnings to
47 be paid and the capital invested to be returned, as certified
48 to the treasurer by the investment management board:
49 *Provided*, That the amount dedicated and transferred may

50 not exceed twenty million dollars in any fiscal year. In
51 the event there are insufficient funds available in any
52 month to transfer the amount required pursuant to this
53 subsection to the regional jail and correctional facility
54 investment fund, the deficiency shall be added to the
55 amount transferred in the next succeeding month in which
56 revenues are available to transfer the deficiency. Each
57 month a lien on the revenues generated from the
58 insurance premium tax, the annuity tax and the minimum
59 tax, provided in this section and sections fifteen and
60 seventeen of this article, up to a maximum amount equal
61 to one twelfth of the projected annual principal and return
62 is granted to the investment management board to secure
63 the investment made with the regional jail and correctional
64 facility authority pursuant to section twenty, article six,
65 chapter twelve of this code. The treasurer shall, no later
66 than the last business day of each month, transfer amounts
67 the treasurer determines are not necessary for making
68 refunds under this article to meet the requirements of
69 subsection (d), section twenty, article six, chapter twelve of
70 this code, to the credit of the general revenue fund.

71 (d) The amendment to this section enacted during the
72 regular session of the Legislature in the year one thousand
73 nine hundred ninety-eight is effective on the first day of
74 July, one thousand nine hundred ninety-eight.

§33-3-15. Annuity tax.

1 (a) Every life insurer transacting insurance in West
2 Virginia shall make a return to the commissioner annually
3 on a form prescribed by the commissioner, on or before
4 the first day of March, under the oath of its president or
5 secretary, of the gross amount of annuity considerations
6 collected and received by it during the previous calendar
7 year on business transacted in this state and stating the
8 amount of tax due under this section, together with
9 payment in full for the tax due. The tax is the sum equal
10 to one per centum of the gross amount of the annuity
11 considerations, less annuity considerations returned and
12 less termination allowances on group annuity contracts.
13 All the taxes received by the commissioner shall be paid

14 into the insurance tax fund created in subsection (b),
15 section fourteen of this article.


16 (b) The amendment to this section enacted during the
17 regular session of the Legislature in the year one thousand
18 nine hundred ninety-eight is effective on the first day of
19 July, one thousand nine hundred ninety-eight.

§33-3-17. Minimum tax payable.

1 (a) The minimum amount of tax payable by any
2 insurer licensed in the state of West Virginia when
3 considering the aggregate payments due from all of the
4 taxes imposed by this article is two hundred dollars for
5 any calendar year. This minimum tax is payable annually
6 on or before the first day of March and shall be calculated
7 on a form prescribed by the commissioner. Except as
8 otherwise provided in this section, all provisions of this
9 article relating to the levy, imposition and collection of the
10 regular premium tax are applicable to the levy, imposition
11 and collection of this minimum tax. All moneys received
12 by the commissioner from this minimum tax shall be paid
13 into the insurance tax fund created in subsection (b),
14 section fourteen of this article.

15 (b) The amendment to this section enacted during the
16 regular session of the Legislature in the year one thousand
17 nine hundred ninety-eight is effective on the first day of
18 July, one thousand nine hundred ninety-eight.

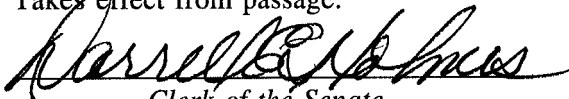
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

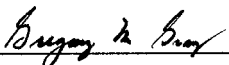

Chairman Senate Committee


Chairman House Committee


Originating in the House.

Takes effect from passage.

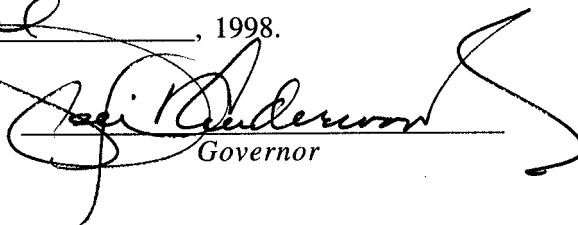

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 24
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/6/98

Time 12:15