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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

Committee Substitute For
SENATE BILL NO. 533

(By Senators *Toublin, Mr. President, and
Buckalew, By Request of the Executive*)



PASSED March 14, 1998
In Effect July 1, 1998 **Passage**

SB 533

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

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COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 533

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND BUCKALEW,
BY REQUEST OF THE EXECUTIVE)

[Passed March 14, 1998; to take effect July 1, 1998.]

AN ACT to amend and reenact section thirty, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section ten, article nine-a, chapter eighteen of said code; to amend and reenact section fifteen, article nine-d of said chapter; and to amend and reenact section eighteen, article twenty-two, chapter twenty-nine of said code, all relating to a funding plan for continuing public school construction; deleting outdated language; continuing monthly state sales tax payments into the school major improvement fund by eliminating the termination date for such payments; continuing monthly state sales tax payments into the school

construction fund by eliminating the termination date for such payments; providing for the payment of the annual difference between the allocation made in the one thousand nine hundred ninety-seven fiscal year and the amount of funds required for debt service on school improvement bonds under the better school building amendment for any succeeding current year to be deposited into the school construction fund; authorizing use of certain moneys for study and implementation of a charter school pilot program; providing that, upon retirement of school construction bonds secured through allocations from the school building capital improvements fund, certain moneys allocated for that purpose are to be deposited into the school construction fund; school building authority generally; distribution of funds; submission of construction designs for school building authority approval; and providing that, upon the retirement of the school improvement bonds secured by profits from the lottery and deposited in the school debt service fund, an annual amount of eighteen million dollars of such funds shall be deposited into the school construction fund.

Be it enacted by the Legislature of West Virginia:

That section thirty, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section ten, article nine-a, chapter eighteen of said code be amended and reenacted; that section fifteen, article nine-d of said chapter be amended and reenacted; and that section eighteen, article twenty-two, chapter twenty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES TAX.

§11-15-30. Proceeds of tax; appropriation of certain revenues.

- 1 (a) The proceeds of the tax imposed by this article shall
- 2 be deposited in the general revenue fund of the state

3 except as otherwise expressly provided in this article.

4 (b) *School major improvement fund.* —

5 After the payment or commitment of the proceeds or
6 collections of this tax for the purposes set forth in sections
7 sixteen and eighteen of this article, on the first day of each
8 month, there shall be dedicated monthly from the collec-
9 tions of this tax, the amount of four hundred sixteen
10 thousand six hundred sixty-seven dollars and the amount
11 dedicated shall be deposited on a monthly basis into the
12 school major improvement fund created pursuant to
13 section six, article nine-d, chapter eighteen of this code.

14 (c) *School construction fund.* —

15 After the payment or commitment of the proceeds or
16 collections of this tax for the purposes set forth in sections
17 sixteen and eighteen of this article:

18 (1) On the first day of each month, there shall be dedi-
19 cated monthly from the collections of this tax, the amount
20 of one million four hundred sixteen thousand six hundred
21 sixty-seven dollars and the amount dedicated shall be
22 deposited into the school construction fund created
23 pursuant to section six, article nine-d, chapter eighteen of
24 this code.

25 (2) Effective the first day of July, one thousand nine
26 hundred ninety-eight, there shall be dedicated from the
27 collections of this tax, an amount equal to any annual
28 difference that may occur between the debt service
29 payment for the one thousand nine hundred ninety-seven
30 fiscal year for school improvement bonds issued under the
31 better school building amendment under the provisions of
32 article nine-c, chapter eighteen of this code and the
33 amount of funds required for debt service on these school
34 improvement bonds in any current fiscal year thereafter.
35 This annual difference shall be prorated monthly, added
36 to the monthly deposit in subdivision (1) of this subsection
37 and deposited into the school construction fund created

38 pursuant to section six, article nine-d, chapter eighteen of
39 this code.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. **Foundation allowance to improve instructional programs.**

1 (a) For each school year beginning on the first day of
2 July, one thousand nine hundred ninety-eight, and there-
3 after, the sum of the allocations shall be the amount
4 appropriated by the Legislature for those purposes:

5 (1) One hundred fifty thousand dollars shall be allocated
6 to each county;

7 (2) Distribution to the counties of the remainder of these
8 funds shall be made proportional to the average of each
9 county's average daily attendance for the preceding year
10 and the county's second month net enrollment. Moneys
11 allocated by provision of this section shall be used to
12 improve instructional programs according to a plan for
13 instructional improvement which the affected county
14 board shall file with the state board by the first day of
15 August of each year, to be approved by the state board by
16 the first day of September of that year if the plan substan-
17 tially complies with standards to be adopted by the state
18 board: *Provided*, That notwithstanding any other provi-
19 sion of this code to the contrary, moneys allocated by
20 provision of this section may also be used in the imple-
21 mentation and maintenance of the uniform integrated
22 regional computer information system.

23 (3) Up to twenty-five percent of this allocation may be
24 used to employ professional educators and service person-
25 nel in counties after all applicable provisions of sections
26 four and five of this article have been fully utilized.

27 Prior to the use of any funds from this section for
28 personnel costs, the county board must receive authoriza-

29 tion from the state superintendent of schools. The state
30 superintendent shall require the district board to demon-
31 strate: (1) The need for the allocation; (2) efficiency and
32 fiscal responsibility in staffing; and (3) the sharing of
33 services with adjoining counties and the regional educa-
34 tional service agency for that county in the use of the total
35 local district board budget. District boards shall make
36 application for available funds for the next fiscal year by
37 the first day of May of each year. On or before the first
38 day of June, the state superintendent shall review all
39 applications and notify applying district boards of the
40 distribution of the allocation. The funds shall be distrib-
41 uted during the fiscal year as appropriate. The state
42 superintendent shall require the county board to demon-
43 strate the need for an allocation for personnel based upon
44 the county's inability to meet the requirements of state
45 law or state board policy: *Provided*, That the funds
46 available for personnel under this section may not be used
47 to increase the total number of professional
48 noninstructional personnel in the central office beyond
49 four. The instructional improvement plan shall be made
50 available for distribution to the public at the office of each
51 affected county board.

52 (b) An amount not less than the amount required to meet
53 debt service requirements on any revenue bonds issued
54 prior to the first day of January, one thousand nine
55 hundred ninety-four, and the debt service requirements on
56 any revenue bonds issued for the purpose of refunding
57 revenue bonds issued prior to the first day of January, one
58 thousand nine hundred ninety-four, shall be paid into the
59 school building capital improvements fund created by
60 section six, article nine-d of this chapter, and shall be used
61 solely for the purposes of that article. The school building
62 capital improvements fund shall not be utilized to meet
63 the debt services requirement on any revenue bonds or
64 revenue refunding bonds for which moneys contained
65 within the school building debt service fund have been

66 pledged for repayment pursuant to that section.

67 When the school improvement bonds secured by funds
68 from the school building capital improvements fund
69 mature, the state board of education shall annually
70 deposit an amount equal to twenty-four million dollars
71 from the funds allocated in this section into the school
72 construction fund created pursuant to the provisions of
73 section six, article nine-d, chapter eighteen of this code to
74 continue funding school facility construction and im-
75 provements.

76 (c) Any project funded by the school building authority
77 shall be in accordance with a comprehensive educational
78 facility plan which must be approved by the state board
79 and the school building authority.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-15. Legislative intent; distribution of money.

1 (a) It is the intent of the Legislature to empower the
2 school building authority to facilitate and provide state
3 funds and to administer all federal funds provided for the
4 construction and major improvement of school facilities so
5 as to meet the educational needs of the people of this state
6 in an efficient and economical manner. The authority
7 shall make funding determinations in accordance with the
8 provisions of this article and shall assess existing school
9 facilities and each facility's school major improvement
10 plan in relation to the needs of the individual student, the
11 general school population, the communities served by the
12 facilities and facility needs statewide.

13 (b) An amount that is no more than three percent of the
14 sum of moneys that are determined by the authority to be
15 available for distribution during the then current fiscal
16 year from: (1) Moneys paid into the school building
17 capital improvements fund pursuant to section ten, article
18 nine-a of this chapter; (2) the issuance of revenue bonds
19 for which moneys in the school building debt service fund

20 are pledged as security; (3) moneys paid into the school
21 construction fund pursuant to section six of this article;
22 and (4) any other moneys received by the authority, except
23 moneys paid into the school major improvement fund
24 pursuant to section six of this article, may be allocated
25 and may be expended by the authority for projects that
26 service the educational community statewide or, upon
27 application by the state board, for educational programs
28 that are under the jurisdiction of the state board. In
29 addition, upon application by the state board or the
30 administrative council of an area vocational educational
31 center established pursuant to article two-b of this
32 chapter, the authority may allocate and expend under this
33 section moneys for school major improvement projects
34 proposed by the state board or an administrative council
35 for school facilities under the direct supervision of the
36 state board or an administrative council, respectively:
37 *Provided*, That the authority may not expend any moneys
38 for a school major improvement project proposed by the
39 state board or the administrative council of an area
40 vocational educational center unless the state board or an
41 administrative council has submitted a ten-year school
42 major improvement plan, to be updated annually, pursu-
43 ant to section sixteen of this article: *Provided, however*,
44 That the authority shall, before allocating any moneys to
45 the state board or the administrative council of an area
46 vocational educational center for a school improvement
47 project, consider all other funding sources available for
48 the project.

49 (c) An amount that is no more than two percent of the
50 moneys that are determined by the authority to be avail-
51 able for distribution during the current fiscal year from:
52 (1) Moneys paid into the school building capital improve-
53 ments fund pursuant to section ten, article nine-a of this
54 chapter; (2) the issuance of revenue bonds for which
55 moneys in the school building debt service fund are
56 pledged as security; (3) moneys paid into the school

57 construction fund pursuant to section six of this article;
58 and (4) any other moneys received by the authority, except
59 moneys deposited into the school major improvement
60 fund, shall be set aside by the authority as an emergency
61 fund to be distributed in accordance with the guidelines
62 adopted by the authority.

63 (d) The remaining moneys determined by the authority
64 to be available for distribution during the then current
65 fiscal year from: (1) Moneys paid into the school building
66 capital improvements fund pursuant to section ten, article
67 nine-a of this chapter; (2) the issuance of revenue bonds
68 for which moneys in the school building debt service fund
69 are pledged as security; (3) moneys paid into the school
70 construction fund pursuant to section six of this article;
71 and (4) any other moneys received by the authority, except
72 moneys deposited into the school major improvement
73 fund, shall be allocated and expended on the basis of need
74 and efficient use of resources, the basis to be determined
75 by the authority in accordance with the provisions of
76 section sixteen of this article.

77 (e) If a county board of education proposes to finance a
78 project that is approved pursuant to section sixteen of this
79 article through a lease with an option to purchase leased
80 premises upon the expiration of the total lease period
81 pursuant to an investment contract, the authority may
82 allocate no moneys to the county board in connection with
83 the project: *Provided*, That the authority may transfer
84 moneys to the state board of education, which, with the
85 authority, shall lend the amount transferred to the county
86 board to be used only for a one-time payment due at the
87 beginning of the lease term, made for the purpose of
88 reducing annual lease payments under the investment
89 contract, subject to the following conditions:

90 (1) The loan shall be secured in the manner required by
91 the authority, in consultation with the state board, and
92 shall be repaid in a period and bear interest at a rate as

93 determined by the state board and the authority and shall
94 have such terms and conditions as are required by the
95 authority, all of which shall be set forth in a loan agree-
96 ment among the authority, the state board and the county
97 board;

98 (2) The loan agreement shall provide for the state board
99 and the authority to defer the payment of principal and
100 interest upon any loan made to the county board during
101 the term of the investment contract, and annual renewals
102 of the investment contract, among the state board, the
103 authority, the county board and a lessor: *Provided*, That
104 in the event a county board, which has received a loan
105 from the authority for a one-time payment at the begin-
106 ning of the lease term, does not renew the subject lease
107 annually until performance of the investment contract in
108 its entirety is completed, the county board is in default
109 and the principal of the loan, together with all unpaid
110 interest accrued to the date of the default, shall at the
111 option of the authority, in consultation with the state
112 board, become due and payable immediately or subject to
113 renegotiation among the state board, the authority and the
114 county board: *Provided, however*, That if a county board
115 renews the lease annually through the performance of the
116 investment contract in its entirety, the county board shall
117 exercise its option to purchase the leased premises:
118 *Provided further*, That the failure of the county board to
119 make a scheduled payment pursuant to the investment
120 contract constitutes an event of default under the loan
121 agreement: *And provided further*, That upon a default by
122 a county board, the principal of the loan, together with all
123 unpaid interest accrued to the date of the default, shall at
124 the option of the authority, in consultation with the state
125 board, become due and payable immediately or subject to
126 renegotiation among the state board, the authority and the
127 county board: *And provided further*, That if the loan
128 becomes due and payable immediately, the authority, in
129 consultation with the state board, shall use all means

130 available under the loan agreement and law to collect the
131 outstanding principal balance of the loan, together with
132 all unpaid interest accrued to the date of payment of the
133 outstanding principal balance; and

134 (3) The loan agreement shall provide for the state board
135 and the authority to forgive all principal and interest of
136 the loan upon the county board purchasing the leased
137 premises pursuant to the investment contract and perfor-
138 mance of the investment contract in its entirety.

139 (f) To encourage county boards to proceed promptly
140 with facilities planning and to prepare for the expenditure
141 of any state moneys derived from the sources described in
142 this subsection, any county board failing to expend money
143 within three years of the allocation to the county board
144 shall forfeit the allocation and thereafter is ineligible for
145 further allocations pursuant to this subsection until the
146 county board is ready to expend funds in accordance with
147 an approved facilities plan: *Provided*, That the authority
148 may authorize an extension beyond the three-year forfei-
149 ture period not to exceed an additional two years. Any
150 amount forfeited shall be added to the total funds avail-
151 able in the school construction fund of the authority for
152 future allocation and distribution.

153 (g) The remaining moneys that are determined by the
154 authority to be available for distribution during the then
155 current fiscal year from moneys paid into the school major
156 improvement fund pursuant to section six of this article
157 shall be allocated and distributed on the basis of need and
158 efficient use of resources, the basis to be determined by
159 the authority in accordance with the provisions of section
160 sixteen of this article: *Provided*, That the moneys may not
161 be distributed to any county board that does not have an
162 approved school major improvement plan or to any county
163 board that is not prepared to commence expenditures of
164 the funds during the fiscal year in which the moneys are
165 distributed: *Provided, however*, That any moneys allo-

166 cated to a county board and not distributed to that county
167 board shall be deposited in an account to the credit of that
168 county board, the principal amount to remain to the credit
169 of and available to the county board for a period of two
170 years. Any moneys which are unexpended after a two-
171 year period shall be redistributed on the basis of need
172 from the school major improvement fund in that fiscal
173 year.

174 (h) No local matching funds may be required under the
175 provisions of this section. However, the responsibilities of
176 the county boards of education to maintain school facili-
177 ties are not negated by the provisions of this article. To be
178 eligible to receive an allocation of school major improve-
179 ment funds from the authority, a county board must have
180 expended in the previous fiscal year an amount of county
181 moneys equal to or exceeding the lowest average amount
182 of money included in the county board's maintenance
183 budget over any three of the previous five years and must
184 have budgeted an amount equal to or greater than the
185 average in the current fiscal year: *Provided*, That the
186 state board of education shall promulgate rules relating to
187 county boards' maintenance budgets, including items
188 which shall be included in the budgets.

189 (i) Any county board may use moneys provided by the
190 authority under this article in conjunction with local
191 funds derived from bonding, special levy or other sources.
192 Distribution to a county board, or to the state board or the
193 administrative council of an area vocational educational
194 center pursuant to subsection (b) of this section, may be in
195 a lump sum or in accordance with a schedule of payments
196 adopted by the authority pursuant to guidelines adopted
197 by the authority.

198 (j) Funds in the school construction fund shall first be
199 transferred and expended as follows:

200 Any funds deposited in the school construction fund
201 shall be expended first in accordance with an appropria-

202 tion by the Legislature. To the extent that funds are
203 available in the school construction fund in excess of that
204 amount appropriated in any fiscal year, the excess funds
205 may be expended in accordance with the provisions of this
206 article. Any projects which the authority identified and
207 announced for funding on or before the first day of
208 August, one thousand nine hundred ninety-five, or identi-
209 fied and announced for funding on or before the thirty-
210 first day of December, one thousand nine hundred ninety-
211 five, shall be funded by the authority in an amount which
212 is not less than the amount specified when the project was
213 identified and announced.

214 (k) It is the intent of the Legislature to encourage county
215 boards to explore and consider arrangements with other
216 counties that may facilitate the highest and best use of all
217 available funds, which may result in improved transporta-
218 tion arrangements for students, or which otherwise may
219 create efficiencies for county boards and the students. In
220 order to address the intent of the Legislature contained in
221 this subsection, the authority shall grant preference to
222 those projects which involve multicounty arrangements as
223 the authority shall determine reasonable and proper.

224 (l) County boards shall submit all designs for construc-
225 tion of new school buildings to the school building author-
226 ity for review and approval prior to preparation of final
227 bid documents.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-18. State lottery fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; state lottery education fund; state lottery senior citizens fund; allocation and appropriation of

net profits.

1 (a) There is hereby continued a special revenue fund in
2 the state treasury which shall be designated and known as
3 the "state lottery fund". The fund shall consist of all
4 appropriations to the fund and all interest earned from
5 investment of the fund and any gifts, grants or contribu-
6 tions received by the fund. All revenues received from the
7 sale of lottery tickets, materials and games shall be
8 deposited with the state treasurer and placed into the
9 "state lottery fund". The revenue shall be disbursed in the
10 manner provided in this section for the purposes stated in
11 this section and shall not be treated by the auditor and
12 treasurer as part of the general revenue of the state.

13 (b) No appropriation, loan or other transfer of state
14 funds may be made to the commission or lottery fund after
15 the initial appropriation.

16 (c) A minimum annual average of forty-five percent of
17 the gross amount received from each lottery shall be
18 allocated and disbursed as prizes.

19 (d) Not more than fifteen percent of the gross amount
20 received from each lottery shall be allocated to and may
21 be disbursed as necessary for fund operation and adminis-
22 tration expenses.

23 (e) The excess of the aggregate of the gross amount
24 received from all lotteries over the sum of the amounts
25 allocated by subsections (c) and (d) of this section shall be
26 allocated as net profit. In the event that the percentage
27 allotted for operations and administration generates a
28 surplus, the surplus shall be allowed to accumulate to an
29 amount not to exceed two hundred fifty thousand dollars.
30 On a monthly basis, the director shall report to the joint
31 committee on government and finance of the Legislature
32 any surplus in excess of two hundred fifty thousand
33 dollars and remit to the state treasurer the entire amount
34 of those surplus funds in excess of two hundred fifty

35 thousand dollars which shall be allocated as net profit.

36 (f) After first satisfying the requirements for funds
37 dedicated to the school building debt service fund in
38 subsection (h) of this section to retire the ten-year bonds
39 authorized to be issued pursuant to section eight, article
40 nine-d, chapter eighteen of this code, and then satisfying
41 the requirements for funds dedicated to the education,
42 arts, sciences and tourism debt service fund in subsection
43 (i) of this section to retire the bonds authorized to be
44 issued pursuant to section eleven-a, article six, chapter
45 five of this code, the Legislature shall annually appropri-
46 ate all of the remaining amounts allocated as net profits in
47 subsection (e) of this section, in such proportions as it
48 considers beneficial to the citizens of this state, to: (1) The
49 lottery education fund created in subsection (g) of this
50 section; (2) the school construction fund created in section
51 six, article nine-d, chapter eighteen of this code; (3) the
52 lottery senior citizens fund created in subsection (j) of this
53 section; and (4) the division of natural resources created in
54 section four, article five, chapter twenty of this code and
55 the West Virginia development office as created in section
56 one, article two, chapter five-b of this code, in accordance
57 with subsection (k) of this section. No transfer to any
58 account other than the school building debt service
59 account and the education, arts, sciences and tourism debt
60 service fund may be made in any period of time in which
61 a default exists in respect to debt service on bonds issued
62 by the school building authority and the state building
63 commission which are secured by lottery proceeds. No
64 additional transfer shall be made to any account other
65 than the school building debt service account and the
66 education, arts, sciences and tourism debt service fund
67 when net profits for the preceding twelve months are not
68 at least equal to one hundred fifty percent of debt service
69 on bonds issued by the school building authority and the
70 state building commission which are secured by net
71 profits.

72 (g) There is hereby continued a special revenue fund in
73 the state treasury which shall be designated and known as
74 the "lottery education fund". The fund shall consist of the
75 amounts allocated pursuant to subsection (f) of this
76 section, which shall be deposited into the lottery educa-
77 tion fund by the state treasurer. The lottery education
78 fund shall also consist of all interest earned from invest-
79 ment of the lottery education fund and any other appro-
80 priations, gifts, grants, contributions or moneys received
81 by the lottery education fund from any source. The
82 revenues received or earned by the lottery education fund
83 shall be disbursed in the manner provided below and shall
84 not be treated by the auditor and treasurer as part of the
85 general revenue of the state. Annually, the Legislature
86 shall appropriate the revenues received or earned by the
87 lottery education fund to the state system of public and
88 higher education for these educational programs it
89 considers beneficial to the citizens of this state.

90 (h) On or before the twenty-eighth day of each month
91 through the twentieth day of June, two thousand five, the
92 lottery director shall allocate to the school building debt
93 service fund created pursuant to the provisions of section
94 six, article nine-d, chapter eighteen of this code, as a first
95 priority from the net profits of the lottery for the preced-
96 ing month, an amount equal to one tenth of the projected
97 annual principal, interest and coverage ratio requirements
98 on any and all revenue bonds and refunding bonds issued,
99 or to be issued, on or after the first day of April, one
100 thousand nine hundred ninety-four, as certified to the
101 lottery director in accordance with the provisions of
102 section six, article nine-d, chapter eighteen of this code.
103 In no event shall the monthly amount allocated exceed one
104 million eight hundred thousand dollars, nor shall the total
105 allocation of the net profits to be paid into the school
106 building debt service fund, as provided in this section, in
107 any fiscal year exceed the lesser of the principal and
108 interest requirements certified to the lottery director or

109 eighteen million dollars. In the event there are insuffi-
110 cient funds available in any month to transfer the amount
111 required to be transferred pursuant to this subsection to
112 the school debt service fund, the deficiency shall be added
113 to the amount transferred in the next succeeding month in
114 which revenues are available to transfer the deficiency. A
115 lien on the proceeds of the state lottery fund up to a
116 maximum amount equal to the projected annual principal,
117 interest and coverage ratio requirements, not to exceed
118 twenty-seven million dollars annually, may be granted by
119 the school building authority in favor of the bonds it
120 issues which are secured by the net lottery profits.

121 When the school improvement bonds, secured by profits
122 from the lottery and deposited in the school debt service
123 fund, mature, the lottery director shall allocate monthly,
124 from the net profits of the lottery for the preceding month,
125 an amount equal to one million five hundred thousand
126 dollars into the school construction fund created pursuant
127 to the provisions of section six, article nine-d, chapter
128 eighteen of this code.

129 (i) On or before the twenty-eighth day of each month
130 through the twenty-eighth day of June, two thousand
131 twenty-one, the lottery director shall allocate to the
132 education, arts, sciences and tourism debt service fund
133 created pursuant to the provisions of section eleven-a,
134 article six, chapter five of this code, as a second priority
135 from the net profits of the lottery for the preceding month,
136 an amount equal to one tenth of the projected annual
137 principal, interest and coverage ratio requirements on any
138 and all revenue bonds and refunding bonds issued, or to be
139 issued, on or after the first day of April, one thousand nine
140 hundred ninety-six, as certified to the lottery director in
141 accordance with the provisions of that section. In no
142 event shall the monthly amount allocated exceed one
143 million dollars nor shall the total allocation paid into the
144 education, arts, sciences and tourism debt service fund, as
145 provided in this section, in any fiscal year exceed the

146 lesser of the principal and interest requirements certified
147 to the lottery director or ten million dollars. In the event
148 there are insufficient funds available in any month to
149 transfer the amount required pursuant to this subsection
150 to the education, arts, sciences and tourism debt service
151 fund, the deficiency shall be added to the amount trans-
152 ferred in the next succeeding month in which revenues are
153 available to transfer the deficiency. A second-in-priority
154 lien on the proceeds of the state lottery fund up to a
155 maximum amount equal to the projected annual principal,
156 interest and coverage ratio requirements, not to exceed
157 fifteen million dollars annually, may be granted by the
158 state building commission in favor of the bonds it issues
159 which are secured by the net lottery profits.

160 (j) There is hereby continued a special revenue fund in
161 the state treasury which shall be designated and known as
162 the "lottery senior citizens fund". The fund shall consist
163 of the amounts allocated pursuant to subsection (f) of this
164 section, which shall be deposited into the lottery senior
165 citizens fund by the state treasurer. The lottery senior
166 citizens fund shall also consist of all interest earned from
167 investment of the lottery senior citizens fund and any
168 other appropriations, gifts, grants, contributions or
169 moneys received by the lottery senior citizens fund from
170 any source. The revenues received or earned by the lottery
171 senior citizens fund shall not be treated by the auditor or
172 treasurer as part of the general revenue of the state.
173 Annually, the Legislature shall appropriate the revenues
174 received or earned by the lottery senior citizens fund to
175 such senior citizens medical care and other programs as it
176 considers beneficial to the citizens of this state.

177 (k) The division of natural resources and the West
178 Virginia development office, as appropriated by the
179 Legislature, may use the amounts allocated to them
180 pursuant to subsection (f) of this section for one or more of
181 the following purposes: (1) The payment of any or all of
182 the costs incurred in the development, construction,

183 reconstruction, maintenance or repair of any project or
184 recreational facility, as these terms are defined in section
185 four, article five, chapter twenty of this code, pursuant to
186 the authority granted to it under article five, chapter
187 twenty of this code; (2) the payment, funding or refunding
188 of the principal of, interest on or redemption premiums on
189 any bonds, security interests or notes issued by the parks
190 and recreation section of the division of natural resources
191 under article five, chapter twenty of this code; or (3) the
192 payment of any advertising and marketing expenses for
193 the promotion and development of tourism or any tourist
194 facility or attraction in this state.

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

Randy Hoover
.....
Chairman Senate Committee

Neil Santore
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1998.

Carroll Phelps
.....
Clerk of the Senate

Gregory R. Bird
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *1st*
day of *April*, 1998

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 10:50 am