

ACTS
OF THE
FIFTY-SEVENTH
LEGISLATURE
OF
WEST VIRGINIA



Second Extraordinary Session, 1964
Regular Session, 1965
Regular Session, 1966

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FOREWORD

This volume contains the acts of the 1965 and 1966 Regular Sessions of the 57th Legislature, the one act of the Second Extraordinary Session of the 56th Legislature, and resolutions of general interest adopted by the Legislature during these sessions.

Second Extraordinary Session, 1964

The Proclamation of the Governor convening this session limited the business to consideration of legislation to bring the meaning of terms in the West Virginia Personal Income Tax Act into conformity with the Federal Revenue Act of 1964.

The one-day session on November 27, 1964, adjourned *sine die* after passing a bill carrying out the purpose of the session. Only one bill was introduced in each House. The bills were identical and House Bill No. 1 was passed.

During the session one House Concurrent and four House Resolutions were offered, and the Senate had one Senate Concurrent and six Senate Resolutions, all of which were adopted.

Regular Session, 1965

The Regular Session of 1965 convened on January 13 and adjourned *sine die* on March 15, 1965. During the session, a total of 795 bills were introduced—504 House Bills and 291 Senate Bills. The Legislature passed 109 House Bills and 76 Senate Bills.

Of the 185 enactments of the session, the Governor approved 183 and vetoed one. The Budget Bill does not require executive action. The act vetoed was H. B. 530, relating to the regulation and licensing by municipalities of stationary engineers, plumbing contractors, plumbers, electrical contractors, electricians and other activities and trades affecting the public health and safety.

Four Constitutional Amendments were proposed. The proposed Amendments are listed herein under Joint Resolutions.

There were 54 House Concurrent, 18 House Joint and 52 House Resolutions offered during the session, of which 21 House

Concurrent, three House Joint and 43 House Resolutions were adopted. The Senate had 34 Senate Concurrent, four Senate Joint and 14 Senate Resolutions, and 20 Senate Concurrent, one Senate Joint and 12 Senate Resolutions were adopted.

There were 75 House Bills, passed by the House, which were not passed by the Senate; and 17 Senate Bills, passed by that body, were not passed by the House.

Regular Session, 1966

This sixth 30-day session convened on January 12, 1966, and adjourned *sine die* on February 10, 1966. A total of 192 bills were introduced during the session—107 House Bills and 85 Senate Bills. The Legislature passed 25 House Bills and 41 Senate Bills.

The Governor approved all bills passed, except the Budget Bill which does not require executive action.

There were 55 House Concurrent, 4 House Joint and 19 House Resolutions offered during the session, of which 30 House Concurrent, 3 House Joint and 18 House Resolutions were adopted. The Senate had 29 Senate Concurrent, 3 Senate Joint and 13 Senate Resolutions, and 21 Senate Concurrent, 1 Senate Joint and 13 Senate Resolutions were adopted.

Five Constitutional Amendments were submitted to the voters. The proposed amendments are listed herein under the heading "Constitutional Amendments" under General Laws.

Three House Bills, passed by the House, were not passed by the Senate, and 7 Senate Bills passed by that body, were not passed by the House.

This volume may be purchased from the Division of Purchases, Department of Finance and Administration, Charleston, West Virginia 25305.

C. A. BLANKENSHIP, Clerk
House of Delegates

April 15, 1966

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LEGISLATURE OF WEST VIRGINIA

MEMBERS AND OFFICERS

FIFTY-SEVENTH LEGISLATURE

SENATE

OFFICERS

President—Howard W. Carson, Fayetteville

President Pro Tempore—C. H. McKown, Wayne

Clerk—J. Howard Myers, Martinsburg

Sergeant-at-Arms—John E. Howell, Charleston

Doorkeeper—Guy Douglas, Lookout

District	Name	Address
First	*Chester R. Hubbard (R) William Tompos (D)	Wheeling Weirton
Second	*John E. Carrigan (R) C. Dick Montgomery (D)	Moundsville Pine Grove
Third	J. Frank Deem (R) *Jack L. Miller (R)	Harrisville Parkersburg
Fourth	*V. K. Knapp (R) Randall A. Taylor (D)	Hurricane Pt. Pleasant
Fifth	C. H. McKown (D) *Lyle A. Smith (D)	Wayne Huntington
Sixth	Glenn D. Hatcher (D) *Noah E. Floyd (D)	War Williamson
Seventh	*Lloyd G. Jackson (D) David W. Mullins (D)	Hamlin Logan
Eighth	*James Hornor Davis, III (D) Paul J. Kaufman (D)	Charleston Charleston
Ninth	Tracy W. Hylton (D) *George C. Porter (D)	Mullens Beckley
Tenth	R. E. Barnett (D) *O. Roy Parker (D)	Bluefield Union
Eleventh	Howard W. Carson (D) *W. N. Jasper, Jr. (D)	Fayetteville Lewisburg
Twelfth	*Carl E. Gainer (D) E. Hans McCourt (D)	Richwood Webster Springs
Thirteenth	*Walter A. Holden (D) Wm. R. Sharpe, Jr. (D)	Clarksburg Weston
Fourteenth	O. G. Hedrick (D) *William A. Moreland (D)	Fairmont Morgantown
Fifteenth	*J. Kenton Lambert (R) Dallas Wolfe (R)	Parsons Rowlesburg
Sixteenth	**Mrs. Betty H. Baker (D) *Clarence E. Martin, Jr. (D)	Moorefield Martinsburg
Seventeenth	W. T. Brotherton, Jr. (D) Frank L. Taylor, Jr. (D)	Charleston Charleston

(D) Democrats 27

(R) Republicans 7

Total 34

*Senators elected in 1962, all others elected in 1964.

**Appointed January 11, 1965, to fill a vacancy caused by the death of her husband, Donald J. Baker, a Senator-elect.

HOUSE OF DELEGATES

OFFICERS

Speaker—H. Laban White, Clarksburg

Clerk—C. A. Blankenship, Pineville

Sergeant-at-Arms—Don Yoak, Spencer

Doorkeeper—D. Earl Brawley, Charleston

County or District	Name	Address
Barbour	Kenneth Auvil (D)	Belington
Boone	Thomas G. Goodwin (D)	Seth
	Dennie Lee Hill (D)	Madison
Braxton	Paul S. Moyers (D)	Burnsville
Brooke	Mino R. D'Aurora (D)	Follansbee
	Martin Ragan (D)	Wellsburg
Cabell	Mike Casey (D)	Huntington
	Hugh A. Kincaid (D)	Huntington
	Robert R. Nelson (D)	Huntington
	Mrs. Freda N. Paul (D)	Huntington
	J. Bernard Poindexter (D)	Huntington
	Don Smith (D)	Huntington
Clay	Jacob A. Neal (D)	Clay
Fayette	Robert K. Holliday (D)	Oak Hill
	T. E. Myles (D)	Fayetteville
	¹ J. W. Riccardi (D)	Montgomery
Hampshire	William B. Slonaker (D)	Capon Bridge
Hancock	George G. Griffith (D)	Weirton
	George D. Tokash (D)	Weirton
Harrison	Carmine J. Cann (D)	Clarksburg
	Donald L. Kopp (D)	Clarksburg
	C. P. Marsteller (D)	Bridgeport
	H. Laban White (D)	Clarksburg
Jackson	B. Noel Poling (R)	Ripley
Jefferson	Thornton W. Wilt (D)	Harpers Ferry
Kanawha	Jesse S. Barker (D)	Charleston
	J. F. Bedell (D)	Charleston
	Thomas L. Black (D)	Charleston
	Pat Board, Jr. (D)	Charleston
	Ivor F. Boiarsky (D)	Charleston
	Kelly L. Castleberry (D)	South Charleston
	Kenneth L. Coghill (D)	Charleston
	Charles C. Dunaway (D)	Charleston
	James E. Kessinger (D)	St. Albans
	Thomas A. Knight (D)	Charleston
	James W. Loop (D)	Charleston
	Jack L. Pauley (D)	East Bank
	Fred Scott (D)	Charleston
² George Woo (D)	South Charleston	
Lewis	Louis G. Craig (D)	Weston
Lincoln	³ H. Leon Hager (D)	Hamlin
Logan	W. N. Anderson (D)	Logan
	Luther H. Ghiz (D)	Logan
	Earl B. Hager (D)	Chapmanville
Marion	Paul B. Dawson (D)	Fairmont
	Nick Fantasia (D)	Kingmont
	J. E. Watson (D)	Fairmont
Marshall	John T. Madden (D)	Moundsville
	Robert F. Stewart (D)	Moundsville
Mason	Brereton C. Jones (R)	Pt. Pleasant

¹Appointed September 20, 1965, to fill vacancy caused by the resignation of Earl M. Vickers.

²Appointed September 20, 1965, to fill vacancy caused by the resignation of Gene W. Bailey.

³Appointed March 11, 1965, to fill vacancy caused by the resignation, effective on that date, of A. J. Belcher.

HOUSE OF DELEGATES

xxi

County or District	Name	Address
McDowell	Corbett Church (D)	Yukon
	W. Dewey Mentz (D)	Welch
	Harry R. Pauley (D)	Jaeger
	Fred G. Wooten (D)	Coalwood
Mercer	James C. Cain (D)	Bluefield
	Clarence C. Christian, Jr. (D)	Princeton
	Charles E. Lohr (D)	Princeton
	*Mrs. Lucille Thornhill (D)	Bluefield
Mineral	Robert D. Harman (R)	Keyser
Mingo	Robert L. Simpkins (D)	Meador
	T. I. Varney (D)	Matewan
Monongalia	Charles S. Armistead (D)	Morgantown
	Harry U. Howell (D)	Morgantown
	John W. Pyles (D)	Morgantown
Monroe	William Marion Shiflet (D)	Union
Nicholas	D. R. Frazer (D)	Richwood
Ohio	Jack R. Adams (D)	Wheeling
	Joseph V. Dusci (D)	Bethany
	John L. Seabright (D)	Wheeling
	George H. Seibert (R)	Wheeling
Preston	Ira L. Wright (D)	Arthur Dale
Putnam	J. R. Gibson (D)	Bancroft
Raleigh	H. Dale Covey (D)	Glen Daniel
	Lewis N. McManus (D)	Skelton
	Edward M. Payne, III (D)	Beckley
	Mrs. W. W. Withrow (D)	Sophia
Randolph	Earl H. Stalnaker (D)	Elkins
Roane	Gene M. Ashley (R)	Arma
Summers	Ray E. Sawyers (D)	Hinton
Taylor	S. A. Morasco (D)	Grafton
Upshur	Kenneth E. Queen (R)	Buckhannon
Wayne	Clayton C. Davidson (D)	Huntington
	*Mrs. Maxie Mathis (D)	Wayne
Webster	D. P. Given (D)	Webster Springs
Wetzel	*Mrs. Evelyn Schupbach (D)	New Martinsville
Wood	J. Douglas Ayers (D)	Vienna
	Russell G. Beall (D)	Parkersburg
	Eugene Knotts (D)	Parkersburg
	William P. A. Nicely (R)	Parkersburg
Wyoming	Charles E. Allen (D)	Mullens
	J. Paul England (D)	Pineville
First District	Robert M. Steptoe (D)	Martinsburg
	Ralph B. Hovermale (D)	Berkeley Springs
Second District	Larkin B. Ours (R)	Dorcas
Third District	William McCoy, Jr. (D)	Franklin
Fourth District	John H. Bowling, Jr. (D)	White Sulphur Spgs.
	Thomas C. Edgar (D)	Hillsboro
Fifth District	Forrest M. Buck (R)	Sistersville
Sixth District	F. Wayne Lanham (D)	St. Marys
Seventh District	7Billy B. Burke (D)	Glennville

(D) Democrats—91; (R) Republicans—9; Total—100

⁴Appointed October 28, 1965, to fill vacancy caused by the resignation of Robert E. Holroyd.

⁵Appointed December 17, 1965, to fill vacancy caused by the death of her husband, Boyd Mathis.

⁶Appointed September 20, 1965, to fill vacancy caused by the death of her husband, Herbert Schupbach.

⁷Appointed January 11, 1966, to fill vacancy caused by the death of Paul H. Kidd.

STANDING COMMITTEES OF THE SENATE

AERONAUTICS

Messrs. Taylor (of Mason) (*Chairman*), Montgomery (*Vice Chairman*), Kaufman, Mullins, Smith, Deem and Wolfe.

AGRICULTURE

Messrs. Parker (*Chairman*), and Jasper (*Vice Chairman*), Mrs. Baker, Messrs. Davis, Hedrick, McKown, Taylor (of Mason), Carrigan and Lambert.

BANKS AND CORPORATIONS

Messrs. Smith (*Chairman*), Porter (*Vice Chairman*), Brotherton, Floyd, Hylton, Jasper, Mullins, Carrigan and Lambert.

CLAIMS AND GRIEVANCES

Messrs. Kaufman (*Chairman*), and McCourt (*Vice Chairman*), Mrs. Baker, Messrs. Barnett, Brotherton, McKown, Tompos, Hubbard and Knapp.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Martin (*Chairman*), Gainer (*Vice Chairman*), Davis, Floyd, Jasper, Parker, Porter, Deem and Knapp.

EDUCATION

Messrs. McKown (*Chairman*), Hatcher (*Vice Chairman*), Barnett, Brotherton, Floyd, Holden, Martin, McCourt, Porter, Taylor (of Mason), Taylor (of Kanawha), Tompos, Carrigan, Lambert and Miller.

EXAMINE CLERK'S OFFICE

Messrs. Holden (*Chairman*), Mullins (*Vice Chairman*) and Miller.

FEDERAL RELATIONS

Messrs. Taylor (of Kanawha) (*Chairman*), Sharpe (*Vice Chairman*), Barnett, Hatcher, Jackson, Martin, Montgomery, Tompos and Miller.

FINANCE

Messrs. McCourt (*Chairman*), Jackson (*Vice Chairman*), Barnett, Floyd, Hatcher, Holden, Hylton, Jasper, Lambert, Martin, Montgomery, Mullins, Porter, Sharpe, Smith, Taylor (of Kanawha), Deem and Wolfe.

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Mrs. Baker (*Chairman*), Messrs. Brotherton (*Vice Chairman*), Barnett, Hatcher, Holden, Kaufman, Taylor (of Kanawha), Knapp and Miller.

INSURANCE

Messrs. Porter (*Chairman*), Taylor (of Kanawha) (*Vice Chairman*), Holden, Jackson, Martin, McKown, Smith, Carrigan and Lambert.

INTERSTATE COOPERATION

Messrs. Jackson (*Chairman*), McKown (*Vice Chairman*), Floyd, Gainer and Hubbard.

THE JUDICIARY

Messrs. Moreland (*Chairman*), and Kaufman (*Vice Chairman*), Mrs. Baker, Messrs. Barnett, Brotherton, Davis, Gainer, Hatcher, Hedrick, Holden, McKown, Parker, Taylor (of Mason), Tompos, Carrigan, Hubbard, Knapp and Miller.

LABOR

Messrs. Hedrick (*Chairman*), Tompos (*Vice Chairman*), Brotherton, Davis, Hatcher, Montgomery, Porter, Knapp and Wolfe.

MEDICINE AND SANITATION

Messrs. Mullins (*Chairman*), Taylor (of Mason) (*Vice Chairman*), Mrs. Baker, Messrs. Brotherton, Montgomery, Porter, Smith, Knapp and Miller.

MILITIA

Mr. Tompos (*Chairman*). Mrs. Baker, Messrs. Hedrick, Kaufman, McCourt, Sharpe, Smith, Knapp and Wolfe.

MINES AND MINING

Messrs. Jackson (*Chairman*), Holden (*Vice Chairman*), Davis, Gainer, Hedrick, Hylton, Montgomery, Deem and Hubbard.

NATURAL RESOURCES

Messrs. Gainer (*Chairman*), and Parker (*Vice Chairman*), Mrs. Baker, Messrs. Davis, Hatcher, Hedrick, Hylton, Jasper, McCourt, McKown, Mullins, Porter, Hubbard, Knapp and Lambert.

PENITENTIARY

Messrs. Montgomery (*Chairman*), Hylton (*Vice Chairman*), Floyd, Hedrick, Jasper, Martin, Mullins, Taylor (of Kanawha) and Deem.

PRIVILEGES AND ELECTIONS

Messrs. Floyd (*Chairman*), Martin (*Vice Chairman*), Brotherton, McCourt, Mullins, Parker, Sharpe, Deem and Lambert.

PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Sharpe (*Chairman*), and Davis (*Vice Chairman*), Mrs. Baker, Messrs. Gainer, Hatcher, Hylton, Jackson, Jasper, Kaufman, Montgomery, Parker, Deem, Knapp, Lambert and Miller.

PUBLIC LIBRARY

Mr. Davis (*Chairman*), Mrs. Baker (*Vice Chairman*), Messrs. Hatcher, Sharpe, Smith, Taylor (of Mason), Tompos, Carrigan and Miller.

PUBLIC PRINTING

Messrs. Hylton (*Chairman*), Hedrick (*Vice Chairman*), Holden, Jackson, Martin, Sharpe, Taylor (of Kanawha), Deem and Wolfe.

RAILROADS

Messrs. Jasper (*Chairman*), Barnett (*Vice Chairman*), Davis, Gainer, Hylton, Parker, Smith, Hubbard and Wolfe.

REDISTRICTING

Messrs. Hatcher (*Chairman*), Taylor (of Mason) (*Vice Chairman*), Jasper, McCourt, McKown, Porter, Taylor (of Kanawha), Hubbard and Wolfe.

ROADS AND NAVIGATION

Messrs. Barnett (*Chairman*), Martin (*Vice Chairman*), Floyd, Gainer, Jasper, Kaufman, Montgomery, Mullins, Porter, Sharpe, Smith, Taylor (of Kanawha), Taylor (of Mason), Tompos, Carrigan, Deem and Hubbard.

RULES

Messrs. Carson (*Chairman ex officio*), Holden, Jackson, Kaufman, McCourt, McKown, Moreland, Carrigan and Wolfe.

TEMPERANCE

Messrs. Brotherton (*Chairman*), Floyd (*Vice Chairman*), Davis, Hylton, McCourt, Sharpe, Taylor (of Mason), Deem and Hubbard.

VETERANS' AFFAIRS

Messrs. Tompos (*Chairman*), Smith (*Vice Chairman*), Gainer, Hedrick, Hylton, Mullins, Porter, Lambert and Miller.

JOINT COMMITTEE ON ENROLLED BILLS

Messrs. Parker (*Chairman*), Kaufman, Tompos, Hubbard and Miller.

JOINT COMMITTEE ON GOVERNMENT AND FINANCE

Messrs. Carson (*Chairman ex officio*), Barnett, Davis, McCourt, Moreland, Carrigan and Wolfe.

JOINT COMMITTEE ON JOINT RULES

Messrs. Carson (*Chairman ex officio*), Moreland and Carrigan.

STANDING COMMITTEES OF THE HOUSE OF DELEGATES

AGRICULTURE

Messrs. Slonaker (*Chairman*), Shiftet (*Vice Chairman*), Auvil, Beall, Bowling, Burke, Covey, Dawson, Edgar, Frazer, Goodwin, Hager (of Lincoln), Hovermale, Lanham, Mrs. Mathis, Messrs. McCoy, Moyers, Neal, Smith, Steptoe, Watson, Wilt, Wright, Jones and Ours.

BANKING

Messrs. Myles (*Chairman*), Armistead (*Vice Chairman*), Anderson, Ayers, Boiarsky, Burke, Cann, Castleberry, D'Aurora, Dusci, Hager (of Lincoln), Hager (of Logan), Hill, Knotts, Marstiller, Mrs. Mathis, Messrs. Mentz, Pauley (of McDowell), Poindexter, Mrs. Schupbach, Messrs. Slonaker, Watson, Wilt, Nicely and Seibert.

CLAIMS

Messrs. Ghiz (*Chairman*), Moyers (*Vice Chairman*), Anderson, Beall, Cain, Cann, Christian, Craig, Dawson, Dunaway, England, Hager (of Logan), Hovermale, Kessinger, Kopp, Lanham, McManus, Myles, Seabright, Slonaker, Stalnaker, Watson, Woo, Buck and Seibert.

COUNTIES, DISTRICTS AND MUNICIPALITIES

Messrs. Black (*Chairman*), Madden (*Vice Chairman*), Adams, Armistead, Ayers, Bowling, Cain, Dusci, Fantasia, Griffith, Kessinger, Kincaid, Knotts, Lohr, McManus, Mentz, Nelson, Payne, Scott, Mrs. Thornhill, Messrs. Tokash, Varney, Woo, Ours and Poling.

DELINQUENT LANDS

Messrs. Given (*Chairman*), Covey (*Vice Chairman*), Auvil, Bedell, Black, Boiarsky, Cain, Coghill, Craig, Frazer, Griffith, Hager (of Lincoln), Kincaid, Knight, Loop, Mrs. Mathis, Messrs. Neal, Ragan, Scott, Steptoe, Tokash, Varney, Wooten, Nicely and Poling.

EDUCATION

Messrs. Auvil (*Chairman*), Smith (*Vice Chairman*), Bowling, Cain, Christian, Church, Dawson, Dunaway, Dusci, England, Frazer, Hager (of Logan), Holliday, Knotts, McManus, Mrs. Paul, Mr. Pyles, Mrs. Schupbach, Messrs. Shiftet, Simpkins, Mrs. Thornhill, Messrs. Tokash, Wilt, Harman and Jones.

ELECTIONS

Messrs. Anderson (*Chairman*), Pyles (*Vice Chairman*), Bedell, Boiarsky, Cain, Castleberry, Covey, England, Gibson, Hovermale, Howell, Loop, Madden, Neal, Nelson, Mrs. Paul, Messrs. Payne, Riccardi, Scott, Seabright, Mrs. Thornhill, Messrs. Wooten, Wright, Jones and Nicely.

FINANCE

Messrs. Boiarsky (*Chairman*), Cann (*Vice Chairman*), Auvil, Beall, Bedell, Black, Covey, D'Aurora, Edgar, Fantasia, Frazer, Ghiz, Hager (of Logan), Hill, Hovermale, Kincaid, Knight, Lohr, McCoy, McManus, Mentz, Sawyers, Seabright, Ours and Poling.

FORESTRY AND CONSERVATION

Messrs. England (*Chairman*), Edgar (*Vice Chairman*), Auvil, Barker, Bowling, Casey, Church, Dunaway, Gibson, Given, Goodwin, Holliday, Lohr, McCoy, Mrs. Paul, Messrs. Pauley (of Kanawha), Shiflet, Slonaker, Steptoe, Stewart, Varney, Wilt, Mrs. Withrow, Messrs. Buck and Ours.

GAME AND FISH

Messrs. McCoy (*Chairman*), Sawyers (*Vice Chairman*), Allen, Beall, Black, Covey, Dawson, England, Fantasia, Ghiz, Goodwin, Hovermale, Knight, Kopp, Lanham, Morasco, Neal, Mrs. Paul, Mrs. Schupbach, Messrs. Stalnaker, Tokash, Wilt, Wooten, Ashley and Harman.

HEALTH

Messrs. Poindexter (*Chairman*), Holliday (*Vice Chairman*), Adams, Ayers, Castleberry, Christian, Church, Dawson, Dunaway, Dusci, Griffith, Hager (of Logan), Kincaid, Knight, Lohr, Madden, Marstiller, Nelson, Seabright, Simpkins, Smith, Mrs. Withrow, Messrs. Wright, Harman and Queen.

HUMANE INSTITUTIONS

Mrs. Withrow (*Chairman*), Messrs. Craig (*Vice Chairman*), Board, Castleberry, Christian, Church, D'Aurora, Davidson, Dusci, Gibson, Griffith, Holliday, Knight, Moyers, Poindexter, Pyles, Ragan, Shiflet, Simpkins, Smith, Mrs. Thornhill, Messrs. Tokash, Wright, Ashley and Jones.

INSURANCE

Messrs. Hill (*Chairman*), Marstiller (*Vice Chairman*), Armistead, Board, Castleberry, Coghill, Davidson, England, Frazer, Hager (of Lincoln), Kessinger, Mentz, Morasco, Myles, Pauley (of Kanawha), Payne, Scott, Shiflet, Smith, Steptoe, Mrs. Thornhill, Messrs. Varney, Wright, Nicely and Queen.

INTERSTATE COOPERATION

Messrs. Hager (of Logan) (*Chairman*), Frazer (*Vice Chairman*), McCoy, Myles and Buck.

JUDICIARY

Messrs. Watson (*Chairman*), Steptoe (*Vice Chairman*), Adams, Anderson, Armistead, Ayers, Barker, Casey, Coghill, Craig, Given, Kessinger, Loop, Madden, Marsteller, Morasco, Moyers, Myles, Nelson, Pauley (of McDowell), Payne, Slonaker, Stalnaker, Ashley and Seibert.

LABOR AND INDUSTRY

Messrs. Cann (*Chairman*), D'Aurora (*Vice Chairman*), Allen, Barker, Casey, Coghill, Davidson, Gibson, Given, Goodwin, Holliday, Howell, Knotts, Kopp, Loop, Mrs. Mathis, Mrs. Paul, Messrs. Pyles, Ragan, Scott, Stalnaker, Stewart, Woo, Buck and Jones.

MILITARY AFFAIRS

Messrs. Adams (*Chairman*), Gibson (*Vice Chairman*), Allen, Ayers, Barker, Bedell, Board, Boiarsky, Burke, Dunaway, Hovermale, Kincaid, Knight, Lanham, Morasco, Neal, Pauley (of Kanawha), Payne, Ragan, Sawyers, Shiftet, Stewart, Varney, Harman and Poling.

MINING

Messrs. Frazer (*Chairman*), Wooten (*Vice Chairman*), Beall, Black, Bowling, Church, Coghill, Covey, Fantasia, Ghiz, Hager (of Lincoln), Hill, Kopp, Mrs. Mathis, Messrs. Pauley (of Kanawha), Pauley (of McDowell), Pyles, Ragan, Riccardi, Simpkins, Varney, Mrs. Withrow, Messrs. Woo, Ashley and Queen.

PENAL AND CORRECTIONAL INSTITUTIONS

Messrs. Casey (*Chairman*), Barker (*Vice Chairman*), Adams, Allen, Auvil, Ayers, Dawson, Dunaway, Edgar, Ghiz, Given, Goodwin, Howell, Kessinger, Kopp, Lanham, Madden, Morasco, Riccardi, Mrs. Schupbach, Messrs. Stalnaker, Stewart, Varney, Harman and Queen.

RAILROADS

Messrs. Board (*Chairman*), Christian (*Vice Chairman*), Allen, Armistead, Burke, Davidson, Edgar, Goodwin, Hager (of Lincoln), Hill, Knotts, Mrs. Paul, Messrs. Pauley (of McDowell), Poindexter, Ragan, Riccardi, Sawyers, Mrs. Schupbach, Messrs. Simpkins, Smith, Stalnaker, Stewart, Watson, Ours and Seibert.

REDISTRICTING

Messrs. Lohr (*Chairman*), Loop (*Vice Chairman*), Adams, Burke, Cann, Coghill, Gibson, Howell, Marsteller, McCoy, Mo-

rasco, Myles, Nelson, Pauley (of Kanawha), Pauley (of McDowell), Poindexter, Riccardi, Sawyers, Scott, Seabright, Step-toe, Watson, Wooten, Buck and Nicely.

ROADS

Messrs. Bedell (*Chairman*), Wilt (*Vice Chairman*), Allen, Barker, Cain, Davidson, Fantasia, Given, Griffith, Kessinger, Kopp, Lanham, Lohr, Madden, Moyers, Neal, Pauley (of Kanawha), Pauley (of McDowell), Pyles Sawyers, Simpkins, Mrs. Withrow, Messrs. Wooten, Jones and Queen.

RULES

Messrs. White (*Chairman ex officio*), Bedell, Boiarsky, Cann, Hill, Madden, Myles, Pauley (of McDowell), Poindexter, Step-toe, Watson and Seibert.

TEMPERANCE

Messrs. Castleberry (*Chairman*), Kincaid (*Vice Chairman*), Anderson, Armistead, Board, Boiarsky, Cann, Casey, D'Aurora, Dusci, Edgar, Ghiz, Hager (of Logan), Howell, McCoy, Myles, Sawyers, Slonaker, Stewart, Tokash, Mrs. Withrow, Messrs. Woo, Wright, Ashley and Buck.

VETERANS AFFAIRS

Messrs. Mentz (*Chairman*), Fantasia (*Vice Chairman*), Anderson, Beall, Black, Bowling, Casey, Christian, Craig, D'Aurora, Griffith, Hill, Holliday, Howell, Knotts, Marsteller, McManus, Moyers, Nelson, Riccardi, Seabright, Stalnaker, Woo, Nicely and Poling.

JOINT COMMITTEE ON ENROLLED BILLS

Messrs. Loop (*Chairman*), Davidson (*Vice Chairman*), Ayers, D'Aurora and Nicely.

JOINT COMMITTEE ON GOVERNMENT AND FINANCE

Messrs. White (*ex officio*), Boiarsky, Cann, Pauley (of McDowell), Watson, Ours and Seibert.

JOINT COMMITTEE ON JOINT RULES

Messrs. White (*ex officio*), Pauley (of McDowell) and Seibert.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1965

REGULAR SESSION

CHAPTER 1

(Com. Sub. for House Bill No. 581—By Mr. Lohr)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the recovery of damages in wrongful death actions.

Be it enacted by the Legislature of West Virginia:

That section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Actions for Injuries.

Section

6. Party plaintiff in such actions; damages; distribution; limitation.

Section 6. Party Plaintiff in Such Actions; Damages; Distribution; Limitation.—Every such action shall be brought by and in the name of the personal representative of such deceased person, and the amount recovered in every such action shall be recovered by said personal representative and be distributed in accordance herewith. In every such action the jury may award such damages as they deem fair and just, not exceeding ten thousand dollars, and the amount recovered shall be distributed to the parties and in the proportion provided by

11 law for the distribution of personal estate left by persons
12 dying intestate. In addition, the jury may award such
13 further damages, not exceeding the sum of one hundred
14 thousand dollars, as shall equal the financial or pecuniary
15 loss sustained by the dependent distributee or distributees
16 of such deceased person, and shall be distributed as
17 though part of the decedent's estate to decedent's de-
18 pendent distributees in the proportions provided by the
19 laws of descent and distribution.

20 In every such action and in addition to the damages
21 awarded pursuant to the foregoing provisions hereof, the
22 personal representative of the deceased shall be entitled
23 to recover the reasonable funeral expenses of such de-
24 ceased person and the reasonable hospital, medical and
25 other expenses incurred as a result of the wrongful act,
26 neglect or default of the defendant or defendants which
27 resulted in death.

28 In its verdict the jury shall set forth separately the
29 amount of damages, if any, awarded by it for reasonable
30 funeral, hospital, medical and said other expenses in-
31 curred as a result of the wrongful act, neglect or default
32 of the defendant or defendants which resulted in death,
33 and any such amount recovered for such expenses shall
34 be so expended by the personal representative.

35 Every such action shall be commenced within two years
36 after the death of such deceased person.

37 The provisions of this section shall not apply to actions
38 brought for the death of any person occurring prior to
39 the effective date hereof.

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CHAPTER 2

(Senate Bill No. 104—By Mr. Brotherton)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section twenty-eight, article one,
chapter forty-four of the code of West Virginia, one thou-

sand nine hundred thirty-one, as amended, relating to the payment of small sums due employees to distributees of decedents upon whose estates there have been no qualifications.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Personal Representatives.

Section

28. Payment of small sums due employees to distributees of decedents upon whose estates there have been no qualifications.

Section 28. Payment of Small Sums Due Employees to Distributees of Decedents upon Whose Estates There Have Been No Qualifications.—When there is due from the state of West Virginia, any of its political subdivisions, the United States, or any employer, as pension or money allowed for burial expenses, or money, wages or salary due from any employer to a deceased employee, upon whose estate there has been no qualification, a sum of not exceeding one thousand dollars, it shall be lawful for the state of West Virginia, any of its political subdivisions, the United States, or such employer, after one hundred and twenty days from the death of said person to whom such money is due, to pay said sum to his or her surviving consort, if any; if none such, then to the distributees of the said decedent under the laws of the state of West Virginia, whose receipt therefor shall be a full discharge and acquittance to all persons whomsoever on account of such sum.

CHAPTER 3

(Senate Bill No. 16—By Mr. Carson, Mr. President)

[Passed February 5, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and three, article two, chapter forty-four of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, relating to publication by a commissioner of accounts of a notice of time for receiving claims against decedents' estates and the certification by the commissioner of the publication of such notice.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Proof and Allowance of Claims against Estates of Decedents.

Section

- 2. Commissioner to publish notice of time for receiving claims against decedents' estates.
- 3. Commissioner to certify to publication of notice.

Section 2. Commissioner to Publish Notice of Time for

2 Receiving Claims against Decedents' Estates.—Each month
3 the commissioner of accounts shall publish a notice desig-
4 nating a convenient time and place when and where
5 claims against the estate or estates referred to him during
6 the previous calendar month may be presented, examined
7 and allowed. The time so designated by the commis-
8 sioner shall not be less than four months nor more than
9 six months from the date of the first publication of the
10 notice hereinafter set forth. The notice shall be to the
11 following effect:

12 To the Creditors and Beneficiaries of the Estate(s) of

13 _____:

14 (Naming the decedent or decedents, as the case may be)

15 All persons having claims against the estate(s) of the said

16 _____,

17 (Naming the decedent or decedents, as the case may be)

18 deceased, whether due or not, are notified to exhibit
19 same, with the voucher thereof, legally verified, to the
20 undersigned, at (designating the place) on or before the
21 _____ day of _____, 19___; otherwise they may by law be ex-
22 cluded from all benefit of said estate(s). All beneficiaries
23 of said estate(s) may appear on or before said day to
24 examine said claims and otherwise protect their interests.

25 Given under my hand this day of, 19....
 26
 27 Commissioner of Accounts,
 28 County of

29 Such notice shall be published once a week for three
 30 successive weeks in some newspaper of general circula-
 31 tion published in the county, but if no such newspaper is
 32 published in the county such notice shall be published in
 33 some newspaper of general circulation in the county. The
 34 publication of such notice shall be equivalent to personal
 35 service on the creditors, distributees and legatees, or any
 36 of them.

Sec. 3. Commissioner to Certify to Publication of Notice.

2 —In his certificate to the report of claims against the es-
 3 tate, to be made as hereafter provided, the commissioner
 4 of accounts shall certify that the notice required by sec-
 5 tion two of this article was published and shall state the
 6 name of the newspaper in which the notice was published
 7 and the dates of publishing.

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CHAPTER 4

(House Bill No. 625—By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact article ten-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the production, processing, sale and distribution of eggs, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article ten-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 10-a. Marketing of Eggs.

Section

1. Short title; purpose.
2. Definitions.
3. Distributor required to have certificate of authorization; application; fee; terms; renewal; posting; revocation or suspension.
4. Exemption.
5. Consumer grade and size or weight class to be shown on container; conformance to designation.
6. Standards, grades and weight classes.
7. Stop sale provisions.
8. Labeling requirements.
9. Invoice to be furnished purchaser; seller and purchaser to keep invoice on file for thirty days.
10. Advertising.
11. Commissioner of agriculture to enforce article.
12. Egg handling facilities; temperature and humidity; sanitation and cleaning.
13. Access to premises, etc.
14. Penalty for violation of article or rules and regulations; injunction; duty of prosecuting attorney.
15. Persons punishable as principals.
16. Separability.

Section 1. Short Title; Purpose.—This article shall be
 2 known and may be cited as the “Egg Marketing Law” and
 3 is designed to regulate the commercial processing, sale
 4 and distribution of eggs in this state.

Sec. 2. Definitions.—As used in this article, or in any
 2 rule or regulation authorized by it, unless the context
 3 clearly requires otherwise or a different meaning is
 4 specifically prescribed:

5 (a) “Authorized representative” means the commis-
 6 sioner or any duly authorized agent or employee who is
 7 assigned to carry out the provisions of this article.

8 (b) “Candling and grading” means selecting eggs as
 9 to their conformity to the standards of quality and size
 10 or weight class preparatory to marketing them as a spe-
 11 cific grade and size or weight class.

12 (c) “Commissioner” means the commissioner of ag-
 13 riculture.

14 (d) “Container” means any box, case, basket, carton,
 15 sack, bag or other receptacle containing eggs.

16 (e) “Consumer” means any person who purchases
 17 eggs for his or her own family use or consumption and
 18 not for resale.

19 (f) “Department of Agriculture” or “department”
 20 means the department of agriculture of West Virginia.

21 (g) "Distributor" means any person, firm or corpora-
22 tion offering for sale or distributing eggs in the state to a
23 retailer, cafe, restaurant or any other establishment offer-
24 ing for sale to consumers, or to an institutional user; and
25 shall include any person, firm or corporation distributing
26 eggs to his or its own retail outlets or stores but shall not
27 include any person, producer, firm or corporation engaged
28 only to haul or transport eggs nor retailers selling at re-
29 tail eggs purchased from producers.

30 (h) "Eggs" means eggs in the shell that are the
31 product of a domesticated chicken.

32 (i) "Facilities" means any room, compartment, or
33 refrigerator used in handling eggs in any manner.

34 (j) "Grades" means and includes specifications de-
35 fining the limit of variation in quality of two or more eggs.

36 (k) "Institutional consumer" means a restaurant,
37 hotel, licensed boardinghouse, commercial bakery or any
38 other institution in which eggs are prepared as food for
39 use by its patrons, residents or patients.

40 (l) "Lot" means a physical grouping of eggs or con-
41 tainers with eggs therein, as determined by an authorized
42 representative of the department of agriculture.

43 (m) "Marketing of eggs" or "market" means the sale,
44 offer for sale, gift, barter, exchange, advertising, brand-
45 ing, marking, labeling, grading or other preparatory op-
46 eration or distribution in any manner of eggs or con-
47 tainers of eggs as defined in this article.

48 (n) "Packer" means any person who is engaged in
49 grading, shell treating or packing shell eggs for sale to
50 consumers, direct or through distributors or retailers.

51 (o) "Person" means and includes any individual, firm,
52 partnership, exchange, association, trustee, receiver, cor-
53 poration, or any other business organization and any
54 member, officer, or employee thereof.

55 (p) "Retailer" means any person who markets eggs
56 to consumers.

57 (q) "Producer" means any person owning laying hens
58 who markets eggs of his own production only.

59 (r) "Size or weight class" means a classification of
60 eggs based on weight at the rate per dozen.

61 (s) "Standards for quality" means specifications of
62 the physical characteristics of any or all of the component
63 parts of the individual egg.

64 (t) "Subcontainer" means any container used within
65 another container.

**Sec. 3. Distributor Required to Have Certificate of
2 Authorization; Application; Fee; Terms; Renewal; Post-
3 ing; Revocation or Suspension.**—Every distributor as de-
4 fined by this article shall obtain from the commissioner of
5 agriculture a certificate authorizing such distributor to
6 engage in the selling or distributing of eggs. Application
7 for such certificate shall be accompanied by a fee of five
8 dollars to cover cost of recording such certificate and shall
9 expire on the thirtieth day of June next succeeding date
10 of issue thereof. Certificates shall be renewable and shall
11 be posted in a conspicuous place in holder's place of busi-
12 ness. The commissioner shall have the power to revoke
13 or suspend the certificate for failure to comply with the
14 provisions of the article and shall refuse to issue a cer-
15 tificate to wilful violators.

Sec. 4. Exemption.—A producer or distributor market-
2 ing one hundred fifty dozen or less per week of his own
3 production shall be exempt from the provisions of this
4 article.

**Sec. 5. Consumer Grade and Size or Weight Class to
2 Be Shown on Container; Conformance to Designation.**—
3 No distributor shall market to consumers, institutional
4 users or retailers or expose for that purpose any eggs
5 unless there is clearly designated therewith on the con-
6 tainer the consumer grade and size or weight class estab-
7 lished in accordance with the provisions of this article and
8 such eggs shall conform to the designated grade and size
9 or weight class, except when sold on contract to an agency
10 of the United States government.

Sec. 6. Standards, Grades and Weight Classes.—The
2 specifications for consumer grades and weight classes and
3 the standards for quality of individual eggs shall be
4 those promulgated by the United States department of
5 agriculture as set forth in the regulations governing the

6 grading of shell eggs and United States standards, grades
7 and weight classes for shell eggs as amended from time
8 to time.

Sec. 7. Stop Sale Provisions.—If an authorized rep-
2 resentative of the department of agriculture shall deter-
3 mine, after inspection, that any lot of eggs is in violation
4 of this article, he may issue an embargo. An embargo
5 shall specify the reason for its issuance. An embargo
6 shall prohibit the further marketing of the eggs subject
7 to it until such eggs are released by the department of
8 agriculture.

Sec. 8. Labeling Requirements.—Any container or sub-
2 container in which eggs are marketed to consumers shall
3 bear on the outside portion of the container, but not
4 limited to, the following:

5 (a) The applicable consumer grade or quality by des-
6 ignation provided for in this article.

7 (b) The applicable size or weight class provided for
8 in this article.

9 (c) The word “eggs.”

10 (d) The name and address of the packer, distributor
11 or retailer.

12 Words and numerals used to designate the grade and
13 size shall be clearly legible.

14 Any person intending to reuse a container shall obscure
15 any inappropriate labeling thereon and relabel the con-
16 tainer in accordance with this section prior to refilling
17 the container with eggs. In any event, the address of
18 the packer or distributor shall be clearly legible. No
19 descriptive term other than the applicable grade and size
20 may be used except that the term “fresh” may only be
21 applied to eggs conforming to the specifications for Grade
22 A or better.

**Sec. 9. Invoice to Be Furnished Purchaser; Seller and
2 Purchaser to Keep Invoice on File for Thirty Days.**—
3 Any distributor, when marketing eggs to a retailer, insti-
4 tutional user, or to any other person shall furnish to the
5 purchaser at the time of delivery an invoice showing
6 date of sale, name and address of seller, name of pur-
7 chaser, quantity, grade and size, and weight classification.

8 A copy of such invoice shall be kept on file by both
9 the person selling and the purchaser at their respective
10 places of business for a period of at least thirty days.

Sec. 10. Advertising.—No person shall advertise eggs
2 for sale at a given price unless the unabbreviated grade
3 or quality and size-weight are conspicuously designated.

Sec. 11. Commissioner of Agriculture to Enforce Article.—The commissioner of agriculture is hereby charged
2 with the enforcement of the provisions of this article and
3 is empowered to prescribe and enforce such rules and
4 regulations as may be necessary to administer and en-
5 force the provisions of this article.
6

Sec. 12. Egg Handling Facilities; Temperature and Humidity; Sanitation and Cleaning.—Any packer or distributor engaged in the assembling, marketing or the processing of eggs for marketing shall, in addition to maintaining egg handling facilities in a manner commensurate
2 with laws governing food establishments, keep the eggs at
3 a temperature not higher than sixty degrees Fahrenheit
4 and in a relative humidity of not less than seventy per
5 cent. In addition, any container, including the packaging
6 material therein, when used for the marketing of eggs
7 shall be clean, unbroken and free from foreign odor. In
8 all instances eggs shall, so far as possible and by use of all
9 reasonable means, be protected from being soiled or
10 dirtied by foreign matter. When cleaning is necessary, an
11 acceptable sanitary method shall be employed: *Provided,*
12 That any producer selling eggs of his own production is
13 exempt from the temperature and humidity provisions of
14 this section, if his production is not in excess of one hundred and fifty dozen per week.
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16
17
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19

Sec. 13. Access to Premises, Etc.—The commissioner,
2 or his authorized agents or representatives, shall during
3 business hours have access to any establishment or facility
4 where eggs are bought, stored, sold, offered for sale, or
5 processed in order to inspect and examine eggs, egg containers, and the premises, and to examine the records
6 of such establishments or facilities relevant thereto.
7

Sec. 14. Penalty for Violation of Article or Rules and

2 Regulations; Injunction; Duty of Prosecuting Attorney.—

3 Any person who violates any of the provisions of this
4 article or of the rules or regulations adopted pursuant to
5 the provisions thereof, shall be guilty of a misdemeanor,
6 and, upon conviction thereof, shall be fined not less than
7 fifty dollars nor more than two hundred dollars. In
8 addition to the penalties provided for in this article, the
9 commissioner is hereby authorized to apply for and the
10 court to grant a temporary or permanent injunction re-
11 straining any person from violating or continuing to
12 violate any of the provisions of this article or any rules
13 or regulations promulgated under this article notwith-
14 standing the existence of other remedies at law. Said
15 injunction shall be issued without bond.

16 Nothing in the article shall be construed as requiring
17 the commissioner or his representative to report for
18 prosecution minor violations of this article when he be-
19 lieves that the public interest will be best served by a
20 suitable notice of warning in writing. It shall be the duty
21 of each prosecuting attorney to whom any violation is
22 reported to cause appropriate proceedings to be instituted
23 and prosecuted in a court of competent jurisdiction with-
24 out delay.

Sec. 15. Persons Punishable as Principals.—(a) Who-
2 ever commits any act prohibited by any section of this
3 article or aids, abets, induces, or procures its commission,
4 is punishable as a principal.

5 (b) Whoever causes an act to be done which if directly
6 performed by him or another would be a violation of the
7 provisions of this article, is punishable as a principal.

Sec. 16. Separability.—If any of the provisions of this
2 article shall be held invalid or unconstitutional, such in-
3 validity or unconstitutionality shall not affect other pro-
4 visions of the article, and to these ends the provisions of
5 this article are declared to be severable.

CHAPTER 5

(House Bill No. 637—By Mr. Slonaker and Mr. Ours)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal article fourteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article fourteen, relating to agricultural feeding stuffs, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article fourteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and a new article fourteen be enacted in lieu thereof, to read as follows:

Article 14. West Virginia Commercial Feed Law.

Section

1. Title.
2. Enforcing official.
3. Definitions of words and terms when used in this article.
4. Registration.
5. Labeling.
6. Inspection fees.
7. Adulteration.
8. Misbranding.
9. Inspection; sampling; analysis.
10. Rules and regulations.
11. Right to inspect; "stop sale" orders and "embargoes"; hearings; appeals; condemnation and confiscation.
12. Penalties.
13. Publications.
14. Constitutionality.

Section 1. Title.—This article shall be known as the
2 "West Virginia Commercial Feed Law."

Sec. 2. Enforcing Official.—This article shall be ad-
2 ministered by the commissioner of agriculture of the
3 state of West Virginia, hereinafter referred to as the
4 "commissioner."

Sec. 3. Definitions of Words and Terms When Used in
2 **This Article.**—(a) The term "person" includes individ-
3 ual, partnership, corporation and association; (b) the

4 term "distribute" means to offer for sale, sell or barter,
5 commercial feed or customer-formula feed; or to supply,
6 furnish or otherwise provide commercial feed or cus-
7 tomer-formula feed to a contract feeder. The term "dis-
8 tributor" means any person who distributes; (c) the term
9 "sell" or "sale" includes exchange; (d) the term "com-
10 mercial feed" means all materials which are distributed
11 for use as feed or for mixing in feed, for animals other
12 than man except: (1) Unmixed or unprocessed whole
13 seeds; (2) unground hay, straw, stover, silage, cobs, husks
14 and hulls when not mixed with other materials; (3) in-
15 dividual chemical compounds when not mixed with other
16 materials; (e) the term "feed ingredient" means each of
17 the constituent materials making up a commercial feed;
18 (f) the term "mineral feed" shall mean a substance or
19 mixture of substances designed or intended to supply
20 primarily mineral elements or inorganic nutrients; (g)
21 the term "customer-formula feed" means a mixture of
22 commercial feeds and/or materials each batch of which
23 mixture is mixed according to the specific instructions
24 of the final purchaser or contract feeder; (h) the term
25 "brand name" means any word, name, symbol or device,
26 or any combination thereof, identifying the commercial
27 feed of a distributor and distinguishing it from that of
28 others; (i) the term "product name" means the name of
29 the commercial feed which identifies it as to kind, class
30 or specific use; (j) the term "label" means a display of
31 written, printed, or graphic matter upon or affixed to the
32 container in which a commercial feed is distributed, or
33 on the invoice or delivery slip with which a commercial
34 feed or customer-formula feed is distributed; (k) the
35 term "ton" means a net weight of two thousand pounds
36 avoirdupois; (l) the term "per cent" or "percentage"
37 means percentage by weight; (m) the term "official
38 sample" means any sample of feed taken by the commis-
39 sioner or his agent and designated as "official"; and (n)
40 the term "contract feeder" means a person who, as an in-
41 dependent contractor, feeds commercial feed to animals
42 pursuant to a contract whereby such commercial feed is
43 supplied, furnished or otherwise provided to such person
44 and whereby such person's remuneration is determined

45 all or in part by feed consumption, mortality, profits, or
46 amount or quality of product.

Sec. 4. Registration.—(a) Each commercial feed shall
2 be registered before being distributed in this state: *Pro-*
3 *vided, however,* That customer-formula feeds are exempt
4 from registration. The application for registration shall
5 be submitted on forms furnished by the commissioner,
6 and, if the commissioner so requests, shall also be ac-
7 companied by a label or other printed matter describing
8 the product. Upon approval by the commissioner a copy
9 of the registration shall be furnished to the applicant.
10 All registrations are considered permanent unless new
11 registrations are called for by the commissioner or unless
12 cancelled by the registrant. The application shall
13 include the information required by subdivisions
14 (2), (3), (4), and (5) of subsection (a) of section
15 five. The commissioner may by regulation permit on the
16 registration the alternative listing of ingredients of com-
17 parable feeding value, provided that the label for each
18 package shall state the specific ingredients which are in
19 such package. (b) A distributor shall not be required
20 to register any brand of commercial feed which is already
21 registered under this article by another person. (c)
22 Changes in the guarantee of either chemical or ingredient
23 composition of a registered commercial feed may be per-
24 mitted provided there is satisfactory evidence that such
25 changes would not result in a lowering of the feeding
26 value of the product for the purpose for which designed.
27 Any changes permitted shall be considered as a new
28 registration. (d) The commissioner is empowered to re-
29 fuse registration of any application not in compliance with
30 the provisions of this article and to cancel any registration
31 subsequently found not to be in compliance with any pro-
32 vision of this article: *Provided, however,* That no regis-
33 tration shall be refused or cancelled until the registrant
34 shall have been given opportunity to be heard before
35 the commissioner and to amend his application in order
36 to comply with the requirements of this article.

Sec. 5. Labeling.—(a) Any commercial feed distrib-
2 uted in this state shall be accompanied by a legible label
3 bearing the following information: (1) The net weight.

4 (2) The product name, brand name, if any, under which
5 the commercial feed is distributed. (3) The guaranteed
6 analysis of the commercial feed, listing the minimum per-
7 centage of crude protein, minimum percentage of crude
8 fat, and maximum percentage of crude fiber. For all
9 mineral feeds and for those commercial feeds containing
10 a level of added mineral ingredients established by reg-
11 ulation, the list shall include the following, if added:
12 Minimum and maximum percentages of calcium (Ca),
13 minimum percentage of phosphorus (P), minimum per-
14 centage of iodine (I), and minimum and maximum per-
15 centage of salt (NaCl). Other substances or elements,
16 determinable by laboratory methods, may be guaranteed
17 by permission of the commissioner. When any items are
18 guaranteed, they shall be subject to inspection and anal-
19 ysis in accordance with the methods and regulations that
20 may be prescribed by the commissioner. Products dis-
21 tributed solely as mineral and/or vitamin supplements
22 and guaranteed as specified in this section need not show
23 guarantees for protein, fat and fiber. (4) The common
24 or usual name of each ingredient used in the manufacture
25 of the commercial feed, except as the commissioner may,
26 by regulation, permit the use of a collective term for a
27 group of ingredients all of which perform the same func-
28 tion. An ingredient statement is not required for single
29 standardized ingredient feeds which are officially defined.

30 (5) The name and principal address of the person re-
31 sponsible for distributing the commercial feed. (b) When
32 a commercial feed is distributed in this state in bags or
33 other containers, the label shall be placed on or affixed
34 to the container; when a commercial feed is distributed
35 in bulk the label shall accompany delivery or be furnished
36 to the purchaser. (c) A customer-formula feed shall be
37 labeled by invoice. The invoice, which is to accompany
38 delivery and be supplied to the purchaser at the time of
39 delivery, shall bear the following information: (1) Name
40 and address of the mixer. (2) Name and address of the
41 purchaser. (3) Date of sale. (4) The product name and
42 brand name, if any, and number of pounds of each regis-
43 tered commercial feed used in the mixture and the name
44 and number of pounds of each other feed ingredient

45 added. (d) If a commercial feed or a customer-formula
46 feed contains a nonnutritive substance which is intended
47 for use in the diagnosis, cure, mitigation, treatment or
48 prevention of disease or which is intended to affect the
49 structure or any function of the animal body, the com-
50 missioner may require the label to show the amount
51 present, directions for use, and/or warnings against mis-
52 use of the feed.

Sec. 6. Inspection Fees.—(a) There shall be paid to
2 the commissioner for all commercial feeds distributed in
3 this state an inspection fee at the rate of twenty cents
4 per ton: *Provided, however,* That customer-formula feeds
5 are hereby exempted if the inspection fee is paid on the
6 commercial feeds which they contain: *And provided fur-*
7 *ther,* That distribution of commercial feeds to manufac-
8 turers are hereby exempted if the commercial feeds so
9 distributed are used solely in manufacture of feeds which
10 are registered: *And provided further,* That the manufac-
11 turer of commercial feeds or his designated dealer who
12 furnishes or supplies feed to a person to be fed to poultry
13 owned by the manufacturer or his designated dealer is
14 hereby exempt from paying the inspection fee on all such
15 feed actually fed to poultry owned by the feed manufac-
16 turer or his designated dealer: *And provided further,*
17 That any distributor shall pay an annual registration fee
18 of twenty-five dollars for each brand of commercial feed
19 distributed in individual packages of ten pounds or less,
20 and the distributor of such brand shall not be required
21 to pay the inspection fee on such packages of the brand
22 so registered. Fees so collected shall constitute a fund
23 for the payment of the cost of inspection, sampling, and
24 analysis, and other expenses necessary for the admini-
25 stration of this article. All moneys collected under the
26 provisions of this article shall be deposited with the state
27 treasurer in a "special revenue account," and shall be
28 expended upon order of the commissioner of agriculture.
29 (b) Every person, except as hereinafter provided, who
30 distributes commercial feed in this state shall: (1) File,
31 not later than the twentieth day of January and July of
32 each year, a semiannual statement under oath, setting
33 forth the number of net tons of commercial feeds dis-

34 tributed in this state during the preceding six-month
35 period and upon filing such statement shall pay the in-
36 spection fee at the rate stated in subsection (a) of this
37 section. When more than one person is involved in the
38 distribution of a commercial feed, the person who dis-
39 tributes to the consumer is responsible for reporting the
40 tonnage and paying the inspection fee unless the report
41 and payment have been made by a prior distributor of
42 the feed. (2) Keep such records as may be necessary or
43 required by the commissioner to indicate accurately the
44 tonnage of commercial feed distributed in this state,
45 and the commissioner shall have the right to examine
46 such records to verify statements of tonnage.

47 Failure to make an accurate statement of tonnage or
48 to pay the inspection fee or comply as provided herein
49 shall constitute sufficient cause for the cancellation of all
50 registrations on file for the distributor.

Sec. 7. Adulteration.—No person shall distribute an
2 adulterated feed. A commercial feed or customer-formula
3 feed shall be deemed to be adulterated: (a) If any poison-
4 ous, deleterious or nonnutritive ingredient has been
5 added in sufficient amount to render it injurious to the
6 health of a human who may consume the resultant food
7 product of the animal or to the health of the animal when
8 fed in accordance with directions for use on the label.
9 (b) If any valuable constituent has been in whole or
10 in part omitted or abstracted therefrom or any less valu-
11 able substance substituted therefor. (c) If its composi-
12 tion or quality falls below or differs from that which it
13 is purported or is represented to possess by its labeling.
14 (d) If it contains added hulls, screenings, straw, cobs,
15 or other high fiber material unless the name of each
16 such material is stated on the label. (e) If it contains
17 whole weed seeds in amounts exceeding the limits which
18 the commissioner shall establish by rule or regulation.

Sec. 8. Misbranding.—No person shall distribute mis-
2 branded feed. A commercial feed or customer-formula
3 feed shall be deemed to be misbranded: (a) If its
4 labeling is false or misleading in any particular. (b) If
5 it is distributed under the name of another feed. (c) If

6 it is not labeled as required in section five of this article
7 and in regulations prescribed under this article. (d) If
8 it purports to be or is represented as a feed ingredient,
9 or if it purports to contain or is represented as contain-
10 ing a feed ingredient, unless such feed ingredient con-
11 forms to the definition of identity, if any, prescribed by
12 regulation of the commissioner; in the adopting of such
13 regulations the commissioner shall give due regard to
14 commonly accepted definitions such as those issued by
15 the Association of American Feed Control Officials, Incor-
16 porated. (e) If any word, statement, or other infor-
17 mation required by or under authority of this article
18 to appear on the label or labeling is not prominently
19 placed thereon with such conspicuousness (as compared
20 with other words, statements, designs, or devices, in the
21 labeling) and in such terms as to render it likely to be
22 read or understood by the ordinary individual under
23 customary conditions of purchase and use.

Sec. 9. Inspection; Sampling; Analysis.—(a) It shall
2 be the duty of the commissioner, who may act through
3 his authorized agent, to sample, inspect, make analyses
4 of, and test commercial feeds and customer-formula feeds
5 distributed within this state at such time and place and to
6 such an extent as he may deem necessary to determine
7 whether such feeds are in compliance with the provi-
8 sions of this article. The commissioner, individually or
9 through his agent, is authorized to enter upon any public
10 or private premises including any vehicle of transport
11 during regular business hours in order to have access to
12 commercial feeds and customer-formula feeds and to rec-
13 ords relating to their distribution. (b) The methods of
14 sampling and analysis shall be those adopted by the com-
15 missioner from sources such as the journal of the associa-
16 tion of official agricultural chemists. (c) The commis-
17 sioner, in determining for administrative purposes wheth-
18 er a commercial feed is deficient in any component,
19 shall be guided solely by the official sample as defined
20 in subsection (m) of section three, which sample is ob-
21 tained and analyzed as provided for in subsection (b) of
22 this section. (d) When the inspection and analysis of an

23 official sample indicates a commercial feed has been adul-
24 terated or misbranded, the results of analysis shall be
25 forwarded by the commissioner to the distributor and
26 the purchaser. Upon request made within thirty days the
27 commissioner shall furnish to the distributor a portion of
28 the sample concerned.

Sec. 10. Rules and Regulations.—The commissioner is
2 hereby charged with the enforcement of the provisions
3 of this article, and is empowered to promulgate and adopt
4 such reasonable rules and regulations as may be neces-
5 sary to administer and enforce the provisions of this
6 article.

**Sec. 11. Rights to Inspect; "Stop Sale" Orders and "Em-
2 bargoes"; Hearings; Appeals; Condemnation and Confis-
3 cation.**—(a) The commissioner or his agent shall have
4 free access to all places of business, mills, buildings and
5 conveyances of any kind used in the transportation, im-
6 portation, manufacture, sale or storage of any commercial
7 feeding stuffs, with power and authority to open any
8 parcel containing or supposed to contain any commercial
9 feeding stuffs, and upon full payment of the selling price,
10 to take therefrom samples for analyses, and to examine
11 the books and all records pertaining to the shipment,
12 manufacture, sale or distribution of any commercial feed-
13 ing stuffs.

14 (b) Whenever it appears that any commercial feeding
15 stuff is being offered or exposed for sale in this state in
16 violation of any of the provisions of this article, the com-
17 missioner is hereby authorized to issue a written or
18 printed "stop sale" order or "embargo," and it shall be
19 unlawful for any person, firm, corporation or manufac-
20 turer to permit any such commercial feed to be moved
21 or disposed of in any manner except upon written order
22 of the commissioner of agriculture or by court order.
23 The commissioner shall cause notice of such violation to
24 be given to the person affected thereby, and any person
25 so notified shall be given an opportunity to be heard un-
26 der such rules and regulations as the commissioner may
27 prescribe. Any person aggrieved by any such "stop sale"
28 order or "embargo" may appeal to the circuit court of

29 the county in which the alleged infraction occurred, and
30 jurisdiction is hereby conferred upon such circuit court
31 to hear and determine such appeal.

32 (c) Any lot of commercial feed not in compliance
33 with the provisions of this article or any reasonable rules
34 and regulations promulgated by the commissioner shall
35 be subject to seizure and confiscation on complaint of the
36 commissioner to the circuit court of the county in which
37 the commercial feeding stuff in question is located, and
38 jurisdiction is hereby conferred upon such circuit court
39 to hear and determine such matter. If the court finds
40 that said commercial feeding stuff is in violation of the
41 provisions of this article or such reasonable rules and
42 regulations, and if the court determines that such feeding
43 stuff should be confiscated, the court shall order the
44 destruction of such commercial feeding stuff or its dis-
45 position in any manner consistent with the quality of
46 such commercial feeding stuff and not in violation of any
47 other laws of this state: *Provided*, That if the court de-
48 termines not to order the destruction of such commercial
49 feeding stuff, it shall not order the same to be disposed
50 of in any manner without first giving the owner thereof
51 an opportunity to process or relabel such commercial
52 feeding stuff or otherwise dispose of the same in full com-
53 pliance with the provisions of this article and any reason-
54 able rules and regulations of the commissioner.

55 (d) Any party aggrieved by a final judgment entered
56 by a circuit court in accordance with the provisions of
57 this section may seek a review thereof by appeal to the
58 supreme court of appeals of this state, and jurisdiction is
59 hereby conferred upon such court to hear and entertain
60 such appeals upon application made therefor in the man-
61 ner and within the time provided by law for civil appeals
62 generally.

Sec. 12. Penalties.—(a) Any person violating any of
2 the provisions of this article or the rules and regulations
3 issued thereunder or who shall impede, obstruct, hinder,
4 or otherwise prevent or attempt to prevent said com-
5 missioner or his duly authorized agent in the performance
6 of his duty in connection with the provisions of this

7 article, shall be guilty of a misdemeanor, and, upon con-
8 viction thereof, shall be fined not less than twenty-five
9 dollars nor more than one hundred dollars for the first
10 violation, and not less than fifty dollars nor more than
11 two hundred dollars for any subsequent violation. In all
12 prosecutions under this article involving the composition
13 of a lot of commercial feed, a certified copy of the official
14 analysis signed by the commissioner or his agent shall
15 be accepted as prima facie evidence of the composition.
16 (b) Nothing in this article shall be construed as re-
17 quiring the commissioner or his representative to report
18 for prosecution or for the institution of seizure and con-
19 fiscation proceedings as a result of minor violations of the
20 article when he believes that the public interest will be
21 best served by a suitable notice of warning in writing.
22 (c) It shall be the duty of each prosecuting attorney to
23 whom any violation is reported to cause appropriate pro-
24 ceedings to be instituted and prosecuted in a court of
25 competent jurisdiction without delay. Before the commis-
26 sioner reports a violation for such prosecution, an oppor-
27 tunity shall be given the distributor to present his view to
28 the commissioner. (d) Upon application by the commis-
29 sioner therefor, the circuit court of the county in which
30 the violation is occurring, has occurred or is about to
31 occur, as the case may be, may grant a temporary or
32 permanent injunction restraining any person from vio-
33 lating or continuing to violate any of the provisions of
34 this article or any rule or regulation promulgated under
35 this article, notwithstanding the existence of other reme-
36 dies at law. Any such injunction shall be issued without
37 bond.

Sec. 13. Publications.—The commissioner shall pub-
2 lish at least annually, in such form as he may deem
3 proper, information concerning the sales of commercial
4 feeds, together with such data on their production and
5 use as he may consider advisable, and a report of the
6 results of the analyses of official samples of commercial
7 feeds sold within the state as compared with the analyses
8 guaranteed in the registration and on the label: *Provided,*
9 *however,* That the information concerning production

10 and use of commercial feeds shall not disclose the oper-
 11 ations of any person.

Sec. 14. Constitutionality.—If any clause, sentence,
 2 paragraph, or part of this article shall for any reason
 3 be judged invalid by any court of competent jurisdiction,
 4 such judgment shall not affect, impair, or invalidate the
 5 remainder thereof but shall be confined in its operation
 6 to the clause, sentence, paragraph or part thereof directly
 7 involved in the controversy in which such judgment shall
 8 have been rendered.

CHAPTER 6

(House Bill No. 794—By Mr. Wilt)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend and reenact sections two and three, article
 twenty, chapter nineteen of the code of West Virginia, one
 thousand nine hundred thirty-one, as amended, all relating
 to assessing and collecting of head tax on dogs; duties of
 assessors and sheriffs relating thereto; and registration of
 dog kennels.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article twenty, chapter nineteen
 of the code of West Virginia, one thousand nine hundred
 thirty-one, as amended, be amended and reenacted to read as
 follows:

Article 20. Dogs.

Section

2. Collection of head tax on dogs; duties of assessor and sheriff; regis-
 tration of dogs; disposition of head tax; taxes on dogs not collected
 by assessor.
3. Registration of dog kennels; fee.

**Section 2. Collection of Head Tax on Dogs; Duties of
 2 Assessor and Sheriff; Registration of Dogs; Disposition of
 3 Head Tax; Taxes on Dogs Not Collected by Assessor.—
 4 It shall be the duty of the county assessor and his deputies**

5 of each county within this state, at the time they are
6 making assessment of the personal property within such
7 county, to assess and collect a head tax of one dollar on
8 each male or spayed female dog and of two dollars on
9 each unspayed female dog; and in addition to the above,
10 the assessor and his deputies shall have the further duty
11 of collecting any such head tax on dogs as may be levied
12 by the ordinances of each and every municipality within
13 the county. In the event that the owner, keeper, or per-
14 son having in his possession or allowing to remain on
15 any premises under his control any dog above the age
16 of six months, shall refuse or fail to pay such tax, when
17 the same is assessed or within fifteen days thereafter,
18 to the assessor or deputy assessor, then such assessor or
19 deputy assessor shall certify such tax to the county dog
20 warden; if there be no county dog warden he shall certify
21 such tax to the county sheriff, who shall take charge of
22 the dog for which the tax is delinquent and impound the
23 same for a period of fifteen days, for which service he
24 shall be allowed a fee of one dollar and fifty cents to be
25 charged against such delinquent taxpayer in addition to
26 the taxes herein provided for. In case the tax and im-
27 pounding charge herein provided for shall not have been
28 paid within the period of fifteen days, then the sheriff
29 may sell the impounded dog and deduct the impounding
30 charge and the delinquent tax from the amount received
31 therefor, and return the balance, if any, to the delinquent
32 taxpayer. Should the sheriff fail to sell the dog so im-
33 pounded within the time specified herein, he shall kill
34 such dog and dispose of its body.

35 At the same time as the head tax is assessed, the as-
36 sessor and his deputies shall, on the forms prescribed
37 under section four of this article, take down the age,
38 sex, color, character of hair (long or short) and breed
39 (if known) and the name and address of the owner,
40 keeper or harbinger thereof. When the head tax, and
41 extra charges, if any, are paid, the officer to whom pay-
42 ment is made shall issue a certificate of registration and
43 a registration tag for such dog.

44 In addition to the assessment and registration above
45 provided for, whenever a dog either is acquired or be-

46 comes six months of age after the assessment of the per-
47 sonal property of the owner, keeper or harborer thereof,
48 the said owner, keeper or harborer of said dog shall,
49 within ten days after the acquisition or maturation, reg-
50 ister the said dog with the assessor, and pay the head
51 tax thereon unless the prior owner, keeper or harborer
52 paid the head tax.

53 All certificates of registration and registration tags is-
54 sued pursuant to the provisions of this section shall be
55 issued for the fiscal year and shall be valid from the date
56 on which issued until the thirtieth day of June of that
57 fiscal year, or until reissued by the assessor or his deputy
58 in the regular performance of his duties, but in no case
59 shall previous registration tags be valid after September
60 thirtieth of the next ensuing fiscal year.

61 The assessor collecting the head tax on dogs shall be
62 allowed a commission of ten per cent upon all such taxes
63 collected by him, and shall turn in to the county treasury
64 ninety per cent of such taxes so collected, as are levied
65 by this section; and the assessor shall turn over to the
66 treasurer or other proper officer of each and every mu-
67 nicipality within the county ninety per cent of such taxes
68 levied by the ordinances of such municipality. All such
69 dog taxes, except those belonging to municipalities, shall
70 be accredited to the dog and kennel fund provided for
71 in section ten of this article. Such dog taxes as are col-
72 lected for and turned over to municipalities shall be
73 deposited by the proper officer of such municipality to
74 such fund and shall be expended in such manner as the
75 law of such municipality may provide. All taxes on dogs
76 not collected by the assessor shall be collected by the
77 regular tax collecting officer of the county and placed to
78 the credit of the dog and kennel fund.

Sec. 3. Registration of Dog Kennels; Fee.—Every
2 owner or operator of a kennel, wherein dogs are bred,
3 kept, boarded or sold as a commercial venture for profit
4 shall annually, between the first day of July and the
5 thirtieth day of September of each year, file with the
6 assessor of the county in which such kennel is located,
7 kept or maintained, an application for the registration of

8 such kennel for the fiscal year. Such application shall
9 state the location of the kennel, the name and address of
10 the person actually in charge of and supervising it, and
11 the name and address of the owner of the kennel. Upon
12 the filing of such application, together with the payment
13 to the assessor of a fee of ten dollars the assessor shall
14 issue a certificate of registration for such kennel. The
15 registration of a kennel, as herein provided, shall entitle
16 the registrant to register and receive certificates and tags
17 for not more than five dogs without the payment of a
18 separate head tax on such dogs. The head tax provided
19 for in section two of this article shall, on such five or less
20 dogs, be included in and charged against the kennel
21 registration fee herein provided.

22 Every person upon becoming the owner or operator
23 of a kennel of dogs as herein described after the thirtieth
24 day of September of any year shall, within three days
25 after becoming such owner or operator, register such
26 kennel for the remainder of the current fiscal year in the
27 manner, and upon the payment of the registration fee,
28 herein provided.

29 All certificates of registration issued pursuant to the
30 provisions of this section shall be issued for the fiscal
31 year, and shall be valid from the date on which issued
32 until the thirtieth day of June of that fiscal year.

CHAPTER 7

(Senate Bill No. 221—By Mr. Carson, Mr. President)

[Passed March 4, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing that alcoholic liquors shall be sold at wholesale and retail in this state only by or through the West Virginia alcohol beverage control commissioner or retail agencies established by him or any predecessor commissioner or commission.

Be it enacted by the Legislature of West Virginia:

That section four, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. General Provisions.

Section

4. Sales to be made by or through the West Virginia alcohol beverage control commissioner.

Section 4. Sales to Be Made by or through the West Virginia Alcohol Beverage Control Commissioner.—Alcoholic liquors shall be sold at wholesale and retail in this state only by or through the West Virginia alcohol beverage control commissioner or retail agencies established by him or any predecessor commissioner or commission.

CHAPTER 8

(Senate Bill No. 222—By Mr. Carson, Mr. President)

[Passed March 4, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article two, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to change in name of the office of West Virginia liquor control commissioner to West Virginia alcohol beverage control commissioner.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Alcohol Beverage Control Commissioner.

Section

1. Office created; powers and functions generally; office of liquor control commissioner abolished and powers transferred.

Section 1. Office Created; Powers and Functions Generally; Office of Liquor Control Commissioner Abolished and Powers Transferred.—To accomplish the purposes of

4 this chapter there is hereby created the office of West
5 Virginia alcohol beverage control commissioner. The com-
6 missioner shall have and is hereby granted all of the
7 powers and authority and shall perform all of the func-
8 tions and services heretofore vested in and performed by
9 the West Virginia liquor control commissioner. The office
10 of the West Virginia liquor control commissioner is hereby
11 abolished. Wherever in this chapter and elsewhere in law
12 reference is made to the West Virginia liquor control com-
13 missioner or liquor control commission such reference
14 shall henceforth be construed and understood to mean the
15 West Virginia alcohol beverage control commissioner. All
16 parts and provisions of this chapter rendered meaning-
17 less and inapplicable by the provisions hereof are hereby
18 modified and amended so that the provisions of this
19 chapter will be consistent and harmonious in their
20 entirety.

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CHAPTER 9

(House Bill No. 506—By Mr. Speaker, Mr. White)

[Passed February 27, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article four, and section four, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the time for presenting a petition for an appeal from, or writ of error or supersedeas to, a judgment, decree or order of a court of record of limited jurisdiction or of a circuit court; and requiring a notice of intent to file a petition for appeal or writ of error in criminal cases to be filed with the clerk of the court in which the judgment or order was entered within sixty days after the entry of such judgment or order.

Be it enacted by the Legislature of West Virginia:

That section four, article four, and section four, article five, chapter fifty-eight of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, be amended and re-enacted to read as follows:

Article

4. Appeals from Courts of Record of Limited Jurisdiction.

5. Appellate Relief in Supreme Court of Appeals.

Article 4. Appeals from Courts of Record of Limited Jurisdiction.

Section

4. Time for appeal or writ of error; notice of intent to file petition in criminal cases to be filed with clerk stating grounds.

Section 4. Time for Appeal or Writ of Error; Notice of Intent to File Petition in Criminal Cases to Be Filed with Clerk Stating Grounds.—No petition shall be presented to the circuit court or judge for an appeal from, or writ of error or supersedeas to, any judgment, decree or order rendered or made by such court of limited jurisdiction, whether the state be a party thereto or not, which shall have been rendered or made more than four months before such petition is presented.

In criminal cases no petition for appeal or writ of error shall be presented unless a notice of intent to file such petition shall have been filed with the clerk of the court in which the judgment was entered within sixty days after such judgment was entered. The notice shall fairly state the grounds for the petition without restricting the right to assign additional grounds in the petition.

Article 5. Appellate Relief in Supreme Court of Appeals.

Section

4. Time for appeal or writ of error; notice of intent to file petition in criminal cases to be filed with clerk stating grounds.

Section 4. Time for Appeal or Writ of Error; Notice of Intent to File Petition in Criminal Cases to Be Filed with Clerk Stating Grounds.—No petition shall be presented for an appeal from, or writ of error or supersedeas to, any judgment, decree or order, whether the state be a party thereto or not, which shall have been rendered or made more than eight months before such petition is presented.

In criminal cases no petition for appeal or writ of error shall be presented unless a notice of intent to file such petition shall have been filed with the clerk of the court

12 in which the judgment or order was entered within sixty
13 days after such judgment or order was entered. The notice
14 shall fairly state the grounds for the petition without re-
15 stricting the right to assign additional grounds in the peti-
16 tion.

CHAPTER 10

(Senate Bill No. 83—By Mr. Moreland and Mr. Carrigan)

[Passed February 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section seventeen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to printing or reproduction of records in cases in which an appeal, writ of error or supersedeas is allowed by the supreme court of appeals.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 5. Appellate Relief in Supreme Court of Appeals.

Section

17. Court to prescribe method and form of reproducing record; reproduction of record by clerk; distribution; costs; felony cases.

Section 17. Court to Prescribe Method and Form of

- 2 **Reproducing Record; Reproduction of Record by Clerk;**
3 **Distribution; Costs; Felony Cases.**—The supreme court
4 of appeals shall by order prescribe the method and form
5 of reproducing records. Such order shall prescribe the
6 number of copies to be reproduced, the contents thereof,
7 the type size and quality of paper and the maximum rate
8 per page that may be charged for the printing or repro-
9 duction of such records.
10 The cost of printing or reproduction, photostating and
11 blueprinting, if any, shall be included at the end of the
12 record with the date the same was printed or otherwise
13 reproduced.

14 The clerk shall have the record printed or reproduced
15 when the party obtaining the appeal, writ of error or su-
16 persedeas shall deposit with him a sufficient sum to pay for
17 same. The clerk shall deliver one copy of such record to
18 the judge and clerk of the trial court, two copies to counsel
19 on each side, and retain the remaining copies in his office.
20 He shall cause all copies of the record remaining in his
21 office to be compared with the typewritten transcript
22 certified to the supreme court of appeals and correct all
23 errors that may appear therein. The cost of such print-
24 ing or reproduction, unless otherwise ordered by the
25 court, shall be taxed against the unsuccessful party, if
26 the judgment, decree or order appealed from be reversed.
27 And should the appellant or plaintiff in error fail for three
28 months after his case has been docketed in the court of
29 appeals to deposit with the clerk of the said court, the
30 sum estimated by said clerk, to pay for the printing or
31 other reproduction of the record, he shall be deemed to
32 have abandoned his appeal or writ of error and the same
33 shall be dismissed; but it may be renewed at any time
34 within eight months from the date of the judgment, order
35 or decree appealed from, according to the provisions of
36 section four of this article. In every felony case, the
37 clerk shall have the usual number of records printed or
38 otherwise reproduced at a cost not exceeding the amount
39 fixed by the court, and dispose of the same as in other
40 cases; and upon the certificate of the president of the
41 supreme court of appeals stating that such record has
42 been printed or otherwise reproduced as required by the
43 court, and the amount said clerk is entitled to, the cost
44 of printing or reproducing the same shall be paid to said
45 clerk out of the treasury of the state, and the auditor
46 shall draw his warrant on the treasury for the payment
47 thereof out of the fund for criminal charges.

48 Any increased rate for printing or reproducing records
49 as may be prescribed by order of the court shall apply
50 to all cases docketed in the supreme court of appeals on
51 the effective date of the order of the court, pending
52 reproduction of the record. Such latter cases, however,
53 shall not be subject to dismissal because of any increased
54 rate, where statement for estimated costs has been ren-

55 dered and paid as provided in this section, but they shall
56 not be placed upon the argument docket until the in-
57 creased cost thereof shall have been paid in full.

CHAPTER 11

(Com. Sub. for House Bill No. 541—By Mr. Speaker, Mr. White)

[Passed March 15, 1965; in effect from passage.]

AN ACT making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

Be it enacted by the Legislature of West Virginia:

Title

1. General Provisions.
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section

1. General policy.
2. Definitions.
3. Classification of appropriations.
4. Method of expenditure.

Section 1. General Policy.—The purpose of this act is to appropriate money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year one thousand nine hundred sixty-six.

- Sec. 2. Definitions.**—For the purpose of this act:
- 2 “Board” shall mean the board of public works;
 - 3 “Spending Unit” shall mean the department, agency or institution to which an appropriation is made;
 - 5 The “fiscal year one thousand nine hundred sixty-six” shall mean the period from July first, one thousand nine hundred sixty-five through June thirtieth, one thousand nine hundred sixty-six;
 - 9 “From Collections” shall mean that part of the Total Appropriation which must be collected by the spending unit

11 to be available for expenditure. If the authorized amount
12 of collections is not collected, the total appropriation for the
13 spending unit shall be reduced automatically by the
14 amount of the deficiency in the collection. If the amount
15 collected exceeds the amount designated "from collections,"
16 the excess shall be set aside in a special surplus fund and
17 may be expended for the purpose of the spending unit as
18 provided by chapter one hundred thirty-two, acts of the
19 Legislature, regular session, one thousand nine hundred
20 sixty-one.

Sec. 3. Classification of Appropriations.—An appro-
2 priation for:

3 "Personal Services" shall be expended only for the pay-
4 ment of salaries, wages, fees and other compensation for
5 skill, work, or employment, except from the appropriations
6 made to the universities and state colleges there may be
7 transferred to a state non-appropriated account an amount
8 sufficient to match the 90-10 Federal Grant for the College
9 Work Study Program under the Economic Opportunity Act;

10 Unless otherwise specified, appropriations for personal
11 services shall include salaries of heads of spending unit;

12 "Current Expenses" shall be expended only for operating
13 cost other than personal services or capital outlay;

14 "Repairs and Alterations" shall include all expenditures
15 for materials, supplies and labor used in repairing and
16 altering buildings, grounds and equipment, other than
17 personal services;

18 "Equipment" shall be expended only for things which
19 have an appreciable and calculable period of usefulness in
20 excess of one year;

21 "Buildings" shall include construction and alteration of
22 structures and the improvements of lands, sewer and water
23 improvements, and shall include shelter, support, storage,
24 protection, or the improvement of a natural condition;

25 "Land" shall be expended only for the purchase of lands
26 or interest in lands.

27 Appropriations otherwise classified shall be expended
28 only where the distribution of expenditures for different
29 purposes cannot well be determined in advance or it is
30 necessary or desirable to permit the spending unit freedom

31 to spend an appropriation for more than one of the above
32 purposes.

Sec. 4. Method of Expenditure.—Money appropriated
2 by this act, unless otherwise specifically directed, shall be
3 appropriated and expended according to the provisions of
4 article three, chapter twelve of the code of West Virginia,
5 one thousand nine hundred thirty-one, or according to any
6 law detailing a procedure specifically limiting that article.

Title 2. Appropriations.

Section

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Section 1. Appropriations from General Revenue.—

2 From the state fund, general revenue, there is hereby ap-
 3 propriated conditionally upon the fulfillment of the pro-
 4 visions set forth in chapter one hundred thirty-two, acts of
 5 the Legislature, regular session, one thousand nine hundred
 6 sixty-one, the following amounts, as itemized, for expendi-
 7 ture during the fiscal year one thousand nine hundred
 8 sixty-six.

LEGISLATIVE**1—Senate**

Acct. No. 101

Fiscal Year
1965-66

1	Salaries of Members	\$ 51,000.00
2	Compensation and per diem of officers and	
3	attaches	75,000.00
4	Mileage of Members	3,000.00
5	Current Expenses and Contingent Fund	100,000.00
6	To pay Clerk of the Senate for compiling and	
7	publishing the West Virginia Blue Book, the	
8	distribution of which shall be made by the	
9	office of the Clerk of the Senate and shall in-	
10	clude seventy-five copies for each member of	
11	the Legislature and two copies to each	
12	classified and approved High and Junior	
13	High School and one to each Elementary	
14	School within the state	10,000.00
15	To pay cost of printing the 1965 edition of	
16	Blue Book	49,000.00
17	Drafting Service	11,000.00
18	The appropriations for the Senate for the fiscal	
19	year 1964-65 are to remain in full force and	
20	effect, and are hereby reappropriated to	
21	June 30, 1966.	
22	Any balances so reappropriated may be trans-	
23	ferred and credited to the 1965-66 accounts.	
24	Upon the written request of the Clerk of the	

25 Senate the State Auditor shall transfer
 26 amounts between items of the total appro-
 27 priation in order to protect or increase the
 28 efficiency of the service.

29 The Clerk of the Senate is authorized to draw
 30 his requisitions upon the Auditor, payable
 31 out of the contingent fund of the Senate,
 32 for any bills for supplies and services that
 33 may have been incurred by the Senate and
 34 not included in the appropriation bill, and
 35 for bills for supplies and services incurred
 36 after adjournment, and for the necessary
 37 operation of the Senate offices, the requisi-
 38 tion for same to be accompanied by the bills
 39 to be filed with the Auditor.

2—House of Delegates

Acct. No. 102

1	Salaries of Members.....	\$ 150,000.00
2	Compensation and per diem of officers and	
3	attaches	95,000.00
4	Mileage of Members.....	7,500.00
5	Current Expenses and Contingent Fund.....	75,000.00
6	Drafting Service	5,000.00

7 The appropriations for the House of Dele-
 8 gates for the fiscal year 1964-65 are to re-
 9 main in full force and effect, and are hereby
 10 reappropriated to June 30, 1966.

11 Any balances so reappropriated may be trans-
 12 ferred and credited to the 1965-66 accounts.

13 Upon the written request of the Clerk of the
 14 House of Delegates the State Auditor shall
 15 transfer amounts between items of the total
 16 appropriation in order to protect or increase
 17 the efficiency of the service.

18 The Clerk of the House of Delegates, with
 19 approval of the Speaker, is authorized to
 20 draw his requisitions upon the Auditor,

21 payable out of the contingent fund of the
 22 House of Delegates, for any bills for sup-
 23 plies and services that may have been in-
 24 curred by the House of Delegates, and not
 25 included in the appropriation bill, for bills
 26 for services and supplies incurred in prepa-
 27 ration for the opening of the session and
 28 after adjournment, and for the necessary
 29 operation of the House of Delegates offices,
 30 the requisition for same to be accompanied
 31 by bills to be filed with the Auditor.
 32 For duties imposed by law and by the House
 33 of Delegates, including the salary allowed
 34 by law as keeper of the rolls, the Clerk of
 35 the House of Delegates shall be paid a sal-
 36 ary of \$950.00 per month, payable from the
 37 contingent fund of the House of Delegates,
 38 and the Clerk may employ a secretary and
 39 a clerk at a salary to be determined by the
 40 Speaker of the House of Delegates.

3—Joint Expenses

Acct. No. 103

1 To pay the cost of legislative printing and	
2 stationery	\$ 110,000.00
3 Commission on Interstate Cooperation.....	20,000.00
4 Joint Committee on Government and Finance	290,000.00
5 Other Authorized Legislative Committees....	15,000.00
6 The appropriation for Joint Expenses for	
7 the fiscal year 1964-65 are to remain in	
8 full force and effect, and are hereby re-	
9 appropriated to June 30, 1966.	
10 Any balances so reappropriated may be trans-	
11 ferred and credited to the 1965-66 accounts.	
12 Upon the written request of the Clerk of the	
13 Senate and the Clerk of the House of Dele-	
14 gates the State Auditor shall transfer	
15 amounts between items of the total appro-	

- 16 priation in order to protect or increase the
17 efficiency of the service.

JUDICIAL

4—Supreme Court of Appeals

Acct. No. 110

1	Salaries of Judges	\$ 112,500.00
2	Other Personal Services	153,280.00
3	Current Expenses	23,000.00
4	Equipment	3,000.00
5	Total	\$ 291,780.00

5—Judicial—Auditor's Office

Acct. No. 111

1	Salaries of Judges	\$ 449,000.00
2	Other Personal Services	91,000.00
3	Current Expenses	25,000.00
4	Judges Retirement System	50,000.00
5	Criminal Charges	275,000.00
6	Total	\$ 890,000.00

- 7 This appropriation shall be administered by
8 the State Auditor who shall draw his re-
9 quisition for warrants in payment of salaries
10 in the form of payrolls, making deductions
11 therefrom as required by law, for taxes and
12 other items. The appropriation for Judges'
13 Retirement System is to be transferred to
14 the Judges' Retirement Fund, in accordance
15 with the law relating thereto, upon requis-
16 ition of the State Auditor.

6—State Law Library

Acct. No. 114

1	Personal Services	\$ 29,400.00
2	Current Expenses	2,000.00
3	Equipment	18,500.00
4	Total	\$ 49,900.00

7—*Judicial Council*

Acct. No. 118

1 To pay expenses of Members of the Council...\$ 12,000.00

EXECUTIVE

8—*Governor's Office*

Acct. No. 120

1	Salary of Governor	\$ 25,000.00
2	Other Personal Services	140,200.00
3	Current Expenses	30,000.00
4	Equipment	10,000.00
5	Civil Contingent Fund	175,000.00
6	Of this appropriation there may be expended,	
7	at the discretion of the Governor, an	
8	amount not to exceed \$1,000.00 as West	
9	Virginia's contribution to the Interstate Oil	
10	Compact Commission.	
11	Custodial Fund	75,000.00
12	To be used for current general expenses,	
13	including compensation of servants and	
14	employees, household maintenance, cost of	
15	official functions, and any additional house-	
16	hold expenses occasioned by such official	
17	functions.	
18	Appalachian Regional Area Development Pro-	
19	gram and Office of Economic Opportunity...	25,000.00
20	Constitutional Convention Expense Fund.....	250,000.00
21	The above appropriation to be expended	
22	upon requisition of the Secretary of State.	
23	Operation Headstart Program	75,000.00
24	To implement Public Law 88-452.	
25	Total	\$ 805,200.00
26	Appropriation for above Appalachian Region-	
27	al Area Development Program and Office	
28	of Economic Opportunity may be trans-	
29	ferred to Special Revenue to match Federal	
30	Funds.	

APPROPRIATIONS

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9—Department of Personnel

Acct. No. 121

1 Total	\$ 25,000.00
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10—Board of Probation and Parole

Acct. No. 123

1 Personal Services	\$ 249,720.00
2 Current Expenses	113,625.00
3 Equipment	6,000.00
4 Total	\$ 369,345.00

FISCAL

11—Auditor's Office—General Administration

Acct. No. 150

1 Salary of State Auditor	\$ 18,000.00
2 Other Personal Services	387,840.00
3 Current Expenses	119,600.00
4 Equipment	15,000.00
5 Microfilm Program	5,000.00
6 Total	\$ 545,440.00

12—Treasurer's Office

Acct. No. 160

1 Salary of State Treasurer	\$ 17,500.00
2 Other Personal Services	134,360.00
3 Current Expenses	20,400.00
4 Equipment	10,000.00
5 Total	\$ 182,260.00

13—Sinking Fund Commission

Acct. No. 170

1 Personal Services	\$ 23,100.00
2 Current Expenses	1,000.00
3 Equipment	1,000.00
4 Total	\$ 25,100.00

14—*State Tax Commissioner*

Acct. No. 180

1	Personal Services.....	\$ 1,719,180.00
2	Current Expenses	520,760.00
3	Equipment	23,000.00
4	Total	\$ 2,262,940.00

15—*State Tax Commissioner*

Acct. No. 185

1	Property Appraisal	\$ 1,000,000.00
2	Any balance remaining in the 1963-64 and	
3	1964-65 appropriation "Property Appraisal"	
4	at the close of the fiscal year 1964-65 is here-	
5	by reappropriated for expenditure during	
6	the fiscal year 1965-66.	

16—*State Commissioner of Public Institutions*

Acct. No. 190

1	Salary of Commissioner	\$ 13,000.00
2	Other Personal Services	103,740.00
3	Current Expenses	24,200.00
4	Equipment	2,000.00
5	Total	\$ 142,940.00

17—*Department of Finance and Administration*

Acct. No. 210

1	Personal Services	\$ 636,980.00
2	Current Expenses	280,300.00
3	Repairs and Alterations	53,100.00
4	Equipment	20,300.00
5	Postage	130,000.00
6	Records Management	18,000.00
7	Office of State Emergency Planning.....	29,800.00
8	Total	\$ 1,168,480.00

9 The Workman's Compensation Commission,
 10 Department of Welfare, Public Service
 11 Commission, Department of Natural Resources,
 12 Department of Motor Vehicles, State
 13 Road Commission, State Health Department
 14 and State Tax Commissioner—Income Tax
 15 Division, shall reimburse the Postage appro-
 16 priation of the Department of Finance and
 17 Administration monthly for all meter serv-
 18 ice. Any spending unit operating from
 19 Special Revenue or receiving reimbursement
 20 for postage costs from the Federal Govern-
 21 ment shall refund to the "Postage Account"
 22 of the Department of Finance and Admin-
 23 istration such amounts. Should this appro-
 24 priation for Postage be insufficient to meet
 25 the mailing requirements of the State spend-
 26 ing units as set out above, any excess post-
 27 age meter service requirements shall be a
 28 proper charge against the units, and each
 29 spending unit shall refund to the Postage
 30 appropriation of the Department of Finance
 31 and Administration any amounts required
 32 for that Department for postage in excess
 33 of this appropriation.

34 Any unexpended balance remaining in the
 35 "Postage Account" at the close of the fiscal
 36 year 1964-65 is hereby reappropriated for
 37 expenditure during the fiscal year 1965-66.

38 The State Road Commissioner shall reimburse
 39 the appropriation of the Department of
 40 Finance and Administration monthly for all
 41 actual expenses incurred pursuant to (the
 42 provisions of) chapter seventeen, article
 43 two-a, section thirteen of the code of West
 44 Virginia, one thousand nine hundred thirty-
 45 one, as amended.

18—The Board of Public Works

Acct. No. 220

1 Contingent Fund	\$	55,000.00
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19—*State Board of Insurance*

Acct. No. 225

1	Personal Services	\$	12,000.00
2	Current Expenses		3,650.00
3	Equipment		400.00
4	Total	\$	16,050.00

LEGAL

20—*Attorney General*

Acct. No. 240

1	Salary of Attorney General	\$	18,500.00
2	Other Personal Services		259,780.00
3	Current Expenses		26,145.00
4	Equipment		15,500.00
5	To protect the resources or tax structure of		
6	the State in controversies or legal proceed-		
7	ings affecting same		3,250.00
8	Total	\$	323,175.00

9 When legal counsel is appointed by the
 10 Attorney General, upon the request of the
 11 proper authority in any state spending
 12 unit, this account shall be reimbursed from
 13 such unit's appropriated account in an
 14 amount agreed upon by the Attorney Gen-
 15 eral and the proper authority of said spend-
 16 ing unit.

21—*Commission on Uniform State Laws*

Acct. No. 245

1	Total	\$	2,000.00
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INCORPORATING AND RECORDING

22—*Secretary of State*

Acct. No. 250

1	Salary of Secretary of State	\$	17,000.00
2	Other Personal Services		81,400.00

APPROPRIATIONS

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3	Current Expenses	30,000.00
4	Equipment	7,800.00
5	Total	\$ 136,200.00

EDUCATIONAL

23—*Department of Education*

Acct. No. 290

1	Comprehensive Educational Program	\$ 1,000,000.00
2	To be used in accordance with Senate Bill No.	
3	102, 1965 Regular Session of the Legislature.	

24—*Educational Broadcasting Authority*

Acct. No. 291

1	Total	\$ 75,000.00
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25—*State Board of Education—Vocational Division*

Acct. No. 293

1	Implement Vocational Education Act of	
2	1963 P.L. 88-210	\$ 400,000.00

26—*State Board of Education—Vocational Division*

Acct. No. 294

1	Total	\$ 225,000.00
2	Any unexpended balance remaining in this	
3	appropriation at the close of the fiscal	
4	year 1964-65 is hereby reappropriated for	
5	expenditure during the fiscal year 1965-66.	

27—*State Board of School Finance—State Aid to Schools*

Acct. No. 295

1	State Aid to supplement the General School	
2	Fund	\$73,844,268.00
3	To be transferred to the General School Fund	
4	upon the requisition of the Governor.	

28—*Department of Education—Aid for Exceptional Children*

Acct. No. 296

1	Personal Services	\$ 28,260.00
2	Current Expenses	7,300.00
3	Out-of-State Instruction	54,000.00
4	Aid to Counties	569,000.00
5	Total	\$ 658,560.00

6 The appropriation for "Out-of-State Instruc-
 7 tion" may be expended to provide instruc-
 8 tion, care and maintenance for educable
 9 persons who have multiple handicaps and
 10 for whom the state provides no facilities.

29—*Department of Education—Textbook Aid*

Acct. No. 297

1	Textbooks for Schools	\$ 150,000.00
2	To be distributed according to chapter fifty-	
3	one, acts of the legislature, regular session,	
4	one thousand nine hundred and thirty-nine.	

30—*Teachers Retirement Board*

Acct. No. 298

1	Benefit Fund—Payments to Retired Teachers..	\$ 3,505,974.00
2	Employers' Accumulation Fund—To match	
3	contribution of members.....	3,344,000.00
4	Expense Fund	33,304.00
5	Total	\$ 6,883,278.00

31—*State Commission on Higher Education*

Acct. No. 299

1	Total	\$ 20,000.00
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32—*West Virginia University*

Acct. No. 300

1	Personal Services	\$10,743,000.00
2	Current Expenses	1,620,000.00

3	Repairs and Alterations	472,000.00
4	Equipment	710,200.00
5	Oak Wilt Control Research	10,000.00
6	State aid to students of Veterinary Medicine...	48,000.00
7	Institute for Planning and Research.....	150,600.00
8	Bureau for Coal Research	130,600.00
9	National Youth Science Camp	65,600.00
10	Forestry Products	67,000.00
11	Appalachian Center—Second Phase	100,000.00
12	Institute of Regional Research	50,000.00
13	Total	\$14,167,000.00

14 Out of the above appropriation for Personal
 15 Services, the sum of \$8,500.00 shall be used
 16 only for the employment of a Spray Special-
 17 ist who shall be stationed only at West Vir-
 18 ginia University Farm at Kearneysville, and
 19 \$7,200.00 for the employment of a Labor
 20 Specialist.

33—*Potomac State College of West Virginia
 University*

Acct. No. 315

1	Personal Services	\$ 472,200.00
2	Current Expenses	69,500.00
3	Repairs and Alterations	43,225.00
4	Equipment	39,125.00
5	Total	\$ 624,050.00

34—*Marshall University*

Acct. No. 320

1	Personal Services	\$ 3,208,634.00
2	Current Expenses	292,056.00
3	Repairs and Alterations	109,521.00
4	Equipment	146,028.00
5	Flood Wall Assessment	3,200.00
6	Experimental Projects in Teacher Education ..	31,261.00
7	Total	\$ 3,790,700.00

35—Fairmont State College

Acct. No. 321

1	Personal Services	\$ 1,042,500.00
2	Current Expenses	96,900.00
3	Repairs and Alterations	49,400.00
4	Equipment	68,400.00
5	Total	\$ 1,257,200.00

36—Glenville State College

Acct. No. 322

1	Personal Services	\$ 655,049.00
2	Current Expenses	77,246.00
3	Repairs and Alterations	45,340.00
4	Equipment	39,365.00
5	Community Development and Research	15,000.00
6	Total	\$ 832,000.00

37—West Liberty State College

Acct. No. 323

1	Personal Services	\$ 1,023,575.00
2	Current Expenses	97,425.00
3	Repairs and Alterations	68,000.00
4	Equipment	50,000.00
5	Total	\$ 1,239,000.00

38—Shepherd College

Acct. No. 324

1	Personal Services	\$ 638,673.00
2	Current Expenses	84,712.00
3	Repairs and Alterations	36,815.00
4	Equipment	53,700.00
5	Community Development and Research	25,000.00
6	Total	\$ 838,900.00

- 7 Out of the above appropriation for equipment,
 8 the sum of \$2,500.00 may be used for fire
 9 protection.

39—*Concord College*

Acct. No. 325

1	Personal Services	\$ 1,101,062.00
2	Current Expenses	124,531.00
3	Repairs and Alterations	34,758.00
4	Equipment	74,849.00
5	Center for Economic Action	50,000.00
6	Total	\$ 1,385,200.00

40—*West Virginia Institute of Technology*

Acct. No. 327

1	Personal Services	\$ 999,230.00
2	Current Expenses	94,559.00
3	Repairs and Alterations	57,600.00
4	Equipment	98,956.00
5	Total	\$ 1,250,345.00

41—*West Virginia State College*

Acct. No. 328

1	Personal Services	\$ 1,443,648.00
2	Current Expenses	169,100.00
3	Repairs and Alterations	89,484.00
4	Equipment	66,068.00
5	Total	\$ 1,768,300.00

42—*Bluefield State College*

Acct. No. 329

1	Personal Services	\$ 484,391.00
2	Current Expenses	67,096.00
3	Repairs and Alterations	38,488.00
4	Equipment	62,625.00
5	Total	\$ 652,600.00

43—*West Virginia State College—4-H Camp*

Acct. No. 330

1	Personal Services	\$	13,740.00
2	Current Expenses		5,270.00
3	Repairs and Alterations		6,160.00
4	Equipment		1,120.00
5	Total	\$	26,290.00

44—*West Virginia Schools for the Deaf and Blind*

Acct. No. 333

1	Personal Services	\$	636,020.00
2	Current Expenses		170,330.00
3	Repairs and Alterations		40,700.00
4	Equipment		20,850.00
5	Total	\$	867,900.00

45—*State FFA-FHA Camp and Conference Center*

Acct. No. 336

1	Personal Services	\$	35,080.00
2	Current Expenses		8,200.00
3	Repairs and Alterations		8,000.00
4	Equipment		8,550.00
5	Total	\$	59,830.00

46—*Department of Archives and History*

Acct. No. 340

1	Personal Services	\$	46,900.00
2	Current Expenses		7,900.00
3	Equipment		14,700.00
4	Total	\$	69,500.00

47—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services	\$ 118,000.00
2	Current Expenses	5,000.00
3	Equipment	1,000.00
4	Books and Periodicals	43,500.00
5	Library Services for the Blind	7,000.00
6	Total	\$ 174,500.00

CHARITIES AND CORRECTION

48—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services	\$ 317,097.00
2	Current Expenses	153,960.00
3	Repairs and Alterations	44,400.00
4	Equipment	22,250.00
5	Total	\$ 537,707.00

49—*Forestry Camp for Boys*

Acct. No. 371

1	Personal Services	\$ 92,770.00
2	Current Expenses	83,700.00
3	Repairs and Alterations	10,900.00
4	Equipment	13,650.00
5	Total	\$ 201,020.00

50—*West Virginia Industrial Home for Girls*

Acct. No. 372

1	Personal Services	\$ 156,610.00
2	Current Expenses	82,700.00
3	Repairs and Alterations	15,000.00
4	Equipment	13,550.00
5	Vocational Training	5,000.00
6	Total	\$ 272,860.00

51—*West Virginia State Prison for Women*

Acct. No. 374

1	Personal Services	\$ 41,855.00
2	Current Expenses	35,645.00
3	Repairs and Alterations	11,050.00
4	Equipment	1,400.00
5	Total	\$ 89,950.00

52—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services	\$ 741,640.00
2	Current Expenses	517,200.00
3	Repairs and Alterations	38,600.00
4	Equipment	33,200.00
5	Total	\$ 1,330,640.00

53—*Medium Security Prison*

Acct. No. 376

1	Personal Services	\$ 426,080.00
2	Current Expenses	184,920.00
3	Repairs and Alterations	25,400.00
4	Equipment	30,900.00
5	Total	\$ 667,300.00

54—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services	\$ 55,684.00
2	Current Expenses	43,980.00
3	Repairs and Alterations	7,000.00
4	Equipment	6,750.00
5	Total	\$ 113,414.00

55—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	Personal Services	\$ 222,080.00
2	Current Expenses	175,000.00

3	Repairs and Alterations	35,200.00
4	Equipment	9,750.00
5	Total	\$ 442,030.00

HEALTH AND WELFARE
56—State Health Department
Acct. No. 400

1	Personal Services	\$ 400,887.00
2	Current Expenses	134,174.00
3	Equipment	25,248.00
4	Cancer Control and Treatment	150,000.00
5	Tuberculosis Field Clinic and Nursing Service	10,580.00
6	Out-Patient Pneumothorax Treatment	20,000.00
7	Local Health Services	550,000.00
8	Dental Clinics	45,520.00
9	Heart Disease Control	25,000.00
10	Maternal and Child Health-	
11	mobile Medical Examination Clinic	30,000.00
12	Radiological Health	18,800.00
13	Mobile Chest X-Ray	77,500.00
14	Hospital and Medical Facilities Construction	
15	Program	17,501.00
16	Total	\$ 1,505,210.00

57—Department of Veterans Affairs

Acct. No. 404

1	Personal Services	\$ 180,524.00
2	Current Expenses	46,950.00
3	Equipment	5,786.00
4	To provide Educational Opportunities for	
5	Children of War Veterans as provided by	
6	Chapter thirty-nine, Acts of the Legislature,	
7	1943	15,000.00
8	Total	\$ 248,260.00
9	Any unexpended balance remaining in the ap-	
10	propriation "To Provide Educational Op-	
11	portunities for Children of War Veterans"	

12 at the close of the fiscal year 1964-65 is
 13 hereby reappropriated for expenditure dur-
 14 ing the fiscal year 1965-66.

58—*Department of Welfare*

Acct. No. 405

1	Personal Services	\$ 3,839,956.00
2	Current Expenses	1,398,377.00
3	Equipment	30,875.00
4	Public Assistance Grants (Classified Aid)	8,415,591.00
5	Aid to Crippled Children	470,000.00
6	Medical Services and M.A.A.	2,000,000.00
7	Conservation of Vision and Prevention of	
8	Blindness	40,000.00
9	Child Welfare Services	171,600.00
10	General Relief and Boarding Care	500,000.00
11	Social Security Matching Fund	138,920.00
12	Total	\$ 17,005,319.00

59—*State Agency on Aging*

Acct. No. 406

1	Total	\$ 3,000.00
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60—*Department of Mental Health*

Acct. No. 410

1	Personal Services	\$ 247,505.00
2	Current Expenses	36,495.00
3	Equipment	4,000.00
4	Research and Training	25,000.00
5	Civil Service Costs	45,000.00
6	Division of Alcoholism	159,000.00
7	Total	\$ 517,000.00

61—*Commission on Mental Retardation*

Acct. No. 411

1	Total	\$ 26,000.00
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62—*West Virginia Training School*

Acct. No. 419

1	Personal Services	\$ 1,139,874.00
2	Current Expenses	329,950.00
3	Repairs and Alterations	53,000.00
4	Equipment	25,000.00
5	Total	\$ 1,547,824.00

63—*Weston State Hospital*

Acct. No. 420

1	Personal Services	\$ 1,867,973.00
2	Current Expenses	927,605.00
3	Repairs and Alterations	140,000.00
4	Equipment	50,000.00
5	Total	\$ 2,985,578.00

64—*Spencer State Hospital*

Acct. No. 421

1	Personal Services	\$ 897,580.00
2	Current Expenses	441,250.00
3	Repairs and Alterations	50,000.00
4	Equipment	23,900.00
5	Total	\$ 1,412,730.00

65—*Huntington State Hospital*

Acct. No. 422

1	Personal Services	\$ 1,412,680.00
2	Current Expenses	692,730.00
3	Repairs and Alterations	75,000.00
4	Equipment	37,100.00
5	Total	\$ 2,217,510.00

66—*Lakin State Hospital*

Acct. No. 423

1	Personal Services	\$ 666,140.00
2	Current Expenses	251,650.00
3	Repairs and Alterations	60,000.00
4	Equipment	47,000.00
5	Total	\$ 1,024,790.00

67—*Barboursville State Hospital*

Acct. No. 424

1	Personal Services	\$ 369,080.00
2	Current Expenses	155,426.00
3	Repairs and Alterations	34,800.00
4	Equipment	15,000.00
5	Total	\$ 574,306.00

68—*Fairmont Emergency Hospital*

Acct. No. 425

1	Personal Services	\$ 151,540.00
2	Current Expenses	85,000.00
3	Repairs and Alterations	12,250.00
4	Equipment	8,900.00
5	Total	\$ 257,690.00

69—*Welch Emergency Hospital*

Acct. No. 426

1	Personal Services	\$ 201,060.00
2	Current Expenses	157,300.00
3	Repairs and Alterations	55,000.00
4	Equipment	17,000.00
5	Total	\$ 430,360.00

70—Hopemont Sanitarium

Acct. No. 430

1	Personal Services	\$ 463,060.00
2	Current Expenses	313,540.00
3	Repairs and Alterations	23,000.00
4	Equipment	12,000.00
5	Total	\$ 811,600.00

71—Pinecrest Sanitarium

Acct. No. 431

1	Personal Services	\$ 770,050.00
2	Current Expenses	560,105.00
3	Repairs and Alterations	31,600.00
4	Equipment	37,485.00
5	Total	\$ 1,399,240.00

72—Denmar State Hospital

Acct. No. 432

1	Personal Services	\$ 554,270.00
2	Current Expenses	245,000.00
3	Repairs and Alterations	38,730.00
4	Equipment	20,000.00
5	Total	\$ 858,000.00

73—Berkeley Springs Sanitarium

Acct. No. 436

1	Personal Services	\$ 36,675.00
2	Current Expenses	7,860.00
3	Repairs and Alterations	9,700.00
4	Equipment	3,700.00
5	Total	\$ 57,935.00

74—State Board of Education—Rehabilitation Division

Acct. No. 440

1	Personal Services.....	\$ 317,530.00
2	Current Expenses.....	43,541.00
3	Rehabilitation Center	373,929.00
4	Case Services.....	360,000.00
5	Supervisory Services for Vending Stand Pro-	
6	gram for the Blind.....	20,000.00
7	Training and Special Projects.....	35,000.00
8	Social Security Matching Fund	20,000.00
9	Total	\$ 1,170,000.00

BUSINESS AND INDUSTRIAL RELATIONS

75—Bureau of Labor and Department of Weights and Measures

Acct. No. 450

1	Personal Services.....	\$ 396,500.00
2	Current Expenses	114,325.00
3	Equipment	10,500.00
4	Total	\$ 521,325.00

76—Department of Mines

Acct. No. 460

1	Personal Services	\$ 821,850.00
2	Current Expenses	188,650.00
3	Equipment	38,500.00
4	Total	\$ 1,049,000.00

77—Department of Commerce

Acct. No. 465

1	Personal Services.....	\$ 440,505.00
2	Current Expenses.....	334,930.00
3	Equipment	21,500.00

4	Mt. State Forest Festival.....	15,000.00
5	Governor's Conference on Wood Utilization....	3,000.00
6	West Virginia Historical Drama Association....	35,000.00
7	Industrial Development Revolving Fund.....	500,000.00
8	West Virginia Pavilion—New York World's	
9	Fair	115,000.00

10 Total \$ 1,464,935.00

11 The above appropriation West Virginia Pa-
 12 vilion—New York World's Fair is to be
 13 transferred to special revenue fund, Acct.
 14 No. 8574, and expended in accordance with
 15 Senate Bill No. 189, 1965 Regular Legisla-
 16 ture.

17 Special Revenue Account be created and
 18 outstanding loans in Urban Planning
 19 Revolving Fund be deposited into Special
 20 Revenue Account instead of General Reve-
 21 nue Fund.

22 Industrial Development Revolving Fund may
 23 be transferred to Special Revenue.

78—*State Commission on Manpower, Technology and Training*

Acct. No. 470

1 Total \$ 3,000.00

79—*Southern Interstate Nuclear Board*

Acct. No. 471

1 Total \$ 4,250.00

80—*Commission on Interstate Cooperation*

Acct. No. 472

1 Total \$ 9,000.00

2 Out of the above appropriation the sum of
 3 \$7,500.00 may be made available for West
 4 Virginia's membership in The Council of
 5 State Governments.

81—*Interstate Commission on Potomac River Basin*

Acct. No. 473

1	West Virginia's contribution to Interstate Com-		
2	mission on Potomac River Basin.....	\$	3,600.00

82—*Ohio River Valley Water Sanitation Commission*

Acct. No. 474

1	West Virginia's contribution to the Ohio River		
2	Valley Water Sanitation Commission	\$	14,755.00

83—*Southern Regional Education Board*

Acct. No. 475

1	West Virginia's contribution to Southern Re-		
2	gional Education Board	\$	33,000.00
3	To be expended upon requisition of the Gov-		
4	ernor.		

84—*West Virginia Air Pollution Commission*

Acct. No. 476

1	Personal Services	\$	52,900.00
2	Current Expenses		22,720.00
3	Repairs and Alterations		400.00
4	Equipment		30,330.00
5	Total	\$	106,350.00

85—*West Virginia Historic Commission*

Acct. No. 477

1	Personal Services	\$	800.00
2	Current Expenses		16,700.00
3	Total	\$	17,500.00

86—*Department of Banking*

Acct. No. 480

1	Personal Services	\$	112,200.00
2	Current Expenses		47,280.00
3	Equipment		4,100.00
4	Total	\$	163,580.00

87—*West Virginia State Aeronautics Commission*

Acct. No. 485

1	Personal Services	\$	20,516.00
2	Current Expenses		16,380.00
3	Equipment		1,000.00
4	Aerial Markers		1,000.00
5	Civil Air Patrol Expenses		8,000.00
6	Total	\$	46,896.00

88—*West Virginia Non-Intoxicating Beer Commissioner*

Acct. No. 490

1	Personal Services	\$	149,460.00
2	Current Expenses		59,350.00
3	Equipment		1,500.00
4	Total	\$	210,310.00

89—*West Virginia Racing Commission*

Acct. No. 495

1	Personal Services	\$	77,575.00
2	Current Expenses		29,420.00
3	Equipment		500.00
4	Total	\$	107,495.00

AGRICULTURE

90—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner	\$	17,000.00
2	Other Personal Services		225,060.00
3	Current Expenses		89,275.00
4	Equipment		23,000.00
5	Eradication and Control of White Pine Blister		17,000.00
6	Eradication and Prevention of Livestock Dis-		
7	eases		188,985.00
8	Eradication and Control of Japanese beetle		
9	and other plant pests		17,000.00

10	Aid to Dairy Development Program.....	90,000.00
11	Eradication and Control of Oak Wilt	94,000.00
12	Plant Pest Control	28,000.00
13	Laboratory Operation	30,000.00
14	Slaughterhouse and Meat Packing Inspection	43,400.00
15	Total	\$ 862,720.00
16	The appropriation "Eradication and Control	
17	of Oak Wilt" may be transferred to Special	
18	Revenue Funds for the purpose of match-	
19	ing Federal Funds.	
20	Any balance remaining in the appropriation	
21	"Slaughterhouse and Meat Packing Inspec-	
22	tion" at the close of the fiscal year 1964-65 is	
23	hereby reappropriated for expenditure dur-	
24	ing the fiscal year 1965-66.	

91—*Department of Agriculture—Soil Conservation Committee*

Acct. No. 512

1	Personal Services.....	\$ 80,795.00
2	Current Expenses	39,200.00
3	Total	\$ 119,995.00

92—*Department of Agriculture—Marketing and Research*

Acct. No. 513

1	For cooperation with the Federal Government	
2	in a program of marketing and research...\$	150,000.00
3	Any part or all of this appropriation may be	
4	transferred to Special Revenue Fund for the	
5	purpose of matching Federal Funds for the	
6	above named program.	

93—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1	West Virginia State Fair	\$ 25,000.00
2	Agricultural Awards	43,000.00
3	Walnut Festival	3,500.00
4	Total	\$ 71,500.00

CONSERVATION AND DEVELOPMENT

94—*Geological and Economic Survey Commission*

Acct. No. 520

1	Personal Services	\$ 152,500.00
2	Current Expenses	49,770.00
3	Equipment	7,000.00
4	Cooperative Mapping Program	60,000.00
5	Total	\$ 269,270.00

6 Of the above appropriations for Current Ex-
 7 penses, the sum of \$15,000.00 may be used
 8 to cooperate with the United States Geologi-
 9 cal Survey in Ground Waters Resources
 10 Study.

11 Of the above appropriation for Cooperative
 12 Mapping Program the sum of \$10,000.00
 13 may be used for preparation of accurate
 14 geographic and political maps of West Vir-
 15 ginia.

95—*Department of Veterans Affairs*

Acct. No. 564

1	In aid of Veterans Day Patriotic Exercises.....	\$ 3,000.00
2	To be expended subject to the approval of the	
3	Department of Veterans Affairs upon pres-	
4	entation of satisfactory plans by the Grafton	
5	G.A.R. Post, American Legion, Veterans of	
6	Foreign Wars and Sons of Veterans.	

96—*Department of Natural Resources*

Acct. No. 565

1	Personal Services	\$ 1,204,865.00
2	Current Expenses	500,000.00
3	Repairs and Alterations	100,000.00
4	Equipment	125,000.00
5	Clarke-McNary—Fire Prevention	120,000.00
6	Area Redevelopment Administration	120,000.00

7	Water Resources Board	2,000.00
8	Rhododendron River Boat	55,000.00
9	Rabies Control	30,000.00
10	Total	\$ 2,256,865.00

11 Out of the above appropriation for Current
 12 Expenses, subsistence for conservation offi-
 13 cers shall be paid at the rate of two dollars
 14 and fifty cents per calendar day to the chief
 15 conservation officer and to each full-time
 16 uniformed conservation officer, under his
 17 direct supervision, whose primary duties
 18 and responsibilities are law enforcement.

19 Any unexpended balance remaining in the
 20 appropriation "Clarke-McNary Fire Preven-
 21 tion" at the close of the fiscal year 1964-65
 22 is hereby reappropriated for expenditure
 23 during the fiscal year 1965-66.

24 Any unexpended balance remaining in the
 25 1962-63 appropriation "For planning, im-
 26 provements and construction on Natural Re-
 27 sources properties and facilities; land requi-
 28 sition and impoundments" at the close of
 29 the fiscal year 1962-63, reappropriated for
 30 fiscal year 1963-64, reappropriated for fiscal
 31 year 1964-65 and is hereby reappropriated
 32 for expenditure during the fiscal year
 33 1965-66 and out of this amount there was
 34 and still is appropriated \$100,000.00 for ac-
 35 quisition of land and development of new or
 36 existing natural resource facilities in Pen-
 37 dleton county.

PROTECTION

97—*Department of Public Safety*

Acct. No. 570

1	Personal Services	\$ 1,958,936.00
2	Current Expenses	996,347.00
3	Repairs and Alterations	56,940.00

4	Equipment	283,917.00
5	Total	\$ 3,296,140.00

98—Adjutant General—State Militia

Acct. No. 580

1	Personal Services	\$ 47,768.00
2	Current Expenses	103,765.00
3	Repairs and Alterations	7,100.00
4	Equipment	6,300.00
5	Compensation of Commanding Officers, Cleri-	
6	cal Allowances and Uniform Allowances	66,900.00
7	Property Maintenance	41,245.00
8	State Armory Board	828,588.00
9	Total	\$ 1,101,666.00

99—Department of Civil and Defense Mobilization

Acct. No. 581

1	Personal Services	\$ 36,040.00
2	Current Expenses	11,045.00
3	Equipment	4,300.00
4	Total	\$ 51,385.00

100—Auditor's Office—Social Security

Acct. No. 582

1	To match contributions of state employees for	
2	social security	\$ 1,240,000.00
3	The above appropriation is intended to cover	
4	the state's share of social security costs for	
5	those spending units operating from Gen-	
6	eral Revenue Fund and General School	
7	Fund Appropriations. The State Road	
8	Commission, Department of Motor Ve-	
9	hicles, Workmen's Compensation Commis-	
10	sion, Public Service Commission, and other	
11	departments operating from Special Rev-	

12 enue Funds and/or Federal Funds shall
 13 pay their proportionate share of the social
 14 security cost for their respective divisions.
 15 Any unexpended balance remaining in this
 16 appropriation at the close of the fiscal year
 17 1964-65 is hereby reappropriated for ex-
 18 penditure during the fiscal year 1965-66.

101—*State Board of Education—Insurance*

Acct. No. 584

1	Boiler Insurance Premium	\$	15,000.00
2	Insure Contents of Building		10,000.00
3	Total	\$	25,000.00

102—*Public Institutions—Insurance*

Acct. No. 585

1	Boiler Insurance Premium	\$	10,000.00
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103—*West Virginia Board of Examiners
for Practical Nurses*

Acct. No. 587

1	To pay the per diem of members and other		
2	general expenses	\$	16,000.00
3	From Collections		16,000.00

104—*State Board of Examiners for Registered Nurses*

Acct. No. 588

1	To pay the per diem of members and other		
2	general expenses	\$	38,000.00
3	From Collections		38,000.00

105—*State Board of Dental Examiners*

Acct. No. 589

1	To pay the per diem of members and other		
2	general expenses	\$	5,500.00
3	From Collections		5,500.00

106—*State Board of Professional Foresters*

Acct. No. 5895

1 To pay the per diem of members and other		
2 general expenses	\$	2,000.00
3 <i>From Collections</i>		2,000.00

107—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of members and other		
2 general expenses	\$	10,500.00
3 <i>From Collections</i>		10,500.00

108—*State Board of Osteopathy*

Acct. No. 591

1 To pay the per diem of members and other		
2 general expenses	\$	1,610.00
3 <i>From Collections</i>		1,610.00

109—*State Board of Optometry*

Acct. No. 592

1 To pay the per diem of members and other		
2 general expenses	\$	2,500.00
3 <i>From Collections</i>		2,500.00

110—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

1 To pay the per diem of members and other		
2 general expenses	\$	10,000.00
3 <i>From Collections</i>		10,000.00

111—*State Board of Registration for Professional Engineers*

Acct. No. 594

1 To pay the per diem of members and other		
2 general expenses	\$	28,000.00
3 <i>From Collections</i>		28,000.00

112—*State Board of Architects*

Acct. No. 595

1 To pay the per diem of members and other		
2 general expenses		4,000.00
3 From Collections		4,000.00

113—*State Veterinary Board*

Acct. No. 596

1 To pay the per diem of members and other		
2 general expenses	\$	500.00
3 From Collections		500.00

114—*State Board of Law Examiners*

Acct. No. 597

1 To pay the per diem of members and other		
2 general expenses	\$	3,000.00

115—*Human Rights Commission*

Acct. No. 598

1 Personal Services	\$	22,500.00
2 Current Expenses		11,900.00
3 Equipment		600.00
4 Total	\$	35,000.00

116—*West Virginia State Board of Sanitarians*

Acct. No. 599

1 To pay the per diem of members and other		
2 general expenses	\$	800.00
3 From Collections		800.00

117—*West Virginia Public Employees Retirement Board*

Acct. No. 614

1 Employers Accumulation Fund	\$	750,000.00
2 Expense Fund		25,000.00
3 Total	\$	775,000.00

4 The above appropriation is intended to cover
 5 the state's share of the West Virginia Pub-
 6 lic Employees' Retirement cost in accord-
 7 ance with Senate Bill No. 22, (1961 Legis-
 8 lature) for those departments operating
 9 from General Revenue Fund and General
 10 School Fund appropriations. The State
 11 Road Commission, Department of Motor
 12 Vehicles, State Tax Commissioner—Gasoline
 13 Tax Division, Workmen's Compensation
 14 Commission, Public Service Commission,
 15 and other departments operating from
 16 Special Revenue Funds and/or Federal
 17 Funds shall pay their proportionate share
 18 of the retirement costs for their respective
 19 divisions. When specific appropriations are
 20 not made such payments may be made from
 21 the balances in the various Special Revenue
 22 Funds in excess of specific appropriations.

118—*State Road Commission*

Acct. No. 641

1 Total \$ 6,345,000.00

2 The purpose of the above appropriation is to
 3 aid in payment of interest and principal on
 4 outstanding road bonds and may be trans-
 5 ferred to the state road fund upon the re-
 6 quisition of the Governor.

Sec. 2. Appropriations from Other Funds.—From the
 2 funds designated there is hereby appropriated conditionally
 3 upon the fulfillment of the provisions set forth in chapter
 4 one hundred thirty-two, acts of the Legislature, regular
 5 session, one thousand nine hundred sixty-one, the fol-
 6 lowing amounts, as itemized, for expenditure during the
 7 fiscal year one thousand nine hundred sixty-six.

119—*State Road Commission*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1 Federal-Aid Construction—Interstate Pro-
 2 gram \$ 67,200,500.00

3	Federal-Aid Construction—ABC Program.....	27,142,000.00
4	Interstate Maintenance	853,000.00
5	Special Maintenance and State Construction	
6	—Primary	9,723,000.00
7	Special Maintenance and State Construction	
8	—Secondary	11,186,000.00
9	Routine Maintenance—Primary	6,576,000.00
10	Routine Maintenance—Secondary	6,576,000.00
11	Emergency Operations—Snow and Ice Con-	
12	trol—Flood and Slides	3,000,000.00
13	General Operations	24,151,000.00
14	Equipment Purchases	1,250,000.00
15	Debt Service	10,376,000.00

16 Total\$ 168,033,500.00

17 It is the intent to appropriate and make avail-
 18 able for expenditure, the balances and all
 19 revenues and income of the state road fund,
 20 including the proceeds from the sale of
 21 bonds, for the maintenance, construction
 22 and reconstruction of state roads and for
 23 other purposes, in accordance with the pro-
 24 visions of chapter seventeen, code of West
 25 Virginia, one thousand nine hundred thirty-
 26 one, as amended.

27 There is hereby appropriated, in addition to
 28 the foregoing appropriations, revenue and
 29 total resources of the state road fund in
 30 excess of the total of the foregoing appro-
 31 priations: *Provided, however,* That such ex-
 32 cess shall be recommended by the state road
 33 commissioner for distribution among the
 34 foregoing appropriations and the Board of
 35 Public Works shall distribute such excess in
 36 accordance therewith.

37 Notwithstanding any provisions to the con-
 38 trary in this act or any other section of law
 39 which may be in conflict, the following pro-
 40 visions shall prevail and shall govern and
 41 control the administration of the foregoing
 42 appropriations:

43 1. Transfers of amounts between the fore-
44 going appropriations may be recommended
45 by the state road commissioner and upon
46 such recommendation the Board of Public
47 Works may order and make the recom-
48 mended transfers.

49 2. The state road commissioner shall have
50 the authority to transfer charges, including
51 charges for personal services, between the
52 foregoing appropriations in order to comply
53 with requirements of the United States Gov-
54 ernment to qualify for federal-aid.

55 3. The state road commissioner shall have
56 the authority to operate revolving funds
57 within the state road fund for the operation
58 and purchase of various types of equipment
59 used directly and indirectly in the construc-
60 tion and maintenance of roads and for the
61 purchase of inventories of materials and sup-
62 plies: *Provided, however,* That the operation
63 of such revolving funds shall not cause ex-
64 penditures in excess of the foregoing appro-
65 priations.

66 4. The state road commissioner is hereby
67 authorized to omit the filing of quarterly ex-
68 penditure schedules as required by chapter
69 five-a, article two of the official code of West
70 Virginia, one thousand nine hundred thirty-
71 one, as amended.

72 5. The state road commissioner shall have
73 the authority to transfer road funds to the
74 toll bridge funds when the tolls collected
75 from the use of such bridges are not suffici-
76 ent to pay for the operation, maintenance,
77 renewal and repairs of the bridges and for
78 principal and interest on toll bridge bonds.

79 6. Subsistence for employees designated
80 by the state road commissioner may be paid
81 at the rate of three dollars and fifty cents
82 (\$3.50) per calendar day in lieu of actual
83 expenses.

84 There is hereby appropriated, within the
 85 above line items, sufficient moneys for the
 86 payment of claims, accrued or arising dur-
 87 ing this budgetary period, to be paid in ac-
 88 cordance with chapter fourteen, article two,
 89 sections seven and eight, code of West Vir-
 90 ginia, one thousand nine hundred thirty-
 91 one, as amended.

120—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$ 895,700.00
2	Current Expenses	403,912.00
3	Equipment	42,040.00
4	Purchase of License Plates	240,200.00
5	Social Security Matching Fund	32,237.00
6	Employees Retirement Matching Fund	44,595.00
7	Total	\$ 1,658,684.00

121—*State Tax Commissioner—Gasoline Tax Division*

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$ 190,000.00
2	Current Expenses	78,575.00
3	Equipment	4,000.00
4	Social Security Matching Fund	7,365.00
5	Total	\$ 279,940.00

122—*State Board of Education*

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 42,100.00
2	Current Expenses	15,100.00
3	Equipment	1,050.00
4	Total	\$ 58,250.00

123—*State Board of Education—Vocational Division*

Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	58,517.00
2	Current Expenses		9,800.00
3	Equipment		3,450.00
4	Vocational Aid		410,000.00
5	Total	\$	481,767.00

124—*Department of Education—Veterans Education*

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	13,260.00
2	Current Expenses		2,968.00
3	Total	\$	16,228.00

4 Expenditures from this appropriation shall not
 5 exceed the amount to be reimbursed by the
 6 Federal Government.

7 Federal funds in excess of the amounts hereby
 8 appropriated may be made available by
 9 budget amendment upon request of the
 10 State Superintendent of Schools and ap-
 11 proval of the Board of Public Works for
 12 any emergency which might arise in the
 13 operation of this Division during the Fiscal
 14 year.

125—*Department of Education*

Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintendent.....	\$	18,000.00
2	Other Personal Services		362,580.00
3	Current Expenses		92,285.00
4	Equipment		5,950.00
5	National Defense Education Act.....		145,000.00

6	Statewide Testing Program	176,000.00
7	Experimental Projects	16,480.00
8	Total	\$ 816,295.00
9	Any part or all of the appropriation for	
10	"National Defense Education Act" may be	
11	transferred to a Special Revenue Fund for	
12	the purpose of matching Federal Funds for	
13	this program.	

126—*State Board of School Finance*

Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 19,140.00
2	Current Expenses	5,000.00
3	Total	\$ 24,140.00

127—*Department of Education—School Lunch Program*

Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 64,364.00
2	Current Expenses	18,000.00
3	Aid to Counties—Includes hot lunches and	
4	canning for hot lunches	300,000.00
5	Total	\$ 382,364.00

128—*Department of Education*

Acct. No. 706

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salaries of County Superintendents	\$ 63,000.00
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129—*Department of Education*

Acct. No. 707

TO BE PAID FROM GENERAL SCHOOL FUND

1	State Aid to Children's Home	\$ 25,000.00
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130—*State Tax Commissioner—
Store and General Licenses Division*

Acct. No. 712

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	37,360.00
2	Current Expenses		5,500.00
3	Total	\$	42,860.00

131—*State Tax Commissioner—
Enforcement of Cigarette Tax*

Acct. No. 713

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	12,900.00
2	Current Expenses		7,100.00
3	Total	\$	20,000.00

132—*Department of Education*

Acct. No. 715

TO BE PAID FROM GENERAL SCHOOL FUND

1	Scholarships for Teacher Training	\$	100,000.00
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133—*Real Estate Commission*

Acct. No. 801

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	30,120.00
2	Current Expenses		18,404.00
3	Social Security Matching Fund		885.00
4	Public Employees Retirement Matching Fund		1,400.00
5	Total	\$	50,809.00

6 The total amount of this appropriation shall be
7 paid from Special Revenue Fund out of col-
8 lections of license fees as provided by law.

134—*West Virginia Racing Commission*

Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

1	Medical Expenses	\$	5,000.00
2	The total amount of this appropriation shall		
3	be paid from Special Revenue Fund out		
4	of collections of license fees and fines as		
5	provided by law.		
6	No expenditures shall be made from this		
7	account except for hospitalization, medical		
8	care, and/or funeral expenses for persons		
9	contributing to this fund.		

135—*Auditor's Office—Land Department
Operating Fund*

Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

1	Current Expenses	\$	15,000.00
2	The total amount of this appropriation shall		
3	be paid from Special Revenue Fund out of		
4	fees and collections as provided by law.		
5	Special funds in excess of the amount herein		
6	appropriated may be made available by		
7	budget amendments upon request of the		
8	State Auditor and the approval of the		
9	Board of Public Works.		

136—*Department of Finance and Administration
Division of Purchases—Revolving Fund*

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	85,180.00
2	Current Expenses		14,200.00
3	Equipment		8,000.00
4	Social Security Matching Fund		3,100.00
5	Public Employees Retirement Matching Fund		4,300.00
6	Total	\$	114,780.00

- 7 The total amount of this appropriation shall
 8 be paid from Special Revenue Fund as pro-
 9 vided by Chapter one hundred thirty-two,
 10 Acts of the Legislature, regular session, one
 11 thousand nine hundred sixty-one.
- 12 The above appropriation includes salaries and
 13 operating expenses.
- 14 There is hereby appropriated from this fund,
 15 in addition to the above appropriation,
 16 the necessary amount for the purchase of
 17 supplies for resale.

137—*Department of Agriculture*

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 167,960.00
2	Current Expenses	40,700.00
3	Equipment	8,000.00
4	Social Security Matching Fund	5,200.00
5	Public Employees Retirement Matching Fund	7,750.00
6	Total	\$ 229,610.00

- 7 The total amount of this appropriation shall be
 8 paid from Special Revenue Fund out of col-
 9 lections made by the Department of Agri-
 10 culture as provided by law. It is the inten-
 11 tion that special funds in excess of the
 12 amounts hereby appropriated shall be made
 13 available by budget amendments upon re-
 14 quest of the Commissioner of Agriculture.

138—*State Committee of Barbers and Beauticians*

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 32,000.00
2	Current Expenses	16,450.00
3	Equipment	600.00
4	Social Security Matching Fund	960.00
5	Public Employees Retirement Matching Fund	1,535.00
6	Total	\$ 51,545.00

7 The total amount of this appropriation shall be
 8 paid from Special Revenue Fund out of
 9 collections made by the State Committee of
 10 Barbers and Beauticians as provided by law.

139—*Insurance Commissioner*

Acct. No. 826

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 159,200.00
2 Current Expenses	25,610.00
3 Equipment	3,000.00
4 Social Security Matching Fund	6,200.00
5 Public Employees Retirement Matching Fund	8,500.00
6 Total	\$ 202,510.00

7 The total amount of this appropriation shall be
 8 paid from Special Revenue Fund out of col-
 9 lections for license and report fees as pro-
 10 vided by law.

140—*Insurance Commissioner—Fire Marshal*

Acct. No. 827

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 125,600.00
2 Current Expenses	31,595.00
3 Repairs and Alterations	2,000.00
4 Equipment	5,580.00
5 Social Security Matching Fund	4,500.00
6 Public Employees Retirement Matching Fund	6,300.00
7 Total	\$ 175,575.00

8 The total amount of this appropriation shall be
 9 paid from Special Revenue Fund out of col-
 10 lections of the special tax of one-half of one
 11 per cent premium receipts of fire insurance
 12 companies as provided by law.
 13 This account shall be supplemented by a trans-
 14 fer from the balance in the Insurance Com-
 15 missioner's Account No. 826, to meet any
 16 deficit in this account.

141—*Public Service Commission*

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners	\$	42,000.00
2	Other Personal Services		392,432.00
3	Current Expenses		53,828.00
4	Equipment		8,440.00
5	Social Security Matching Fund		9,800.00
6	Public Employees Retirement Matching Fund		18,500.00
7	Total	\$	525,000.00

8 The total amount of this appropriation shall be
 9 paid from Special Revenue Fund out of col-
 10 lections for special license fees from public
 11 service corporations as provided by law. Out
 12 of the above appropriation \$5,000.00 may
 13 be transferred to the State Water Resources
 14 Commission of the Department of Natural
 15 Resources for use in cooperation with
 16 the U. S. Geological Survey in a program
 17 of stream gauging.

142—*Public Service Commission—Motor Carrier
Division*

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	214,360.00
2	Current Expenses		57,990.00
3	Equipment		4,860.00
4	Social Security Matching Fund		6,500.00
5	Public Employees Retirement Matching Fund		10,500.00
6	Total	\$	294,210.00

7 The total amount of this appropriation shall
 8 be paid from Special Revenue Fund out of
 9 receipts collected for or by the Public Serv-
 10 ice Commission pursuant to and in the exer-
 11 cise of regulatory authority over motor
 12 carriers as authorized by law.

143—*Department of Natural Resources*
Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 1,017,655.00
2	Current Expenses	338,660.00
3	Repairs and Alterations	71,975.00
4	Equipment	172,980.00
5	Total	\$ 1,601,270.00

6 The total amount of this appropriation shall
7 be paid from Special Revenue Fund out of
8 fees collected by the Department of Natural
9 Resources. Expenditures shall be limited
10 to the amounts appropriated except for
11 Federal Funds received and Special Funds
12 collected at state parks. Special Funds in
13 excess of the amounts hereby appropriated
14 may be made available by budget amend-
15 ment upon request of the Department of
16 Natural Resources and approval of the
17 Board of Public Works for any emergency
18 which might arise in the operation of this
19 Division during the fiscal year.

144—*Department of Public Safety—Inspection Fees*
Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 115,152.00
2	Current Expenses	71,600.00
3	Repairs and Alterations	7,100.00
4	Equipment	18,000.00
5	Social Security Matching Fund	633.00
6	Total	\$ 212,485.00

7 The total amount of this appropriation shall be
8 paid from Special Revenue Fund out of fees
9 collected for inspection stickers as provided
10 by law.

11 Special Funds in excess of the amounts
 12 hereby appropriated may be made available
 13 by budget amendment upon request of the
 14 Department of Public Safety and approval
 15 of the Board of Public Works for the pur-
 16 pose of repairs to, or construction of police
 17 barracks, not to exceed one hundred thou-
 18 sand dollars in any one fiscal year.

145—*West Virginia Alcohol Beverage Control*

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salary of Commissioner	\$ 14,000.00
2	Other Personal Services	3,208,740.00
3	Current Expenses	863,000.00
4	Repairs and Alterations	35,000.00
5	Equipment	60,000.00
6	Social Security Matching Fund	132,740.00
7	Public Employees Retirement Matching Fund	166,000.00
8	Total	\$ 4,479,480.00

9 The total amount of this appropriation shall
 10 be paid from Special Revenue Fund out of
 11 liquor revenues.

12 The above appropriation includes the salaries
 13 of store personnel, store inspectors, store
 14 operating expenses and equipment; and sal-
 15 aries, expenses and equipment of admini-
 16 stration offices.

17 There is hereby appropriated from liquor
 18 revenues, in addition to the above appro-
 19 priation, the necessary amount for the pur-
 20 chase of liquor, as provided by law.

146—*West Virginia Civil Service System*

Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 121,320.00
2	Current Expenses	31,435.00

3	Social Security Matching Fund	5,302.00
4	Public Employees Retirement Matching Fund	6,918.00
5	Total	\$ 164,975.00

6 The total amount of this appropriation shall
 7 be paid from Special Revenue Fund sup-
 8 ported by participating agencies as provided
 9 by law.

10 The Board of Public Works is hereby au-
 11 thorized to make available by budget
 12 amendment, upon request of the Civil
 13 Service Commission, funds in excess of the
 14 amounts hereby appropriated that may be-
 15 come available as a result of Acts of the
 16 Legislature—1961 Regular Session.

*147—West Virginia University—Special Capital
 Improvement Fund*

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

1	Debt Service	\$ 665,000.00
2	Chemistry Building	950,000.00
3	Property Acquisition	100,000.00
4	Miscellaneous Small Projects	50,000.00
5	Potomac State Auditorium	100,000.00
6	Total	\$ 1,865,000.00

7 The total amount of this appropriation shall
 8 be paid from the non-revolving Capital Im-
 9 provement Fund created by the 1959 Legis-
 10 lature, amended by the 1963 Legislature.

11 Any unexpended balance remaining in this
 12 appropriation at the close of the fiscal year
 13 1964-65 is hereby reappropriated for ex-
 14 penditure during the fiscal year 1965-66.

148—*State Board of Education—Special Capital
Improvement Fund*

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

1	Payment of Principal and Interest on Bonds	\$ 1,096,800.00
2	<i>Marshall University</i>	
3	Land (Urban Renewal Development Land)	225,000.00
4	<i>Marshall University</i>	
5	Additional Amount for Maintenance Build-	
6	ing	100,000.00
7	<i>Shepherd College</i>	
8	Renovation—Administration Building	360,000.00
9	<i>Glenville State College</i>	
10	Dormitory Furniture	150,000.00
11	<i>Shepherd College</i>	
12	Dormitory Furniture	200,000.00
13	<i>West Virginia Institute of Technology</i>	
14	Dormitory Furniture	270,000.00
15	<i>Glenville State College</i>	
16	Addition to 1964 Appropriation for Library	177,223.00
17	<i>West Liberty State College</i>	
18	Renovation of Hazel-Atlas Building	164,316.00
19	<i>Fairmont State College</i>	
20	Dormitory Furniture	56,000.00
21	<i>West Virginia Institute of Technology</i>	
22	Land	50,000.00

23 As required by law, the above projects are
24 listed in a stated order of priority and
25 are to be paid on a cash basis. It is in-
26 tended that only complete and useable
27 units or projects be constructed and then
28 only in the listed order of priority.

29 The total amount of this appropriation shall
30 be paid from the non-revolving Capital
31 Improvement Fund created by the 1959
32 Legislature, amended by the 1963 Legis-
33 lature.

34 Any unexpended balance remaining in this
35 appropriation at the close of the fiscal year
36 1964-65 is hereby reappropriated for ex-

37 penditure during the fiscal year 1965-66, and
 38 from the unexpended balance the above ap-
 39 propriations to Glenville State College for
 40 Dormitory Furniture, \$150,000.00, and West
 41 Virginia Institute of Technology for Land,
 42 \$50,000.00, be made available from the pas-
 43 sage date of this act.

149—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1 Personal Services	\$ 852,120.00
2 Current Expenses	294,537.00
3 Equipment	16,689.00
4 Social Security Matching Fund	30,744.00
5 Public Employees Retirement Matching Fund	43,170.00
6 Total	\$ 1,237,260.00

7 There is hereby authorized to be paid out of
 8 the above appropriation for Current Ex-
 9 penses the amount necessary for the premi-
 10 ums on bonds given by the State Treasurer
 11 and bond custodian for the protection of
 12 the Workmen's Compensation Fund.

Sec. 3. Supplemental and Deficiency Appropriation.—

2 From the State Fund, General Revenue, except as other-
 3 wise provided, there are hereby appropriated the following
 4 amounts, as itemized, for expenditure during the fiscal
 5 year one thousand nine hundred sixty-five to supplement
 6 the 1964-65 appropriations, and to be available for ex-
 7 penditure upon date of passage.

150—*Governor's Office*

Acct. No. 120

1 Civil Contingent Fund	\$ 60,000.00
2 Appalachian & Economic Opportunity Act and 3 Headstart Program	75,000.00
4 Mansion Refurbishing	20,500.00
5 Total	\$ 155,500.00

151—*Department of Finance and Administration*

Acct. No. 210

1	Personal Services	\$ 35,000.00
2	Record Management	30,000.00
3	Total	\$ 65,000.00
4	Any balance in the above appropriation for	
5	"Record Management," shall be reappropri-	
6	ated for the 1965-66 fiscal year.	

152—*State Board of School Finance*

Acct. No. 295

1	To supplement State Aid to Schools	\$ 500,000.00
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153—*Department of Education—Exceptional Children*

Acct. No. 296

1	Out of State Aid to Exceptional Children ..	\$ 21,190.00
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154—*State Health Department*

Acct. No. 400

1	Hospital and Medical Facilities Construction	
2	Program	\$ 10,362.00
3	Dental Service for State Institutions	4,120.00
4	X-Ray equipment for Mingo County	9,000.00
5	Total	\$ 23,482.00

155—*Department of Welfare*

Acct. No. 405

1	Public Assistance Grants	\$ 203,711.00
2	Medical Service Fund	1,550,000.00
3	Food Stamp Program	96,289.00
4	Total	\$ 1,850,000.00

156—*Department of Mental Health*

Acct. No. 410

1	Operational Expense—Day Care Centers	\$ 3,000.00
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157—*West Virginia Training School*

Acct. No. 419

1	Personal Services	\$	27,360.00
2	Equipment		48,285.00
3	Total	\$	75,645.00

158—*Weston State Hospital*

Acct. No. 420

1	Current Expenses	\$	75,000.00
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159—*Spencer State Hospital*

Acct. No. 421

1	Current Expenses	\$	30,000.00
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160—*Lakin State Hospital*

Acct. No. 423

1	Current Expenses	\$	28,000.00
2	Repairs and Alterations		10,000.00
3	Total	\$	38,000.00

161—*Board of Education—Division of Vocational Rehabilitation*

Acct. No. 440

1	Rehabilitation Center-Sheltered Workshop	\$	50,000.00
2	To be transferred to special revenue and		
3	expended in accordance with House Bill No.		
4	913, 1965 Regular Legislature.		

162—*Department of Commerce*

Acct. No. 465

1	West Virginia Pavilion—New York World's		
2	Fair	\$	15,000.00
3	To be transferred to special revenue fund,		
4	Acct. No. 8574 and expended in accordance		

5 with Senate Bill No. 189, 1965 Regular
6 Legislature.

163—*Southern Interstate Nuclear Board*
Acct. No. 471

1 Total \$ 1,250.00

Sec. 4. Awards for Claims Against the State.—From
2 the funds designated there are hereby appropriated for
3 the remainder of the fiscal year 1964-65, and to remain in
4 effect until June 30, 1966, for payment of claims against
5 the state, the following amounts as itemized:

Claims versus the Department of Commerce

TO BE PAID FROM THE GENERAL REVENUE FUND

1	Westinghouse Electric Corporation.....	\$ 81.50
2	Ball Brothers Company.....	4,164.00
3	Cantor Bros. Glass Corp.....	2,362.00
4	Gardner, Robinson, Stierheim & Weis, Inc.....	70,000.00
5	Bruhm Brothers, Inc.	78.00
6	Brooks, Maizel & Company.....	7,544.50
7	Seaboard Pools, Inc.....	1,865.90
8	Dave Ellies, Industrial Design, Inc.....	4,670.00
9	Cecil C. Broom, dba, Greentree Garden Center	
10	of St. Albans, W. Va.....	5,700.00
11	Arthur Venneri Company.....	92,500.00
12	James E. Tawney, dba, Custom Electronics ...	955.08
13	Walter & Walter Chocolate Co.....	6,000.00
14	Safford's Professional Photography	1,000.00
15	N. Y. World's Fair Corp.	5,000.00
16	N. Y. World's Fair Corp.	732.60
17	N. Y. World's Fair Corp.....	73.90
18	N. Y. World's Fair Corp.....	229.43
19	Campo & Roberts, Inc.	5,009.24
20	Hazel B. Waggy	950.00
21	Palmer Rye, dba, P & R Partition Co., Inc.....	1,103.00
22	Decorta Brothers, Inc.....	143.98
23	Allied World's Fair Service Corp.....	1,444.52
24	Anthony Bitel	40.00
25	Mouldagraph Corporation	193.80

26 Western Union Telegraph Co.....	11.08
27 Seneca Glass Company	385.73
28 Buckingham Livery, Inc.....	25.00
29 Smith's Transfer Corp.	83.98
30 Carey Transportation, Inc.	25.00
31 L. Jones & Co., Inc.	5,500.00
32 I. B. M. Corp.....	40.00
33 J. I. Hass Co., Inc.	1,214.93

*Claims versus the State Board of Education—Division of
Vocational Rehabilitation*

TO BE PAID FROM GENERAL REVENUE FUND

1 Bradshaw-Diehl Co.	\$	146.62
2 C. & O. Railway Co.		11.50

Claims versus the Department of Public Institutions

TO BE PAID FROM GENERAL REVENUE FUND

1 Gordon Auto Parts	\$	1,247.06
2 Howard D. Stern		7,600.00
3 Wilma Jean Johnson		4,500.00
4 Edward B. Carroll		5,500.00

Claims versus the Adjutant General

TO BE PAID FROM GENERAL REVENUE FUND

1 City of Oak Hill, W. Va.	\$	2,911.65
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Claims versus the Department of Motor Vehicles

TO BE PAID FROM STATE ROAD FUND

1 Copco Papers, Inc.	\$	3,783.92
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Claims versus State Road Commission

TO BE PAID FROM STATE ROAD FUND

1 Edna Underwood Sorden	500.00
2 George Pauley	100.00
3 Vernon Meadows	195.48
4 Gilbert J. and Mary Louise Keith	1,028.00

5 Henry and Lucille Horton	244.55
6 Adolphus Wallace	28.33
7 David Hostutler	158.77
8 Floyd Plum and Gordon Weaver	1,200.00
9 John A. Davis	2,000.00
10 Robert E. Keeney	345.56
11 Luther and Alma Bailey	300.00
12 Willie and Marie Gibbs	3,000.00
13 Gary Allen Huff, an infant, by his father, 14 Joseph S. Huff and next friend	3,047.00
15 Frank Palmer	178.05
16 George H. Matheny	285.00
17 Louis B. Wiseman	20.00
18 Allen B. Young	120.00
19 Cecil E. Parsons	400.00
20 Carl Shuck	1,722.03
21 Grand Lodge of W. Va., Independent Order 22 of Odd Fellows	205.00
23 Arthur Queen	908.50
24 Ernest W. Moye, Administrator of the Estate 25 of Ricky E. Moye	7,500.00
26 Chesapeake & Ohio Railway Co.	484.53
27 Mike Vallo, dba, Hill Side Inn	15.44
28 Thomas M. Scarff	400.00
29 V. P. Stickley	1,515.68
30 N. Y. Central Railroad Company	794.20
31 Oakvale Stone Co.	5,000.00
32 George A. Queen	1,000.00
33 C. B. Early & Co.	846.39
34 A. & P. Mining Co.	568.26
35 V. P. Stickley & J. M. Francesca	7,500.00
36 Madelyn M. Ayers	75.00

Sec. 5. Reappropriations.—The date for expiring the un-
 2 expended balances, if any, in item 1, in the appropriations
 3 made by and under authority of Section 6 of the 1962 Budget
 4 Act and items IX, XV, XIX, XXVII, XXVIII, XXX, XXXI,
 5 XXXII, XXXIV, XXXVII, XXXVIII, XXXIX, and XL in
 6 the appropriations made by and under authority of Section
 7 4 of the 1963 Budget Act and items 3, 13, 14, 15, 17, 19, 20,
 8 25, 27, 29, 30, 31, 35, 39, and 42, in the appropriation made
 9 by and under authority of Section 6 of the 1964 Budget Act

10 is extended to June 30, 1966 and such items are hereby
 11 reappropriated from their respective dates of expiration to
 12 June 30, 1966.

13 Item 30—Bluefield State College as herein reappropri-
 14 ated may be used to complete basement rooms of Mahood
 15 Hall, girls dormitory.

Sec. 6. Appropriations from Surplus Revenues.—The fol-
 2 lowing items are appropriated from the General Revenue
 3 Fund, subject to the following terms and conditions:

4 (a). The following items are hereby appropriated and are
 5 to be available for expenditures only out of the sur-
 6 plus in the Treasury, subject to the approval of the
 7 Board of Public Works.

8 (b). The Board of Public Works shall review the revenues
 9 of the State from the date that appropriations here-
 10 under are expected to be made available for expendi-
 11 ture, and determine whether, in its opinion, revenues
 12 then in prospect or on hand will be sufficient to meet
 13 all appropriations under the 1964 Budget Act, and
 14 make a finding with respect thereof. In the event that
 15 such finding shall show sufficient revenues on hand
 16 or in prospect to meet all other appropriations and
 17 reappropriations made by the 1964 Budget Act and
 18 subject to the foregoing conditions, any or all of the
 19 following items may be released for expenditure by
 20 the Board of Public Works from the date of passage
 21 of this bill and such appropriation shall remain in
 22 full force and effect until June 30, 1966.

23	Item I. <i>State Tax Commissioner</i>	\$ 500,000.00
24	For Property Appraisal.	
25	Item II. <i>West Virginia State Aeronautics</i>	
26	<i>Commission</i>	\$ 149,000.00
27	For Airport Construction,	
28	Improvement of Existing	
29	Facilities and Land Acquisi-	
30	tion for Airport Construc-	
31	tion and Facilities:	
32	Mingo County	\$50,000.00
33	Summersville	69,000.00
34	Sutton	30,000.00

35	Any or all of the above ap-		
36	propriation may be used		
37	to match Federal Funds		
38	available for this purpose.		
39	Item III. <i>Governor's Office</i>		\$ 1,500,000.00
40	To be used to implement the		
41	Appalachian Regional Devel-		
42	opment Program and/or Of-		
43	fice of Economic Opportuny		
44	and Manpower Development		
45	and Training Act.		
46	Item IV. <i>Department of Finance and Admin-</i>		
47	<i>istration</i>	\$	196,372.00
48	Mansion Repairs	\$109,872.00	
49	Air Conditioning Repairs to		
50	Capitol Building No. 3	11,500.00	
51	To Establish Motor Pool	75,000.00	
52	Item V. <i>Department of Agriculture—</i>		
53	<i>Marketing and Research</i>	\$	50,000.00
54	Construction of New Facili-		
55	ties and Repairs to Existing		
56	Markets.		
57	Item VI. <i>Glennville State College</i>	\$	80,500.00
58	Land Purchases	\$65,500.00	
59	Paving	15,000.00	
60	Item VII. <i>Industrial School for Boys</i>	\$	70,200.00
61	Service System Repairs	\$60,700.00	
62	Educational Equipment	9,500.00	
63	Item VIII. <i>Forestry Camp for Boys</i>	\$	50,000.00
64	To begin relocation of pres-		
65	ent Forestry Camp and/or		
66	preliminary plans for estab-		
67	lishing a new camp.		
68	Item IX. <i>Industrial Home for Girls</i>	\$	17,000.00
69	Ground Improvements	\$7,000.00	
70	Replace Dormitory Furniture ..	10,000.00	

71	Item X. <i>Medium Security Prison</i>	\$	7,000.00
72	Boiler and Oven Repairs.....	\$ 5,000.00	
73	Pasteurization and Deep		
74	Freeze Repairs	2,000.00	
75	Item XI. <i>West Virginia Children's Home</i>	\$	17,500.00
76	New Beds and Mattresses.		
77	Item XII. <i>Andrew S. Rowan Memorial Home</i> \$	15,700.00	
78	New Boiler.		
79	Item XIII. <i>State Health Department</i>	\$	22,500.00
80	Central Air Conditioning System.		
81	Item XIV. <i>Huntington State Hospital</i>	\$	50,000.00
82	Laundry Equipment	\$30,000.00	
83	Kitchen Equipment	20,000.00	
84	Item XV. <i>Department of Commerce</i>	\$	500,000.00
85	Industrial Development Au-		
86	thority Revolving Fund.		
87	Item XVI. <i>Department of Agriculture</i> —		
88	Soil Conservation Commission	\$	50,000.00
89	Watershed Program.		
90	Item XVII. <i>Department of Natural Re-</i>		
91	<i>sources</i>	\$ 1,250,000.00	
92	For improvements to the		
93	state park, forest and recre-		
94	ation system.		
95	Any or all of the above ap-		
96	propriation may be used to		
97	match federal funds avail-		
98	able for this purpose.		
99	Out of the above appropria-		
100	tions Item No. I, "State		
101	Tax Commissioner, For		
102	Property Appraisal," shall		
103	be the first Item of Sur-		
104	plus released by the Board		
105	of Public Works. Item No.		
106	II shall be the second Item		
107	released by the Board		
108	of Public Works.		

Sec. 7. Special Revenue Appropriations.—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred sixty-six appropriations made by general law from special revenue which are not paid into the state fund as general revenue under the provisions of section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one: *Provided, however,* That none of the moneys so appropriated by this section shall be available for expenditure except in compliance with and in conformity to the provisions of articles two and three, of chapter twelve, code of West Virginia and chapter one hundred and thirty-two, acts of the Legislature, regular session, one thousand nine hundred sixty-one, and unless the spending unit has filed with the state director of the budget and the state auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund;

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended.

Sec. 8. Specific Funds and Collection Accounts.—A fund or collection account, which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account, and shall be expended according to the provisions of article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

Sec. 9. Appropriation for Refunding Erroneous Payments.—Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he shall issue his requisition upon the auditor for the refunding of the proper amount. The auditor shall issue his warrant to the treasurer and the treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 10. Sinking Fund Deficiencies.—There is hereby appropriated to the Board of Public Works a sufficient

3 amount to meet a deficiency that may arise in the funds of
4 the State Sinking Fund Commission because of the failure
5 of state agency for either general obligation or rev-
6 enue bonds or any local taxing district for general obliga-
7 tion bonds to remit funds necessary for the payment of
8 interest and sinking fund requirements. The Board of
9 Public Works is authorized to transfer from time to time
10 such amounts to the State Sinking Fund Commission as
11 may be necessary for this purpose.

12 The State Sinking Fund Commission shall reimburse the
13 State of West Virginia through the Board of Public Works
14 from the first remittance collected from any state agency
15 or local taxing district for which the Board of Public Works
16 advanced funds, with interest at the rate carried by the
17 bonds for which the advance was made.

Sec. 11. Appropriations from Taxes and License Fees.—

2 There is hereby appropriated from the cigarette tax for
3 administration and enforcement of the law relating to said
4 tax a sum not to exceed one and one-half per cent of the
5 tax collected or stamps sold. There is hereby appropri-
6 ated from the soft drink tax revenues for administration
7 and enforcement of the law relating to said tax, a sum not
8 to exceed two and one-half per cent of the total revenues
9 collected. All such salaries and expenses, authorized by
10 law as aforesaid, shall be paid by the Tax Commissioner
11 through the state treasurer out of gross collections.

**Sec. 12. Appropriations to Pay Costs of Publication of
2 Delinquent Corporations.—**There is hereby appropriated
3 out of the state fund, general revenue, out of funds not
4 otherwise appropriated to be paid upon requisition of the
5 Auditor and/or the Governor, as the case may be, a sum
6 sufficient to pay the cost of publication of delinquent cor-
7 porations as provided by sections seventy-five and seventy-
8 seven of article twelve, chapter eleven, code of West Vir-
9 ginia, one thousand nine hundred thirty-one, as amended.

Sec. 13. Appropriations for Local Governments.—There
2 is hereby appropriated for payment to counties, districts,
3 and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal cor-
5 porations and which have been paid into the treasury:

- 6 (a) For the redemption of lands;
- 7 (b) By public service corporations;
- 8 (c) For tax forfeitures.

Sec. 14. Total Appropriations.—Where only a total
2 sum is appropriated to a spending unit that total sum shall
3 include personal services, current expenses, and capital
4 outlay, except as otherwise provided in Title I, Section 3.

Sec. 15. General School Fund.—The balance of the pro-
2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropriated
4 for expenditure in accordance with section six, article nine,
5 chapter eighteen of the code of West Virginia, one thou-
6 sand nine hundred thirty-one, as amended.

Title 3. Administration.

Section

1. Appropriations conditional.
2. Constitutionality.

Section 1. Appropriations Conditional.—The expendi-
2 ture of the appropriations made by this act, except those
3 appropriations made to the legislative and judicial
4 branches of the state government, are conditioned upon
5 the compliance by the spending unit with the requirements
6 of article five, chapter five, of the code of West Virginia,
7 one thousand nine hundred thirty-one, as amended by
8 chapter one hundred thirty-two, acts of the Legislature,
9 regular session, one thousand nine hundred sixty-one.

10 Where former spending units have been absorbed by or
11 combined with other spending units by acts of this legis-
12 lature, it is the intent of this act that reappropriation shall
13 be to the succeeding or later spending unit created unless
14 otherwise indicated.

Sec. 2. Constitutionality.—If any part of this act is de-
2 clared unconstitutional by a court of competent jurisdic-
3 tion, its decision shall not affect any portion of this act
4 which remains, but the remaining portion shall be in full
5 force and effect as if the portion declared unconstitutional
6 had never been a part of the act.

CHAPTER 12

(House Bill No. 983—By Mr. Boiarsky and Mr. Vickers)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section two, article five, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section one of said article, relating to the continuation and management of Pinecrest sanitarium.

Be it enacted by the Legislature of West Virginia:

That section two, article five, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section one of said article be amended and reenacted to read as follows:

Article 5. Pinecrest Sanitarium.

Section

1. Continuation; management; superintendent.

Section 1. Continuation; Management; Superintendent.
 2 ent.—The tuberculosis sanitarium heretofore established
 3 at Beckley, for the care and treatment of persons afflicted
 4 with tuberculosis, shall be continued and shall be known
 5 as Pinecrest sanitarium, and shall be managed, directed
 6 and controlled as prescribed in article one, chapter
 7 twenty-five and in section eight, article one, chapter six-
 8 teen of the code. The chief executive officer of such
 9 sanitarium shall be the superintendent, who shall be a
 10 legally qualified physician of at least six years' exper-
 11 ience in the practice of his profession and who shall be
 12 a person of good executive ability.

CHAPTER 13

(House Bill No. 994—By Mr. Boiarsky and Mr. Vickers)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new article, designated article nine, relating to the establishment of Hopemont state hospital.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nine, to read as follows:

Article 9. Hopemont State Hospital.

Section

1. Legislative purpose.
2. Establishment; name and location; management; qualification and appointment of superintendent.
3. Transfer of tubercular patients to Pinecrest sanitarium.
4. Transfer of certain records, equipment and supplies to Pinecrest sanitarium.
5. Eligibility for admission of patients.

Section 1. Legislative Purpose.—The purpose of this article is to effectuate the consolidation of certain services and facilities for the purpose of providing the most efficient and economical care and treatment of tubercular patients by means of the orderly transfer of such patients from Hopemont sanitarium to Pinecrest sanitarium; to authorize the commissioner of public institutions to effect the orderly and most convenient transfer of such patients, together with such equipment, records and supplies, in such manner and at such time or times, as the commissioner of public institutions may direct; and to utilize the facility at Hopemont as an additional institution for the care and treatment of the increasing number of both chronically ill and aged and infirm citizens of this state.

Sec. 2. Establishment; Name and Location; Management; Qualification and Appointment of Superintendent.
—The state tuberculosis sanitarium heretofore known as Hopemont sanitarium, established at Hopemont, West Virginia, exclusively for persons afflicted with tuberculosis, shall be discontinued. There shall be established at the same location, under the name of Hopemont state hospital, a hospital for both chronically ill and aged and infirm, and subject to the provisions of this article, persons afflicted

10 with tuberculosis, which hospital shall be managed, di-
11 rected and controlled as prescribed in article one, chap-
12 ter twenty-five of this code. The chief executive officer
13 thereof shall be the superintendent, who shall be a reg-
14 ularly qualified physician, shall be a person of good
15 executive ability and shall be appointed by the governor
16 by and with the advice and consent of the senate.

Sec. 3. Transfer of Tubercular Patients to Pinecrest Sanitarium.—The commissioner of public institutions is
2 hereby directed to transfer all tubercular patients from
3 Hopemont state hospital, heretofore known as Hopemont
4 sanitarium, to Pinecrest sanitarium in as orderly and
5 convenient a manner as possible: *Provided*, That all such
6 patients shall be so transferred to Pinecrest sanitarium
7 prior to the first day of July, one thousand nine hundred
8 sixty-eight.
9

Sec. 4. Transfer of Certain Records, Equipment and Supplies to Pinecrest Sanitarium.—The commissioner of
2 public institutions is hereby authorized to direct the trans-
3 fer from Hopemont state hospital to Pinecrest sanitarium
4 of such records, equipment and supplies, as may be neces-
5 sary to effectuate the purposes of this article.
6

Sec. 5. Eligibility for Admission of Patients.—All per-
2 sons meeting requirements for admission to Denmar state
3 hospital pursuant to the provisions of section two, article
4 six of this chapter, or requirements for admission to An-
5 drew S. Rowan memorial home, pursuant to the provi-
6 sions of section two, article three of this chapter, shall
7 be eligible for admission to Hopemont state hospital pur-
8 suant to such rules and regulations regarding admissions
9 as may be promulgated by the commissioner of public
10 institutions: *Provided*, That on and after the effective
11 date of this article, no person who is more than sixteen
12 years of age on the effective date of this article, and who
13 is afflicted with tuberculosis, shall be admitted to Hope-
14 mont state hospital except those persons admitted pur-
15 suant to section sixteen, article one, chapter twenty-five
16 and section five, article five-a, chapter twenty-six of
17 this code.

CHAPTER 14

(Com. Sub. for House Bill No. 588—By Mr. Poindexter)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-a, relating to reporting certain physical abuse of children to the prosecuting attorney, the duties of the prosecuting attorney upon receiving such report, and the conferring of immunity upon physicians and surgeons and other professional personnel and institutions who report such physical abuse of children.

Be it enacted by the Legislature of West Virginia:

That chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six-a, to read as follows:

Article 6-a. Reports of Child Abuse by Physicians and Others.

Section

1. Declaration of policy.
2. Reports to prosecuting attorney; form and contents.
3. Investigation and action by prosecuting attorney.
4. Immunity of participants from liability.

Section 1. Declaration of Policy.—It is the policy of
2 this state to provide for the protection of children who
3 have had physical injury inflicted upon them and who,
4 in the absence of appropriate reports concerning their
5 conditions and circumstances, may be further threatened
6 by the conduct of those responsible for such injury.

**Sec. 2. Reports to Prosecuting Attorney; Form and Con-
2 tents.**—Any duly licensed physician or surgeon, resident
3 physician or surgeon, or intern, or doctor of the healing
4 arts, examining, attending or treating a child under the
5 age of eighteen years, or any registered nurse, any visiting
6 nurse, any school teacher or any social worker, acting in
7 his or her official capacity as such, having a reason to be-

8 lieve that a child under the age of eighteen years has had
9 serious injury or injuries inflicted upon him or her as a re-
10 sult of abuse or neglect, shall report the matter promptly
11 to the prosecuting attorney of the county in which the in-
12 jury or abuse occurred or if the county in which the in-
13 jury or abuse occurred be unknown, to the prosecuting
14 attorney of the county in which such injury or abuse be
15 discovered or reported: *Provided*, That when attendance
16 with respect to a child is pursuant to the performance of
17 services as a member of the staff of a hospital or similar
18 institution, such staff member shall immediately notify the
19 superintendent, manager, or other person in charge of the
20 institution, who shall immediately make the report to the
21 prosecuting attorney. If the report is not made in writing
22 in the first instance, it shall be reduced to writing by the
23 maker thereof as soon as may be practicable thereafter and
24 shall contain the names and addresses of the child and
25 his or her parent or parents, or other person or persons
26 responsible for his or her care, if known, the name of the
27 person or persons delivering or accompanying the child
28 for treatment, if known, the child's age, the nature and
29 extent of the child's injury or injuries, including any evi-
30 dence of previous injury or injuries, and any other infor-
31 mation that the maker of the report believes to be help-
32 ful in establishing the cause of the injury and the iden-
33 tity of the person or persons responsible therefor, and
34 such written report shall be immediately filed with the
35 prosecuting attorney.

**Sec. 3. Investigation and Action by Prosecuting At-
2 torney.**—The prosecuting attorney, to whom such report
3 has been made, shall forthwith investigate, or cause to be
4 investigated, such report in order to determine the cause of
5 such injury and determine the person or persons responsi-
6 ble, if any. If it is found that any person wilfully inflicted
7 such injury or abused such child, the prosecuting attorney
8 shall immediately take, or cause to be taken, such action as
9 may be necessary to prevent any further injury or abuse
10 to such child, and to punish the person or persons respon-
11 sible for such injury as provided by law.

Sec. 4. Immunity of Participants from Liability.—Any

2 person making a report pursuant to the provisions of this
3 article, or participating in a judicial proceeding resulting
4 therefrom, shall be presumed to be acting in good faith
5 and if acting in good faith, shall be immune from any lia-
6 bility, civil or criminal, that might otherwise be incurred
7 or imposed.

CHAPTER 15

(Com. Sub. for House Bill No. 765—By Mr. Ghiz)

(Passed March 13, 1965; in effect from passage. Approved by the Governor.)

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state, and directing the auditor to issue warrants for the payment thereof.

Be it enacted by the Legislature of West Virginia:

Section

1. Finding and declaring certain claims against the department of commerce; department of motor vehicles; state road commissioner; state board of education, division of vocational rehabilitation; the department of public institutions and the adjutant general, to be moral obligations of the state, and directing payment thereof.

Section 1. Finding and Declaring Certain Claims against the Department of Commerce; Department of Motor Vehicles; State Road Commissioner; State Board of Education, Division of Vocational Rehabilitation; the Department of Public Institutions, and the Adjutant General, to Be Moral Obligations of the State, and Directing Payment Thereof.—The Legislature has considered the findings of fact and recommendations reported to it by the attorney general concerning various claims against the state and agencies thereof, and in respect to each of the following claims the Legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below, and directs the auditor to

15 issue warrants for the payment thereof out of any fund
 16 appropriated and available for the purpose.

17 (a) Claims versus the Department of Commerce:

18	(1)	Westinghouse Electric Corporation	\$ 81.50
19	(2)	Ball Brothers Company	4,164.00
20	(3)	Cantor Brothers Glass Corporation	2,362.00
21	(4)	Gardner, Robinson, Stierheim &	
22		Weis, Incorporated	70,000.00
23	(5)	Bruhn Brothers, Incorporated	78.00
24	(6)	Brooks, Maizel & Company	7,544.50
25	(7)	Seaboard Pools, Incorporated	1,865.90
26	(8)	Dave Ellies, Industrial Design,	
27		Incorporated	4,670.00
28	(9)	Cecil C. Broom, dba, Greentree	
29		Garden Center of St. Albans, West	
30		Virginia	5,700.00
31	(10)	Arthur Venneri Company	92,500.00
32	(11)	James E. Tawney, dba, Custom	
33		Electronics	955.08
34	(12)	Walter & Walter Chocolate Company	6,000.00
35	(13)	Safford's Professional Photography	1,000.00
36	(14)	New York World's Fair Corporation	5,000.00
37	(15)	New York World's Fair Corporation	732.60
38	(16)	New York World's Fair Corporation	73.90
39	(17)	New York World's Fair Corporation	229.43
40	(18)	Campo & Roberts, Incorporated	5,009.24
41	(19)	Hazel B. Waggy	950.00
42	(20)	Palmer Rye, dba, P & R Partition	
43		Company, Incorporated	1,103.00
44	(21)	Decorta Brothers, Incorporated	143.98
45	(22)	Allied World's Fair Service	
46		Corporation	1,444.52
47	(23)	Anthony Bitel	40.00
48	(24)	Mouldagraph Corporation	193.80
49	(25)	Western Union Telegraph Company	11.08
50	(26)	Seneca Glass Company	385.73
51	(27)	Buckingham Livery, Incorporated	25.00
52	(28)	Smith's Transfer Corporation	83.98
53	(29)	Carey Transportation, Incorporated	25.00
54	(30)	L. Jones & Company, Incorporated	5,500.00
55	(31)	International Business Machines	
56		Corporation	40.00

57	(32)	J. I. Hass, Co., Inc.	1,214.93
58	(b)	Claims versus the Department of	
59		Motor Vehicles:	
60	(1)	Copco Papers, Incorporated	3,783.92
61	(c)	Claims versus the State Road Commission:	
62	(1)	Edna Underwood Sorden	500.00
63	(2)	George Pauley	100.00
64	(3)	Vernon Meadows	195.48
65	(4)	Gilbert J. and Mary Louise Keith ...	1,028.00
66	(5)	Henry and Lucille Horton	244.55
67	(6)	Adolphus Wallace	28.33
68	(7)	David Hostutler	158.77
69	(8)	Floyd Plum and Gordon Weaver	1,200.00
70	(9)	John A. Davis	2,000.00
71	(10)	Robert E. Keeney	345.56
72	(11)	Luther and Alma Bailey	300.00
73	(12)	Willie and Marie Gibbs	3,000.00
74	(13)	Gary Allen Huff, an infant, by his	
75		father, Joseph S. Huff, and next friend	3,047.00
76	(14)	Frank Palmer	178.05
77	(15)	George H. Matheny	285.00
78	(16)	Louis B. Wiseman	20.00
79	(17)	Allen B. Young	120.00
80	(18)	Cecil E. Parsons	400.00
81	(19)	Carl Shuck	1,722.03
82	(20)	Grand Lodge of West Virginia, In-	
83		dependent Order of Odd Fellows	205.00
84	(21)	Arthur Queen	908.50
85	(22)	Ernest W. Moye, Administrator of the	
86		Estate of Ricky E. Moye	7,500.00
87	(23)	Chesapeake & Ohio Railway Company	484.53
88	(24)	Mike Vallo, dba Hill Side Inn.....	15.44
89	(25)	Thomas M. Scarff	400.00
90	(26)	V. P. Stickley	1,515.68
91	(27)	New York Central Railroad Company	794.27
92	(28)	Oakvale Stone Company	5,000.00
93	(29)	George A. Queen	1,000.00
94	(30)	C. B. Early & Company	846.39
95	(31)	A. & P. Mining Company	568.26
96	(32)	Madelyn M. Ayres	75.00
97	(33)	V. P. Stickley and J. M. Francesca	7,500.00

98	(d) Claims versus State Board of Education,	
99	Division of Vocational Rehabilitation:	
100	(1) Bradshaw-Diehl Company	146.62
101	(2) C. & O. Railway Company	11.50
102	(f) Claims versus the Department of Public	
103	Institutions:	
104	(1) Gordon Auto Parts	1,247.06
105	(2) Howard D. Stern	7,600.00
106	(3) Wilma Jean Johnson	4,500.00
107	(4) Edward B. Carroll	5,500.00
108	(g) Claims versus the Adjutant General's	
109	Office:	
110	(1) City of Oak Hill, West Virginia	2,911.65

111 The Legislature finds that the above moral obligations
 112 and the appropriations made in satisfaction thereof shall
 113 be the full compensation for all claimants, and that prior
 114 to the payment to any claimant provided for in this act,
 115 the attorney general shall receive a release from said
 116 claimant releasing any and all claims for moral obliga-
 117 tions arising from the matters considered by the Legis-
 118 lature in the finding of the moral obligations and the
 119 making of the appropriations for said claimant. The at-
 120 torney general shall deliver all releases obtained from
 121 claimants to the department which the claim was allowed
 122 against.

 3

CHAPTER 16

(House Bill No. 941—By Mr. Boiarsky and Mr. Cann)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state office building commission, the members, chairman and secretary thereof.

Be it enacted by the Legislature of West Virginia:

That section one, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 6. State Office Building Commission.

Section

1. State office building commission created; members; chairman and secretary; members to be paid expenses.

Section 1. State Office Building Commission Created;

2 Members; Chairman and Secretary; Members to Be Paid
3 Expenses.—There shall be and there hereby is created a
 4 commission to be known as “The State Office Building
 5 Commission of West Virginia,” and the same is hereby
 6 made a body corporate, but is declared to be an agency
 7 of the state of West Virginia. It shall consist of the gover-
 8 nor, the attorney general, the president of the state senate,
 9 the speaker of the house of delegates, and the director
 10 of the budget of the state of West Virginia. The governor
 11 shall be chairman and the director of the budget shall be
 12 secretary of the commission. The members of the com-
 13 mission shall be paid or reimbursed for their necessary
 14 expenses incurred under this article, but shall receive no
 15 compensation for their services as members or officers of
 16 the commission. Such expenses shall be paid solely from
 17 funds provided under the authority of this article, and
 18 the commission shall not proceed to exercise or carry out
 19 any authority or power herein given it to bind said com-
 20 mission beyond the extent to which money has been
 21 provided under the authority of this article.

CHAPTER 17

(Senate Bill No. 245—By Mr. Carson, Mr. President, and Mr. Porter)

[Passed March 6, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve,

relating to the establishment, powers and duties of the state antiquities commission and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve, to read as follows:

Article 12. West Virginia Antiquities Commission.

Section

1. Legislative determination and declaration of policy.
2. Creation; composition; appointment and terms of members appointed by governor; reimbursement of expenses; officers; meetings; reports.
3. Powers and duties of the commission.
4. Protection of archaeological sites; penalties.
5. Special fund created.

Section 1. Legislative Determination and Declaration

2 **of Policy.**—It is hereby declared as a matter of legislative
3 determination:

4 (a) That the state of West Virginia, being richly en-
5 dowed with archaeological treasures and other sites of
6 antiquities, should explore by excavation and preserve
7 these prehistoric treasures and sites;

8 (b) That in the past, there has been no systematic and
9 planned development and preservation of antiquities of
10 historical and archaeological importance in the state of
11 West Virginia; and

12 (c) That this article contemplates the establishment
13 of a commission which shall be authorized and empowered
14 to recommend the acquisition, development and preserva-
15 tion of our state's sites of antiquities.

Sec. 2. Creation; Composition; Appointment and Terms
2 **of Members Appointed by the Governor; Reimbursement**
3 **of Expenses; Officers; Meetings; Reports.**—There is hereby
4 created the West Virginia antiquities commission, herein-
5 after referred to as the commission, to consist of six mem-
6 bers, one of whom shall be the chief of the division of
7 parks and recreation of the department of natural re-
8 sources, one of whom shall be the state historian and
9 archivist, one of whom shall be the director of the state
10 geological and economic survey, one of whom shall be the

11 state archaeologist, one of whom shall be the president
12 of the West Virginia archaeological society, and one of
13 whom shall be a professional historian who is a member
14 of the West Virginia historical association of college and
15 university teachers who shall be appointed by the gov-
16 ernor, by and with the advice and consent of the senate.
17 The term of office for the member appointed by the gov-
18 ernor shall be four years. All the members of the com-
19 mission shall serve without pay, but shall be reimbursed
20 for any and all reasonable and necessary expenses in-
21 curred in the performance of their duties hereunder. The
22 members of the commission shall elect from their own
23 membership the officers of the commission.

24 The commission will meet at least twice during the
25 year, in May and in November, at a time and place to
26 be determined by the chairman.

27 The commission shall transmit an annual report of its
28 activities to the governor, the president of the senate,
29 and the speaker of the house of delegates on or before
30 the opening day of each regular session of the Legislature.

Sec. 3. Powers and Duties of the Commission.—The
2 commission shall be authorized and empowered to locate,
3 identify, and recommend for acquisition historic sites
4 worthy of preservation; to direct and supervise the exca-
5 vation, study, restoration and development of such sites;
6 and to conduct a survey and study throughout the state
7 to determine needs and priorities for the preservation,
8 restoration, and development of sites, buildings, and other
9 objects of archaeological or historic interest.

Sec. 4. Protection of Archaeological Sites; Penalties.—
2 Archaeological sites, identified as such by the commission,
3 on lands owned or leased by the state, or on private lands
4 where investigation and development rights have been
5 acquired by the state by lease or contract, shall not be
6 disturbed, developed, or destroyed except with permis-
7 sion of the commission.

8 Any person violating the provisions of this section will
9 be guilty of a misdemeanor and be punished by a fine not
10 exceeding five hundred dollars or imprisonment for a

11 term of six months, or by both such fine and imprison-
12 ment in the discretion of the court.

Sec. 5. Special Fund Created.—For the purpose of car-
2 rying out the provisions of this article, there is hereby
3 created a special fund entitled “the West Virginia an-
4 tiquities fund.” All moneys appropriated by the Legisla-
5 ture for the purposes set out herein shall be deposited in
6 such fund and shall be expended from such fund only
7 for the purposes for which the same is authorized.

CHAPTER 18

(House Bill No. 861—By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT calling a convention having the authority to alter the
constitution of the state to convene on the twentieth day
of July, one thousand nine hundred sixty-six, in the House
of Delegates' chamber in the state capitol, Charleston, West
Virginia, but providing that such convention shall not be
held unless a majority of the votes cast at the special elec-
tion therein provided for are in favor of calling the same;
providing that polls shall be opened throughout the state
on the ninth day of November, one thousand nine hundred
sixty-five, for the purpose of taking the sense of the voters
on the question of calling a convention having the author-
ity to alter the constitution of the state; providing for pub-
lication of notice of said election and prescribing the form
of such notice; providing for the conduct of such special
election; prescribing the form of the ballot and the duties
of public officers with respect to the official ballot; pre-
scribing the duties of election commissioners and poll
clerks with respect to the ascertainment of the results and
with respect to certificates of results of the said special
election; providing for recounts; providing for the ascer-
tainment of the results of said election by the boards of
canvassers and for the form and disposition of certificates
of boards of canvassers with respect to the results of said

election; providing for the ascertainment of the results of said election by the governor and for a proclamation of the results of said election by the governor; providing for publication of such proclamation; providing for a special nonpartisan election to be held on the twenty-ninth day of March, one thousand nine hundred sixty-six, to elect the members of the convention; providing for the publication of a notice of the special nonpartisan election to elect members of constitutional convention and prescribing the form of the notice; specifying the number of members of the convention to be elected and providing for the conduct of the special nonpartisan election for election of the members of the constitutional convention; specifying those persons entitled to membership in the convention; providing for certificates of announcement of candidacy for membership in the convention and for their disposition; providing for filing fees and their disposition; providing for the certification and posting of candidates; providing for the publication and printing of sample ballots; providing for the printing of official ballots; making provision for candidates not certified; specifying the form and contents of the ballot for the election of members of the convention; providing for the arrangement of the candidates' names on the ballots and ballot labels; providing for certificates of results by election commissioners and poll clerks and their disposition; providing for certificates of results by boards of canvassers and their disposition; providing for ascertainment of results of the special nonpartisan election by the governor and for a proclamation of such results by the governor and the publication thereof; providing tie vote procedures; providing for publication of the names of the members of the convention; providing procedures for contests of the special nonpartisan election; making provision for the convening of the constitutional convention and its meeting place; providing for the term and oath of office of members of the convention; providing for expenses and mileage of the members of the convention; providing for the filling of vacancies among the membership of the convention; providing for the organization and expenses of the convention; providing for the framing of proposals of the convention; providing for

the filing of such proposals; providing for the submission of the proposals to the people; and providing for a special election for the ratification or rejection of the proposals of the convention.

Be it enacted by the Legislature of West Virginia:

Article

1. Calling a Constitutional Convention.
2. Election on Question of Calling a Constitutional Convention.
3. Election of the Members of the Constitutional Convention.
4. The Constitutional Convention.
5. Proposals of the Convention.

Article 1. Calling a Constitutional Convention.

Section

1. Calling a constitutional convention; convention not to be held unless majority of votes cast at state-wide polls are in favor.

Section 1. Calling a Constitutional Convention; Convention Not to Be Held unless Majority of Votes Cast at State-wide Polls Are in Favor.—A convention having the authority to alter the constitution of the state is hereby called to convene in the House of Delegates' chamber in the state capitol, Charleston, West Virginia, at one o'clock p.m., eastern standard time, on the twentieth day of July, one thousand nine hundred sixty-six: *Provided*, That such convention shall not be held unless a majority of the votes cast at the polls provided for in article two of this act are in favor of calling the same.

Article 2. Election on Question of Calling a Constitutional Convention.

Section

1. Requiring polls to be open.
2. Publication of notice of election.
3. Conduct of election.
4. Form of ballot.
5. Certificates of election commissioners and poll clerks; procedures.
6. Recounts.
7. Certificates of boards of canvassers; procedures.
8. Proclamation of result of special election by governor; publication of proclamation in the event majority of votes cast oppose convention; nullification of succeeding articles of act in such event.

Section 1. Requiring Polls to Be Open.—The polls shall be opened throughout the state on the ninth day of November, one thousand nine hundred sixty-five, for the purpose of taking the sense of the voters on the question of calling a convention having the authority to alter the constitution of the state, such convention being some-

7 times hereinafter referred to as the constitutional con-
8 vention or the convention.

Sec. 2. Publication of Notice of Election.—The gover-
2 nor shall cause a notice of said election to be published
3 one time at least three months before such election in
4 some newspaper of general circulation published in each
5 county of the state, but if no such newspaper is published
6 in the county such notice shall be published in some news-
7 paper of general circulation in the county. The price for
8 publishing such notice shall be agreed upon in advance,
9 in writing, and shall be paid out of the governor's con-
10 tingent fund.

11 The said notice shall be in the following form, or to the
12 following effect:

13 "NOTICE OF SPECIAL ELECTION ON QUESTION
14 OF CALLING A CONSTITUTIONAL CONVENTION

15 The polls shall be opened throughout the state on
16 the ninth day of November, one thousand nine hun-
17 dred sixty-five, for the purpose of taking the sense of
18 the voters on the question of calling a convention
19 having the authority to alter the constitution of the
20 state.

21 The acts and ordinances of any such convention
22 shall have no validity until they are ratified by the
23 voters of the state.

24 'Given under my hand this day of
25, one thousand nine hundred sixty.....

26 _____
27 Governor of the State of
28 West Virginia."

Sec. 3. Conduct of Election.—Except to the extent
2 otherwise provided by this article, the special election on
3 the question of calling a constitutional convention shall
4 be controlled and governed in all respects by the provi-
5 sions of chapter three of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended, applicable
7 to a special election in which voters pass upon a public
8 question submitted to them. (Said code, as amended,
9 will be hereinafter referred to as the code.)

10 In all other particulars, when no specific provision is
11 made in this article for the control, conduct and govern-
12 ment of any phase of said special election, resort shall be
13 had to other provisions of chapter three of the code not
14 specifically applicable to special elections on public ques-
15 tions but which may furnish guidance and be made con-
16 trolling thereof.

Sec. 4. Form of Ballot.—For the purpose of enabling
2 the voters of the state to vote on the question of calling
3 a constitutional convention, at the special election to be
4 held on the date specified in preceding section one of this
5 article, the board of ballot commissioners of each county
6 shall provide printed ballots, and cause to be printed
7 thereon, the following:

8 “Ballot on Calling a Constitutional Convention.

- 9 For Constitutional Convention
10 Against Constitutional Convention.”

11 At least thirty days before the date of such special elec-
12 tion, the board of ballot commissioners, in those counties
13 not using voting machines, shall cause to be printed offi-
14 cial ballots in a quantity of not more than one and one-
15 fifth times the number of registered voters in the county.
16 The printing of the ballots shall be contracted for with
17 the lowest responsible bidder. Ballots other than those
18 caused to be printed by the respective boards of ballot
19 commissioners shall not be cast, received, or counted in
20 said special election.

21 The ballots so printed shall be wrapped and tied in
22 packages, one for each precinct in the county, containing
23 ballots in a quantity of one and one-twentieth times the
24 number of registered voters in such precinct. Each pack-
25 age of ballots shall be sealed with wax, and plainly
26 marked with the number of ballots therein, the name of
27 the magisterial district, and the number of the voting
28 precinct therein, to which the package is to be sent. The
29 names of the ballot commissioners shall also be endorsed
30 thereon.

31 The preparation, printing and use of ballot labels for
32 voting machines shall be governed by the provisions of
33 article four, chapter three of the code.

Sec. 5. Certificates of Election Commissioners and

2 **Poll Clerks; Procedures.**—As soon as the results of such
3 special election are ascertained, the commissioners of elec-
4 tion and poll clerks at each place of voting shall make out
5 and sign four certificates thereof, in the following form,
6 or to the following effect:

7 “We, the undersigned, who acted as commission-
8 ers and poll clerks of the special election held at pre-
9 cinct No. _____ in the district of _____,
10 and county of _____, on the _____ day
11 of _____, one thousand nine hundred sixty-
12 _____, upon the question of calling a constitutional
13 convention, do certify that, having been first duly
14 sworn, we have fairly and impartially held the said
15 election according to law, and the result thereof is as
16 follows:

17 For Constitutional Convention _____ votes.
18 Against Constitutional Convention _____ votes.
19 Given under our hands this _____ day of _____
20 _____, one thousand nine hundred sixty-_____.

21 _____
22 _____
23 (Signature lines)”

24 The said four certificates shall correspond with each
25 other in all respects, shall contain complete returns of the
26 polls taken at such place of voting, and shall be disposed
27 of by the precinct commissioners as follows: One certi-
28 ficate shall be returned, under seal, to the clerk of the
29 county court; one shall be delivered, under seal, to the
30 clerk of the circuit court of the county; one shall be sent,
31 under seal, by registered mail to the secretary of state;
32 and one shall be posted on the outside of the front door
33 of the polling place in each precinct.

34 When the certificates are signed, the ballots shall be
35 enclosed by the commissioners in an envelope which they
36 shall seal up, and write their names in ink across the place
37 or places where the envelope is sealed, and endorse in ink
38 on the outside of the envelope as follows: “Ballots of the
39 special election held at Precinct No. _____, in the district
40 of _____, and county of _____,

41 the day of, one thousand nine
42 hundred sixty-.....”

43 One of the commissioners of the election shall, within
44 twelve hours after the completion of the count, tabulation
45 and declaration of the result, deliver the ballots so sealed
46 up, one set of the poll books and tally sheets, one of such
47 certificates, under seal, the registration book and the bal-
48 lot box or boxes, to the clerk of the county court, and one
49 certificate, under seal, and set of poll books and tally
50 sheets, to the clerk of the circuit court, all of which shall
51 be preserved in the respective offices of said clerks as pro-
52 vided for in chapter three of the code.

53 In counties using voting machines, the form of the re-
54 turn sheets, and the duties of the election officials with
55 respect to the closing of the polls, the counting and re-
56 porting of the returns, and the duties of and the proce-
57 dures to be followed by the election officials shall be gov-
58 erned by the provisions of article four, chapter three of
59 the code, as augmented by other provisions of chapter
60 three of the code applying to general, primary, and spe-
61 cial elections.

Sec. 6. Recounts.—After canvassing the returns of the
2 special election, the board of ballot commissioners shall,
3 upon the demand of any person who voted in such elec-
4 tion in the county, open and examine any one or more of
5 the sealed packages of ballots, and recount the same. Ev-
6 ery such person who demands such recount shall be re-
7 quired to furnish bond in a reasonable amount with good
8 sufficient surety to guarantee payment of the costs and ex-
9 penses of such recount in the event the result of the spe-
10 cial election be not changed by such recount; but the
11 amount of such bond shall in no case exceed three hun-
12 dred dollars. If the result of the special election in such
13 county be not changed by such recount, the costs and ex-
14 penses of such recount shall be paid by the person or per-
15 sons at whose instance the same was made.

**Sec. 7. Certificates of Boards of Canvassers; Pro-
2 cedures.**—The board of canvassers of each county, or a
3 majority of them, under the regulations prescribed by
4 section nine, article six, chapter three of the code, shall

5 carefully and impartially ascertain the result of the spe-
 6 cial election in their county and in each district thereof,
 7 and shall record the same, in duplicate, in the following
 8 form, or to the following effect:

9 “The board of canvassers of the county of.....
 10 _____, having carefully and impartially ex-
 11 amined the returns of the special election held in
 12 said county, in each district thereof, on the.....
 13 day of _____, one thousand nine hundred
 14 sixty-_____, do hereby certify that the result of the
 15 special election in said county, on the question of call-
 16 ing a constitutional convention, is as follows:
 17 For Constitutional Convention votes.
 18 Against Constitutional Convention votes.
 19 Given under our hands this day of.....
 20 _____, one thousand nine hundred sixty-.....
 21 _____
 22 _____
 23 _____

(Signature lines)”

24 One of said certificates shall be filed in the office of the
 25 clerk of the county court, and the other shall be trans-
 26 mitted, not later than twenty-five days following the spe-
 27 cial election, to the secretary of state, who shall file and
 28 preserve the same until the day on which the result of
 29 said election in the state is to be ascertained, as herein-
 30 after stated.

31 In counties using voting machines, the canvass of the
 32 returns by the board of canvassers and recounts shall
 33 be governed by the provisions of article four, chapter
 34 three of the code, as augmented by the provisions of chap-
 35 ter three of the code applying to general, primary, and
 36 special elections: *Provided*, That (1) a recount may be
 37 demanded by any person who voted in such special elec-
 38 tion in the county under the relevant conditions set forth
 39 in section six of this article, in section twenty-six, article
 40 four, chapter three of the code, and in section nine, article
 41 six, chapter three of the code; and (2) the board of can-
 42 vassers shall prepare and transmit to the clerk of the
 43 county court and to the secretary of state the certificate
 44 of election results provided for in this section and within
 45 the time limits herein set forth.

Sec. 8. Proclamation of Result of Special Election by Governor; Publication of Proclamation in the Event Majority of Votes Cast Oppose Convention; Nullification of Succeeding Articles of Act in Such Event.—On the thirtieth day after the special election of the ninth day of November, one thousand nine hundred sixty-five, is held, or as soon thereafter as practicable, but in no event later than forty days after said election, the certificates of the board of canvassers of each county transmitted to the secretary of state shall be laid before the governor, whose duty it shall be to immediately ascertain therefrom the result of said election in the state, and to immediately declare the same by proclamation. In no event shall the governor's proclamation of the result of said election be issued later than the thirty-first day of December, one thousand nine hundred sixty-five.

If a majority of the votes cast at said special election are opposed to the calling of a constitutional convention, the governor shall cause the proclamation declaring the result of such election to be published one time in one or more newspapers printed in the seat of government. The price for publishing such notice shall be agreed upon in advance, in writing, and shall be paid out of the governor's contingent fund.

If a majority of the votes cast at said special election are opposed to the calling of a constitutional convention, a constitutional convention shall not be held and the succeeding articles and sections of this act shall thereupon be null and void.

Article 3. Election of the Members of the Constitutional Convention.

Section

1. Publication of proclamation of result of special election in event majority of votes cast favor convention; publication of notice of election to elect members.
2. Time and places of holding special election for election of members of constitutional convention.
3. Number of members to be elected; apportionment.
4. Notice of special nonpartisan election to elect members of constitutional convention.
5. Conduct of special election for election of members of the constitutional convention.
6. Persons entitled to membership in convention.

7. Candidates for membership from a county in the constitutional convention.
8. Filing fees and their disposition.
9. Publication and printing of sample official ballots.
10. Printing of official ballots; number.
11. Candidates not certified.
12. Form and contents of ballot.
13. Certificates of election commissioners and poll clerks; procedures.
14. Certificates of boards of canvassers; procedures.
15. Proclamation of result of special nonpartisan election by governor.
16. Tie vote procedures.
17. Publication of proclamation of results of special nonpartisan election.
18. Publication of results of special nonpartisan election.
19. Contest of elections; notices and procedures.
20. Depositions; subpoenas; time; tie vote decision.
21. Correction of returns; extent.
22. Costs in election contests.

Section 1. Publication of Proclamation of Results of Special Election in Event Majority of Votes Cast Favor Convention; Publication of Notice of Election to Elect Members.—If a majority of the votes cast at the special election provided for in the immediately preceding article of this act are in favor of the calling of a constitutional convention, the governor shall cause his proclamation declaring the result of such election, together with the notice outlined in section four of this article, to be published one time, within thirty days of the issuance of such proclamation, in some newspaper published and of general circulation in each county of the state, but if no such newspaper is published in the county, such proclamation and notice shall be published in some newspaper of general circulation in the county. The price of such publication shall be agreed upon in advance, in writing, and shall be paid out of the governor's contingent fund.

Sec. 2. Time and Places of Holding Special Election for Election of Members of Constitutional Convention.—If a majority of the votes cast at the special election provided for in the immediately preceding article of this act are in favor of the calling of a constitutional convention, a special nonpartisan election shall be held at the voting place in each of the voting precincts in the state on the twenty-ninth day of March, one thousand nine hundred sixty-six, for the purpose of electing members of the constitutional convention to be convened in the House of Delegates' chamber in the state capitol, Charleston, West Virginia, at one o'clock, p.m., eastern standard time, on

13 the twentieth day of July, one thousand nine hundred
14 sixty-six.

Sec. 3. Number of Members to Be Elected; Apportion-
2 **ment.**—The constitutional convention shall consist of one
3 hundred and six members, who shall be apportioned
4 among the several counties as follows:

5 The counties of Barbour, Berkeley, Braxton, Calhoun,
6 Clay, Doddridge, Gilmer, Grant, Greenbrier, Hampshire,
7 Hardy, Jackson, Jefferson, Lewis, Lincoln, Mason, Min-
8 eral, Monroe, Morgan, Nicholas, Pendleton, Pleasants,
9 Pocahontas, Preston, Putnam, Randolph, Ritchie, Roane,
10 Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wet-
11 zel and Wirt shall elect one member each.

12 The counties of Boone, Brooke, Hancock, Marshall,
13 Mingo, Wayne and Wyoming shall elect two members
14 each;

15 The counties of Fayette, Logan, Marion and Monn-
16 galia shall elect three members each;

17 The counties of Harrison, McDowell, Mercer, Ohio, Ra-
18 leigh and Wood shall elect four members each;

19 The county of Cabell shall elect six members; and
20 The county of Kanawha shall elect fourteen members.

Sec. 4. Notice of Special Nonpartisan Election to Elect
2 **Members of Constitutional Convention.**—The governor
3 shall cause a notice of the special nonpartisan election to
4 be held on the date specified in preceding section two of
5 this article to be published in accordance with the pro-
6 visions of preceding section one of this article.

7 The said notice shall be in the following form, or to
8 the following effect:

9 “NOTICE OF SPECIAL NONPARTISAN ELECTION
10 TO ELECT MEMBERS OF THE CONSTITUTIONAL
11 CONVENTION

12 A special nonpartisan election shall be held at the
13 voting place in each of the voting precincts in the
14 state on the twenty-ninth day of March, one thou-
15 sand nine hundred sixty-six, for the purpose of
16 electing members of the constitutional convention
17 to be convened in the House of Delegates' chamber in

18 the state capitol, Charleston, West Virginia, at one
 19 o'clock, p.m., eastern standard time, on the twentieth
 20 day of July, one thousand nine hundred sixty-six.

21 The constitutional convention shall consist of one
 22 hundred and six members, who are to be apportioned
 23 among the several counties.

24 (Here state the county in which the notice is to
 25 be published and the number of members in the con-
 26 stitutional convention to which the county is entitled.)

27 Given under my hand this day of,
 28 one thousand nine hundred sixty-.....

29

30 Governor of the State of West Virginia"

31 A copy of the above notice shall be mailed by the
 32 governor, within thirty days after he has issued his
 33 proclamation declaring the results of the special elec-
 34 tion on the question of whether there will be a con-
 35 stitutional convention, to the clerk of the circuit court
 36 of each county.

Sec. 5. Conduct of Special Election for Election of
 2 **Members of the Constitutional Convention.**—Except to
 3 the extent otherwise provided by this article, the special
 4 election to elect the members of the constitutional con-
 5 vention shall be governed and controlled in all respects
 6 by the provisions of chapter three of the code applicable
 7 to a special election.

8 In all other particulars, when no specific provision is
 9 made in this article for the control, conduct and govern-
 10 ment of any phase of said special election, resort shall be
 11 had to other provisions of chapter three of the code not
 12 specifically applicable to such special election but which
 13 may furnish guidance and be made controlling thereof.

Sec. 6. Persons Entitled to Membership in Convention.
 2 —Only persons who are entitled to vote in the special
 3 election of the twenty-ninth day of March, one thousand
 4 nine hundred sixty-six, in the county from which elected
 5 shall be eligible for membership in the constitutional con-
 6 vention.

Sec. 7. Candidates for Membership from a County in

2 **the Constitutional Convention.**—Any person who is eli-
 3 gible to hold membership in the constitutional convention
 4 as a representative of a county may file with the clerk of
 5 the circuit court of the county a certificate declaring him-
 6 self a candidate for election as a member of the consti-
 7 tutional convention; which certificate shall be in form or
 8 effect as follows:

9 “I, hereby certify that I am
 10 a candidate for nonpartisan election to membership
 11 in the constitutional convention to be convened on
 12 July 20, 1966, from county,
 13 and desire my name printed on the official ballot to
 14 be voted in said county at the special nonpartisan
 15 election to be held on the 29th day of March, 1966;
 16 that I am a legally qualified voter of the county of
 17, State of West Virginia;
 18 that the address of my residence in
 19 county is;
 20 that I am eligible for such membership; and that I am
 21 a candidate therefor in good faith.

22
 23 Candidate

24 Signed and acknowledged before me this
 25 day of, 19.....

26
 27 Signature and official title
 28 of certifying officer”

29 Such announcement shall be signed and acknowledged
 30 by the candidate before some officer qualified to ad-
 31 minister oaths, who shall certify the same.

32 Such certificate shall be filed with the clerk of the cir-
 33 cuit court not earlier than the third day of January, one
 34 thousand nine hundred sixty-six, and not later than the
 35 seventeenth day of January, one thousand nine hundred
 36 sixty-six, and must be received by the clerk before mid-
 37 night, eastern standard time, of the latter date, or, if
 38 mailed, shall be postmarked before that hour.

Sec. 8. Filing Fees and Their Disposition.—Every
 2 person who becomes a candidate for membership in the
 3 constitutional convention shall, at the time of filing the

4 certificate of announcement, as required in the preceding
5 section of this article, pay a filing fee of twenty-five
6 dollars to the clerk of the circuit court. No certificate of
7 announcement shall be received until the filing fee is paid.

8 All filing fees received by such clerk from candidates
9 for membership in the constitutional convention shall be
10 credited to the general county fund.

Sec. 9. Publication and Printing of Sample Official
2 **Ballots.**—Between the eighteenth day of January, one
3 thousand nine hundred sixty-six, and the fifth day of
4 February, one thousand nine hundred sixty-six, the
5 ballot commissioners of each county shall prepare from
6 the certificates of announcements, as provided in this
7 article, a sample official ballot for the special election to
8 be held on the twenty-ninth day of March, one thousand
9 nine hundred sixty-six, placing thereon the names of all
10 the candidates for membership in the constitutional con-
11 vention as a representative of such county to be voted
12 for at such special election.

13 Between the seventh day of February, one thousand
14 nine hundred sixty-six, and the twenty-sixth day of
15 February, one thousand nine hundred sixty-six, the bal-
16 lot commissioners of each county shall publish such sam-
17 ple official election ballot in two successive issues of two
18 newspapers of opposite politics published and of general
19 circulation in such county if there be two such news-
20 papers, and if there be only one such newspaper so pub-
21 lished and circulated, then they shall publish such ballot
22 in two successive issues of such newspaper published and
23 of general circulation in such county. If there be no
24 newspaper published and of general circulation in such
25 county, the ballot commissioners shall publish such sam-
26 ple official special election ballot in two issues of a news-
27 paper of general circulation in such county.

28 The sample official ballots shall be printed on colored
29 paper and there shall be printed across the face of such
30 sample ballot the words "sample ballot," and no sample
31 ballot shall be voted or counted in the special election.

Sec. 10. Printing of Official Ballots; Number.—At least
2 thirty days before the date of such special election, the

3 board of ballot commissioners, in those counties not using
4 voting machines, shall cause to be printed official ballots
5 in a quantity of not more than one and one-fifth times the
6 number of registered voters in the county. The printing
7 of the ballots shall be contracted for with the lowest re-
8 sponsible bidder. Ballots other than those caused to be
9 printed by the respective boards of ballot commissioners
10 shall not be cast, received, or counted in said special elec-
11 tion.

12 The ballots so printed shall be wrapped and tied in
13 packages, one for each precinct in the county, containing
14 ballots in a quantity of one and one-twentieth times the
15 number of registered voters in such precinct. Each pack-
16 age of ballots shall be sealed with wax, and plainly
17 marked with the number of ballots therein, the name of
18 the magisterial district, and the number of the voting pre-
19 cinct therein, to which the package is to be sent. The
20 names of the ballot commissioners shall also be endorsed
21 thereon.

22 The preparation, printing and use of ballot labels for
23 voting machines shall be governed by the provisions of
24 article four, chapter three of the code.

Sec. 11. Candidates Not Certified.—If, by satisfactory
2 evidence, it shall appear to the ballot commissioners of
3 any county that announcements have been made in con-
4 formity with the provisions of this article and no certifi-
5 cate thereof has been received by them, they shall include
6 such persons among the names of candidates to be printed
7 upon the ballots, as in this article provided.

Sec. 12. Form and Contents of Ballot.—All ballots for
2 the special nonpartisan election to be held on the twenty-
3 ninth day of March, one thousand nine hundred sixty-six,
4 shall be printed in black ink on number two white
5 book paper sufficiently thick so that the printing cannot
6 be distinguished from the back, and shall contain the
7 names of every candidate for membership in the consti-
8 tutional convention whose name has been certified and
9 filed according to law, and no others.

10 The ballots, except the heading, which shall be in dis-
11 play type, shall be printed in eight-point type; the resi-

12 dence of the candidate in lower case letters; and the
 13 name of the candidate shall be printed in capital letters.
 14 The name and the residence of the candidate may be
 15 printed in the same line. The name of each candidate
 16 shall be printed in a space defined by ruled lines, and with
 17 a black square on its left enclosed by heavy dark lines.

18 The arrangement of the front of the ballot shall con-
 19 form as nearly as practicable to the plan here given:

20 Nonpartisan Ballot for Election of
 21 Members of the Constitutional Convention
 22 to be Convened on the 20th day of July, 1966.
 23 For Member(s) of the Constitutional
 24 Convention from County
 25 (Vote for)

Name	Name	Name
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

26 On the back of the ballot shall be printed or stamped
 27 in black ink the words "Official Ballot for use in the spe-
 28 cial nonpartisan election to be held on the day of
 29, 19.....," and underneath shall be two blank
 30 lines followed by the words "Poll Clerks."

31 The clerk of the circuit court shall arrange the names
 32 of the candidates to be printed on the ballot in alpha-
 33 betical order, according to the surname.

34 In printing each set of ballots, the positions of the names
 35 of the candidates shall be changed as many times as there
 36 are candidates. As nearly as possible, an equal number
 37 of ballots shall be printed after each change. In making
 38 the change of position, the printer shall take the line of
 39 type containing the first name and place it at the bottom
 40 of the list of names and move up the column so that the

41 name that before was second shall be first after the
42 change. After the ballots are printed, they shall be kept
43 in separate piles, one pile for each change in position,
44 and shall then be gathered by taking one from each pile.
45 Sample ballots shall be in the same form as the official
46 ballot, but the order of the names thereon need not be
47 alternated.

48 The ballot shall be so printed so as to give each voter
49 a clear opportunity to designate by crossmark, in a blank,
50 enclosed space on the left, and before the name of each
51 candidate, his choice of particular candidates.

52 In those counties using voting machines, the clerk of
53 the county court shall place the ballot labels which have
54 been printed and delivered to him in the ballot frames of
55 the voting machines in such manner as will most nearly
56 conform to the arrangement prescribed for paper ballots.

57 In those counties using voting machines, the clerk of
58 the circuit court shall appoint a time, not later than the
59 first day of February, one thousand nine hundred sixty-
60 six, at which time all candidates for membership in the
61 constitutional convention are to appear in his office for
62 the purpose of drawing by lot to determine where their
63 names will appear on the voting machine. The clerk shall
64 give due notice of such time to each such candidate by
65 registered or certified mail, return receipt requested. At
66 the time appointed, all such candidates shall assemble
67 in the office of such clerk and such candidates shall then
68 proceed to draw by lot to determine where their names
69 shall appear on the voting machines. The number so
70 drawn by each such candidate shall determine where his
71 or her name shall appear on the voting machines. In the
72 event any candidate or candidates fail to appear at the time
73 appointed, the clerk shall draw for such absent candidate
74 or candidates in the presence of those candidates assem-
75 bled, if any, and the number so drawn by the clerk shall
76 determine where the name of any absent candidate or
77 candidates shall appear on the voting machines.

**Sec. 13. Certificates of Election Commissioners and Poll
2 Clerks; Procedures.**—As soon as the results of such non-
3 partisan special election are ascertained, the commission-
4 ers of election and poll clerks at each place of voting shall

5 make out and sign four certificates thereof, in the follow-
6 ing form, or to the following effect:

7 "We, the undersigned who acted as commissioners
8 and poll clerks of the special nonpartisan election
9 held at precinct No. _____ in the district of
10 _____, and county of _____, on the
11 _____ day of _____, one
12 thousand nine hundred sixty-_____, do certify that,
13 having been first duly sworn, we have fairly and
14 impartially held the said special election according
15 to law, and the result thereof is as follows:

16 "For member(s) of the constitutional convention
17 from _____ county,

18 A.B. received _____ votes,

19 C.D. received _____ votes,

20 E.F. received _____ votes,

21 (and so on throughout stating, according to the truth,
22 the full name of every person voted for, and in words
23 at length, and also in figures, the number of votes re-
24 ceived.)

25 "Given under our hands this _____ day of _____,
26 one thousand nine hundred sixty-_____.

27 _____
28 _____
29 _____

30 (Signature lines)"

31 Each such certificate shall be signed by each commis-
32 sioner and poll clerk of the precinct.

33 The said four certificates shall correspond with each
34 other in all respects, shall contain complete returns of
35 the polls taken at such place of voting, and shall be dis-
36 posed of by the precinct commissioners as follows: One
37 certificate shall be returned, under seal, to the clerk of
38 the county court; one shall be delivered, under seal, to
39 the clerk of the circuit court of the county; one shall be
40 sent, under seal, by registered mail, to the secretary of
41 state; and one shall be posted on the outside front door
42 of the polling place in each precinct.

43 When the certificates are signed, the ballots shall be
44 enclosed by the commissioners in an envelope which

45 they shall seal up, and write their names in ink across
46 the place or places where it is sealed, and endorse in ink
47 on the outside of the envelope as follows: "Ballots of the
48 special election held at Precinct No. _____, in the dis-
49 trict of _____, and county of _____, the
50 _____ day of _____, one thousand nine hundred
51 sixty-_____."

52 One of the commissioners of the election shall, within
53 twelve hours after the completion of the count, tabula-
54 tion and declaration of the results, deliver the ballots so
55 sealed up, one set of the poll books and tally sheets, one
56 of such certificates, under seal, the registration book, and
57 the ballot box or boxes, to the clerk of the county court,
58 and one certificate, under seal, and set of poll books and
59 tally sheets, to the clerk of the circuit court, all of which
60 shall be preserved in the respective offices of said clerks
61 as provided for in chapter three of the code.

62 In counties using voting machines, the form of the
63 return sheets, and the duties of the election officials with
64 respect to the closing of the polls, the counting and re-
65 porting of the returns, and the duties of and the proce-
66 dures to be followed by the election officials shall be
67 governed by the provisions of article four, chapter three
68 of the code, as augmented by other provisions of chapter
69 three of the code applying to general, primary, and spe-
70 cial elections.

Sec. 14. Certificates of Boards of Canvassers; Proce-
2 **dures.**—The board of canvassers of each county, or a
3 majority of them, under the regulations prescribed by
4 section nine, article six, chapter three of the code, shall
5 carefully and impartially ascertain the result of the spe-
6 cial nonpartisan election in their county and in each dis-
7 trict thereof, and shall record the same in duplicate, in
8 the following form, or to the following effect:

9 "The board of canvassers of the county of _____
10 _____, having carefully and impartially ex-
11 amined the returns of the special nonpartisan elec-
12 tion held in said county, in each district thereof, on
13 the _____ day of _____,
14 one thousand nine hundred sixty-_____, do hereby

15 certify that the result of the special election in said
16 county is as follows:

17 "For member(s) of the constitutional convention
18 from county,

19 A.B. received votes,

20 C.D. received votes,

21 E.F. received votes,

22 (and so on throughout stating, according to the truth,
23 the full name of every person voted for, and in words
24 at length, and also in figures, the number of votes re-
25 ceived.)

26 "Given under our hands this day of
27, one thousand nine hundred sixty-.....

28 _____
29 _____
30 _____

31 (Signature lines)"

32 One of said certificates shall be filed in the office of the
33 clerk of the county court, and the other shall be trans-
34 mitted, not later than twenty-five days following the spe-
35 cial nonpartisan election to the secretary of state, who
36 shall file and preserve the same until the day on which
37 the result of said election in each county is to be ascer-
38 tained, as hereinafter stated.

39 In counties using voting machines, the canvass of the
40 returns by the board of canvassers and recounts shall
41 be governed by the provisions of article four, chapter
42 three of the code, as augmented by the provisions of
43 chapter three of the code applying to general, primary
44 and special elections: *Provided*, That (1) a recount may
45 be demanded by any candidate voted for at such special
46 election under the relevant conditions set forth in sec-
47 tion twenty-six, article four, chapter three of the code,
48 and in section nine, article six, chapter three of the code;
49 and (2) the board of canvassers shall prepare and trans-
50 mit to the clerk of the county court and to the secretary
51 of state the certificate of election results provided for in
52 this section and within the time limits herein set forth.

**Sec. 15. Proclamation of Result of Special Nonpartisan
2 Election by Governor.**—On the thirtieth day after the

3 special nonpartisan election of the twenty-ninth day of
4 March, one thousand nine hundred sixty-six, is held, or
5 as soon thereafter as is practicable, but in no event later
6 than forty days after said election, the certificates of the
7 board of canvassers of each county transmitted to the
8 secretary of state shall be laid before the governor, whose
9 duty it shall be to immediately ascertain therefrom the
10 result of said election in each county, and to immedi-
11 ately declare the same by proclamation.

12 The person or persons having the highest number of
13 votes in the county in which he or they are candidates
14 for membership in the constitutional convention shall
15 be declared by the governor duly elected as members of
16 the convention.

Sec. 16. Tie Vote Procedures.—Whenever it appears
2 to the governor that two or more of the persons voted
3 for for membership in the state constitutional convention
4 as a representative of a county have received the highest
5 and equal number of votes for membership in the con-
6 vention as such representative, so that the election to
7 membership is not decided by the returns, he, being re-
8 quired to declare the result of the election, shall decide
9 the tie by the selection of one of such persons, and de-
10 clare such person duly elected as a member of the con-
11 vention.

**Sec. 17. Publication of Proclamation of Results of
2 Special Nonpartisan Election.**—The governor shall cause
3 his proclamation declaring the results of such special
4 nonpartisan election in each county to be published one
5 time, within thirty days of the issuance of such procla-
6 mation, in one or more newspapers printed in the seat of
7 government. The price of such publication shall be
8 agreed upon in advance, in writing, and shall be paid
9 out of the governor's contingent fund.

10 The proclamation shall be read by the governor, or by
11 some person designated by him, to the members of the
12 constitutional convention, immediately following the con-
13 vening of such convention on the twentieth day of July,
14 one thousand nine hundred sixty-six.

Sec. 18. Publication of Results of Special Nonpartisan

2 **Election.**—The governor shall cause to be published in
3 each county of the state the names of those persons de-
4 clared by him to have been elected in the special non-
5 partisan election in which each county participated.

6 The said notice shall be in the following form, or to
7 to the following effect:

8 “MEMBERS OF CONSTITUTIONAL CONVENTION

9 The members of the constitutional convention from
10 county are;

11 (State names and residences)

12 Given under my hand the day of,
13 one thousand nine hundred sixty-.....

14

15
16 Governor of the State
of West Virginia.”

17 Said notice shall be published one time, within thirty
18 days of the issuance of the governor's proclamation de-
19 claring the results of said special nonpartisan election,
20 in some newspaper published and of general circulation
21 in each county of the state, but if no such newspaper is
22 published in the county, such proclamation and notice
23 shall be published in some newspaper of general circula-
24 tion in the county. The price of such publication shall
25 be agreed upon in advance, in writing, and shall be paid
26 out of the governor's contingent fund.

Sec. 19. Contest of Elections; Notices and Procedure.—

2 Any person intending to contest the election of another
3 as a member of the constitutional convention as a rep-
4 resentative of a county, shall, within twenty-one days
5 after the election, give him notice thereof in writing,
6 and a list of the votes he will dispute, with the objections
7 to each, and of the votes rejected for which he will con-
8 tend. If the contestant objects to the legality of the
9 election, or the qualification of the person returned, the
10 notice shall set forth the facts on which such objection
11 is founded. The person whose election as a member of
12 the convention is contested, shall, within fourteen days
13 after receiving such notice, deliver to the contestant a
14 like list of the votes he will dispute and of the objection

15 to each, and of the rejected votes he will claim; and, if
16 he has any objection to the qualification of the contestant,
17 shall specify in such notice the facts on which the objec-
18 tion is founded. Each party shall append to the notice
19 an affidavit that the matters therein set forth, so far as
20 they are stated of his knowledge, are true, and that, so
21 far as they are stated on the information of others, he
22 believes them to be true. If new facts are discovered by
23 either party after he has given notice as aforesaid, he
24 may give an additional notice or notices to his adversary,
25 with specifications and affidavits as above prescribed.

26 The notice of contest shall be presented to the consti-
27 tutional convention within ten days after its convening.

Sec. 20. Depositions; Subpoenas; Time; Tie Vote Decision.—
2 Either party may begin to take the depositions
3 in such contests for members in the constitutional con-
4 vention at any time after the delivery of the original
5 notice by the contestant. But reasonable notice of every
6 such deposition shall be given, and such notice shall
7 specify the names of the witnesses to be examined. The
8 depositions may be taken before a justice, notary, or any
9 officer authorized to take depositions in civil actions; and
10 the officer before whom they are taken shall certify and
11 seal the same, and endorse his name across the place
12 where they are sealed, and address and transmit the same,
13 by mail or otherwise, to the presiding officer of the con-
14 stitutional convention. When the contest is referred to a
15 committee, the presiding officer shall deliver the deposi-
16 tions to such committee for examination and report. The
17 parties shall finish taking depositions five days at least
18 before the convening of the constitutional convention.
19 Neither party shall have the benefit of any deposition
20 taken otherwise than as aforesaid, unless further time be
21 given by resolution of the constitutional convention.

22 Subpoenas for witnesses shall be issued by the clerk of
23 the circuit court, or by a justice, upon application of either
24 party; and witnesses shall be entitled to the same allow-
25 ances and privileges, and be subject to the same penalties,
26 as if summoned to attend before the circuit court in civil
27 actions.

28 If it be ascertained that an equal number of legal votes

29 was given for the contestant and the person returned, the
30 constitutional convention shall declare which of them
31 is elected.

32 There shall be no judicial review of the decisions of
33 the constitutional convention in election contests in-
34 volving membership in the convention.

Sec. 21. Correction of Returns; Extent.—Though il-
2 legal votes be received, or legal votes be rejected, at any
3 place of voting, the returns of the votes taken at such
4 place shall not be set aside for that cause, but it may be
5 shown, by proper evidence before the constitutional
6 convention, for whom such illegal votes or any of them
7 were cast, or for whom the legal votes which were re-
8 jected would have been given, and the returns shall be
9 corrected only to the extent that it is so shown.

Sec. 22. Costs in Election Contests.—The cost of every
2 contested election for membership in the constitutional
3 convention shall include only the expenses of serving
4 notices, taking depositions and the allowances to wit-
5 nesses; and shall be noted at the foot of every deposition
6 or set of depositions, by the person taking the same. If the
7 contestant fails in setting aside the election, there shall
8 be awarded against him the amount of such costs in-
9 curred or expended by the person who was returned or
10 declared elected. Otherwise, each party shall pay his
11 own costs, unless it appears that the person returned or
12 declared elected was guilty of fraud or malpractice in the
13 election, or in procuring such return or declaration, in
14 which case costs shall be awarded against him in favor
15 of the contestant. Where costs are awarded in favor of
16 either party, the amount thereof shall be ascertained un-
17 der direction of the constitutional convention, and a cer-
18 tificate thereof, authenticated by the signature of the
19 presiding officer, shall be delivered to the party in whose
20 favor they are awarded, which certificate shall have the
21 force of a judgment, and if such costs be not paid within
22 ten days after the date thereof, the clerk of the circuit
23 court of the county in which the party against whom the
24 costs were awarded resides, may issue execution on such
25 certificate, upon its delivery to such clerk, in like manner

26 as upon a judgment of the circuit court. But no person
27 contesting the seat of another in the constitutional con-
28 vention shall be entitled to pay or mileage if the contest
29 fails.

Article 4. The Constitutional Convention.

Section

1. Convening of the constitutional convention; meeting place.
2. Term of office.
3. Oath of office.
4. Members of convention not to be compensated; expenses; mileage.
5. Vacancy; creation; filling.
6. Organization of the convention.
7. Expenses of the convention.

**Section 1. Convening of the Constitutional Conven-
2 tion; Meeting Place.**—The constitutional convention to
3 which the members were elected in the special non-
4 partisan election held on the twenty-ninth day of March,
5 one thousand nine hundred sixty-six, shall convene in
6 the House of Delegates' chamber in the state capitol,
7 Charleston, West Virginia, at one o'clock, p.m., eastern
8 standard time, on the twentieth day of July, one thou-
9 sand nine hundred sixty-six. The convention, by a vote
10 of the majority of the members elected thereto, may,
11 after convening, move the site of the convention to any
12 other location in the state.

Sec. 2. Term of Office.—The term of office of members
2 of the constitutional convention shall commence on the
3 day of the convening of the convention and shall continue
4 until the final adjournment of the convention to which
5 they are elected.

Sec. 3. Oath of Office.—Every person elected to mem-
2 bership in the constitutional convention, before entering
3 upon the duties of his office, shall take the oath or affir-
4 mation prescribed by section five, article four of the state
5 constitution.

**Sec. 4. Members of Convention Not to Be Compensated;
2 Expenses; Mileage.**—The members of the constitutional
3 convention shall not be compensated for their services as
4 members of the convention. Each seated member of the
5 convention shall be reimbursed for actual and necessary
6 expenses, not exceeding twenty-five dollars per day, in-

7 curred in attending meetings of the convention or of a
8 committee thereof, and in engaging in any business of
9 the convention for which the president of the convention
10 has authorized reimbursement for expenses. Each seated
11 member of the convention shall also be entitled to receive
12 ten cents per mile and no more for one round trip each
13 month during which the constitutional convention is in
14 session between his place of residence and the site of
15 the constitutional convention, the mileage to be measured
16 by the most direct route.

17 Reimbursement for expenses and the mileage of the
18 members of the constitutional convention shall be paid
19 monthly out of the appropriations made for the expenses
20 of the convention by the state treasurer upon warrants
21 of the auditor prepared from vouchers submitted by the
22 secretary of the convention.

Sec. 5. Vacancy; Creation; Filling.—An office of mem-
2 ber of the constitutional convention shall become vacant
3 on the happening of any of the following events before
4 the expiration of the term of the office:

5 The death of the member; his resignation; his removal
6 from office; his ceasing to be a resident of the county
7 from which he was elected; the decision of the con-
8 stitutional convention declaring void his election or ap-
9 pointment; his expulsion as a member of the convention;
10 the refusal of the convention to seat him; or his refusal
11 or neglect to take and subscribe to the oath of his office.
12 Any person duly elected to membership in the constitu-
13 tional convention may resign by filing a written notice
14 containing the effective date of the resignation with the
15 president of the convention, who shall forthwith
16 transmit the same to the governor. In case of a vacancy
17 by death, resignation, or otherwise of any member of the
18 convention, such vacancy shall be filled by appointment
19 by the governor of a qualified resident of the same county.

Sec. 6. Organization of the Convention.—The governor
2 shall open the convention and preside at its first session
3 and until permanent officers are selected. So long as he
4 presides, he may cast the deciding vote in the event of a
5 tie. The convention shall be the judge of the qualification

6 of its members, their election or appointment. It shall
7 have the power by a majority of votes of the members
8 elected to the convention to choose a president and secre-
9 tary and all other appropriate officers, to prescribe their
10 functions, powers, and duties, to employ a staff of assist-
11 ants, and to make rules and regulations for the conduct
12 of its business.

Sec. 7. Expenses of the Convention.—The convention
2 shall have the power, within the limits of appropriations,
3 to incur such expenses as may be necessary in order
4 to exercise the powers conferred and to perform the
5 duties imposed by this act.

Article 5. Proposals of the Convention.

Section

1. Framing and submission of proposals to the people.
2. Proposals filed.
3. Election on proposals.

**Section 1. Framing and Submission of Proposals to the
2 People.**—The constitutional convention may submit to the
3 people (1) a new constitution for ratification or rejection;
4 or (2) a new constitution, together with an alternative
5 part or parts thereof, so that the people may ratify or
6 reject the new constitution in its entirety or may ratify
7 or reject a new constitution and ratify as a substitute for
8 a part or parts thereof an alternative part or parts; or
9 (3) one or more amendments or partial revisions of the
10 existing constitution so that the people may ratify
11 or reject all such amendments or partial revisions or
12 ratify or reject any one or more such amendments or
13 partial revisions; or (4) one or more amendments or par-
14 tial revisions of the existing constitution, together with
15 one or more alternative amendments or partial revisions
16 thereof, so that the people may ratify or reject one, part,
17 or all of such amendments or partial revisions and ratify
18 as a substitute for any one or more of such amendments
19 or partial revisions thereof an alternative amendment,
20 amendments, partial revision or revisions.

21 It is not the intention of the Legislature in this section
22 to limit the convention in the manner in which it may
23 frame its proposals for submission to the people. The
24 convention is to have plenary power in this regard, and

25 the foregoing alternatives are to be construed as sugges-
26 tions and not as prohibiting other alternatives or varia-
27 tions in the suggested alternatives.

Sec. 2. Proposals Filed.—When the convention by a
2 majority of the votes of the members elected to the con-
3 vention shall have agreed upon its proposals, and the
4 manner of their submission to the people, as aforesaid,
5 an original and two true copies thereof shall be pre-
6 pared, and signed by the president and secretary of the
7 convention and delivered to the governor who shall cause
8 the original copy to be filed in the office of the secretary
9 of state.

10 Sufficient printed copies of the proposals of the con-
11 vention shall be printed at the expense of the convention
12 for distribution by the governor to persons and organiza-
13 tions requesting the same.

Sec. 3. Election on Proposals.—The proposals of the
2 convention, as framed by the convention, shall be sub-
3 mitted to the people at a special election held on a day
4 separate from the date of any primary or general election,
5 the date of which election shall be designated by the con-
6 vention: *Provided*, That such special election shall be
7 held within eight months of the adjournment of the
8 convention.

9 The special election for the ratification or rejection of
10 the proposals of the convention shall, except to the extent
11 otherwise directed by the convention, be controlled and
12 governed in all respects by the provisions of chapter three
13 of the code applicable to a special election in which voters
14 pass upon a public question submitted to them. In all
15 other particulars, when no specific direction is given by
16 the constitutional convention for the control, conduct and
17 government of any phase of said special election to ratify
18 or reject the proposals of the convention, resort shall be
19 had to other provisions of chapter three of the code not
20 specifically applicable to special elections on public ques-
21 tions but which may furnish guidance and be made con-
22 trolling thereof.

CHAPTER 19

(Com. Sub. for House Bill No. 656—By Mr. Speaker, Mr. White)

[Passed February 23, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, specifying the information to be contained in an agreement of incorporation to be filed with the secretary of state and authorizing the reservation of a corporate name by the incorporators for a period of sixty days prior to the formal filing of an application for incorporation.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Provisions Relating to Corporations Generally.

Section

6. Agreement of incorporation.

Section 6. Agreement of Incorporation.—The persons

2 desiring to form a corporation as provided in section
3 four hereof, shall sign, acknowledge and file with the
4 secretary of state an agreement, in the general form pre-
5 scribed by the secretary of state, in which shall be set
6 forth:

7 (a) The name of the corporation, which name shall
8 contain one of the words "association," "company," "cor-
9 poration," "club," "incorporated," "society," "union," or
10 "syndicate," or one of the abbreviations, "co." or "inc.";
11 but no name shall be assumed already in use by another
12 existing corporation of this state, or by a foreign corpo-
13 ration lawfully doing business in this state, or so similar
14 thereto, in the opinion of the secretary of state, as to lead
15 to confusion. The name desired by the incorporators
16 may be reserved for a period of sixty days prior to the
17 formal filing of an application for incorporation. In no
18 case shall the period of reservation exceed sixty days.

19 (b) The address, including the street name and street
20 number, if any, and the city, town or village, of its prin-
21 cipal office or place of business and the location of its
22 chief works, if any.

23 (c) The object or objects for which the corporation
24 is formed.

25 (d) If the corporation is to be authorized to issue only
26 one class of stock, the total number of shares of stock
27 which the corporation shall have authority to issue and
28 (1) the par value of each of such shares, or (2) a state-
29 ment that all such shares are to be without par value;
30 or, if the corporation is to be authorized to issue more
31 than one class of stock, the total number of shares of all
32 classes of stock which the corporation shall have au-
33 thority to issue and (1) the number of the shares of each
34 class thereof that are to have a par value and the par
35 value of each share of each such class, and/or (2) the
36 number of such shares that are to be without par value,
37 and (3) a statement of all or any of the designations and
38 the powers, preferences and rights, and the qualifica-
39 tions, limitations or restrictions thereof, which are per-
40 mitted by the provisions of section twenty-two of this
41 article in respect of any class or classes of stock of the
42 corporation and the fixing of which by the agreement
43 of incorporation is desired, and an express grant of such
44 authority as it may then be desired to grant to the board
45 of directors to fix by resolution or resolutions any thereof
46 that may be desired but which shall not be fixed by such
47 agreement. In each case the agreement of incorporation
48 shall also set forth the minimum amount of capital with
49 which the corporation will commence business, which
50 shall not be less than one thousand dollars. The provi-
51 sions of this subdivision (d) shall not apply to corpora-
52 tions which are not organized for profit and which are
53 not to have authority to issue capital stock. In the case
54 of such corporations, the fact that they are not to have
55 authority to issue capital stock shall be stated in the
56 agreement of incorporation, and the conditions of mem-
57 bership shall be stated therein.

58 (e) The full names and addresses, including street
59 and street numbers, if any, and the city, town or village,

60 of the incorporators, and, if a stock corporation, the num-
61 ber of shares subscribed by each.

62 (f) Whether or not the corporation is to have per-
63 petual existence. If not, the time when its existence is
64 to commence and the time its existence is to cease.

65 (g) The agreement may also contain any provision
66 which the incorporators may choose to insert for the
67 management of the business and for the conduct of the
68 affairs of the corporation, and any provisions creating,
69 defining, limiting and regulating the powers of the corpo-
70 ration, the directors and the stockholders, or any class
71 of the stockholders, or, in the case of a corporation which
72 is to have no capital stock, of the members of such cor-
73 poration: *Provided*, That such provisions are not con-
74 trary to the laws of this state.

75 (h) The agreement may also contain the following
76 provision in haec verba, viz.:

77 "Whenever a compromise or arrangement is proposed
78 between this corporation and its creditors or any class of
79 them and/or between this corporation and its stockholders
80 or any class of them, any court of equitable jurisdiction
81 within the state of West Virginia may, on the applica-
82 tion in a summary way of this corporation or of any
83 creditor or stockholder thereof, or on the application of
84 trustees in dissolution or of any receiver or receivers ap-
85 pointed for this corporation under the laws of the state
86 of West Virginia, order a meeting of the creditors or
87 class of creditors, and/or of the stockholders or class of
88 stockholders of this corporation, as the case may be, to
89 be summoned in such manner as the court directs. If a
90 majority in number representing three fourths in value
91 of the creditors or class of creditors, and/or of the stock-
92 holders or class of stockholders of this corporation, as
93 the case may be, agree to any compromise or arrange-
94 ment and to any reorganization of this corporation as
95 consequence of such compromise or arrangement, such
96 compromise or arrangement and such reorganization
97 shall, if sanctioned by the court to which such applica-
98 tion has been made, be binding on all the creditors or
99 class of creditors, and/or on all the stockholders or class

100 of stockholders of this corporation, as the case may be,
101 and also on this corporation.”

102 (i) The agreement may also contain such provisions
103 as may be desired limiting or denying to the stockholders
104 the preemptive right to subscribe to any or all additional
105 issues of stock of the corporation of any or all classes.

106 (j) The agreement may also contain provisions re-
107 quiring for any corporate action the vote of a larger pro-
108 portion of the stock or any class thereof than is required
109 by this chapter.

110 The agreement of incorporation shall be acknowledged
111 by the incorporators before a notary public and trans-
112 mitted with the proper fees to, and shall be filed with,
113 the secretary of state.

CHAPTER 20

(House Bill No. 652—By Mr. Speaker, Mr. White)

[Passed February 22, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seventy-nine, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to foreign corporations; conditions for doing business in this state.

Be it enacted by the Legislature of West Virginia:

That section seventy-nine, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Provisions Relating to Corporations Generally.

Section

79. Foreign corporations; conditions for doing business in this state.

Section 79. Foreign Corporations; Conditions for Doing Business in This State.—Any corporation duly incorporated by the laws of any other state or territory of

4 the United States, the District of Columbia, or of any
5 foreign country, may, unless it be otherwise expressly
6 provided, hold property and transact business in this
7 state, upon complying with the provisions of this section
8 and not otherwise. Such corporations so complying shall
9 have the rights, powers and privileges, and be subject to
10 the same regulations, restrictions and liabilities con-
11 ferred and imposed on corporations chartered under the
12 laws of this state. Every such corporation shall file with
13 the secretary of state a copy of its articles of association
14 or certificate of incorporation, with all amendments there-
15 to, certified by the officer of the state of incorporation with
16 whom the articles of association or certificate of incorpora-
17 tion are on file, or shall file with the secretary of state a copy
18 certified as hereinbefore in this section provided of its re-
19 stated articles of incorporation or composite charters: *Pro-*
20 *vided*, That such restated articles of incorporation or com-
21 posite charters shall contain the same facts which the orig-
22 inal charter would disclose, if presented, including the date
23 of the original incorporation. The secretary of state shall
24 thereupon issue to such corporation a certificate of the fact
25 of its having done so, which certificate, together with a
26 copy of its articles of association or certificate of incorpo-
27 ration and all amendments shall be recorded in the office
28 of the clerk of the county court of the county, or one of the
29 counties, in which its business is to be conducted: *Pro-*
30 *vided, however*, That any church, religious sect or denomi-
31 nation incorporated by the laws of any other state or
32 territory of the United States, the District of Columbia or
33 of any foreign country, shall not be qualified to do busi-
34 ness in this state in a corporate capacity.

35 Every railroad corporation now or hereafter engaged
36 in business in this state under the provisions of this
37 section, or under a charter granted by laws passed by
38 the state of Virginia before the formation of this state,
39 or of this state, is hereby declared to be, as to its works,
40 property, operations, acts and business in this state, a
41 domestic corporation, and shall be so held and treated
42 in all suits and legal proceedings which may be com-
43 menced or carried on by or against any such railroad
44 corporation, as well as in all other matters relating to

45 corporations, except as to the right to sue in, or remove
46 actions into, the courts of the United States, but such
47 corporation shall not be required to file a copy of its
48 charter or any writing with the secretary of state as
49 provided in this section.

50 No corporation chartered under the laws of any other
51 state or jurisdiction shall hold any property or transact
52 any business or bring or maintain any action, suit or
53 proceeding in this state without having complied with
54 the requirements hereinbefore stated, and, in addition
55 thereto, having filed in the office of the secretary of state
56 a writing duly executed under its corporate seal, accept-
57 ing the provisions of this section and agreeing to be gov-
58 erned thereby and by the laws of this state with respect
59 to corporations chartered under the laws of the state for
60 similar purposes; and its failure so to do may be pleaded
61 in abatement of any action, suit or proceeding instituted
62 by it; but nothing herein contained shall be construed to
63 lessen the liability of any corporation which may not
64 have complied with the requirements of this section upon
65 any contract or for any wrong. No such corporation
66 shall hold any property or transact any business, or
67 bring or maintain any action, suit or proceeding in this
68 state, where the cause of action arises out of the holding
69 of property or doing business therein, without first com-
70 plying with the provisions hereof. Every corporation
71 which shall hold property or do business in this state
72 without having complied with the provisions hereinabove
73 stated shall be guilty of a misdemeanor, and, upon con-
74 viction thereof, shall be fined not less than five hundred
75 nor more than one thousand dollars for each month its
76 failure so to comply shall continue, and prosecutions
77 hereunder shall be in the county in which the seat of
78 government is.

79 A copy of every amendment, certified as hereinabove
80 provided, made to such articles of agreement or certifi-
81 cate of incorporation and becoming effective subsequent
82 to the filing of such articles of association or certificate
83 of incorporation in the office of the secretary of state of
84 this state, shall also be filed with the secretary of state
85 of this state who shall issue to such corporation a certifi-

86 cate showing the filing of such amendment and collect a
87 fee of five dollars for such certificate. Such certificate
88 together with a copy of the amendment, shall be recorded
89 in the office of the clerk of the county court of the county,
90 or one of the counties, in which its business is to be
91 conducted. A failure to comply with the provisions of
92 this paragraph within six months from the date of such
93 amendment shall subject such corporation to a fine of
94 not more than one thousand dollars.

CHAPTER 21

(House Bill No. 651—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighty-two-a, requiring proof of payment of or non-liability for all business and occupation, transportation privilege and license taxes and any employment security payments before a certificate of dissolution, withdrawal or consolidation or merger of a corporation may be issued by the secretary of state; relating to expiration of domestic corporations; providing that domestic corporations shall not expire on the date of expiration or thereafter until a certificate of expiration has been issued by the secretary of state; and providing that such certificate of expiration shall not be issued until proof of the payment of or non-liability for the aforementioned taxes and payments has been furnished.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighty-two-a, to read as follows:

Article 1. Provisions Relating to Corporations Generally.

82-a. Prerequisite for issuance of certificate of dissolution, withdrawal or consolidation or merger of corporation; certificate of expiration required.

Section 82-a. Prerequisite for Issuance of Certificate of Dissolution, Withdrawal or Consolidation or Merger of Corporation; Certificate of Expiration Required.—(a)
Supplementing the provisions of section ten-c, article twelve-a and section fifteen, article thirteen, chapter eleven of this code and section eighty-four of this article, the secretary of state shall withhold the issuance of any certificate of dissolution or withdrawal, or certificate of consolidation or merger in the case where the new or surviving corporation will be a foreign corporation which has not qualified to do business or hold property in this state, until the receipt of a notice from the tax commissioner, state auditor and department of employment security to the effect that all business and occupation, transportation privilege and license taxes and any employment security payments levied or assessed against the corporation seeking to withdraw, dissolve, consolidate or merge have been paid or provided for, if any such corporation is a taxpayer under this code, or until the secretary of state receives a notice from the tax commissioner, auditor or department of employment security, as the case may be, stating that the corporation in question is not subject to pay the taxes or make the payments.

(b) A domestic corporation chartered for a limited period of time and thus having a specific date of expiration, and a domestic corporation having perpetual existence which amends its charter so as to establish a specific date of expiration, shall not expire on the stated date of expiration or thereafter but shall continue in existence with like effect as if such expiration date had not arrived, unless and until the secretary of state issues a certificate of expiration in accordance with the provisions of this section. Under no circumstances shall such certificate of expiration be issued until the notice specified in subsection (a) of this section has been received from the tax commissioner, auditor and department of employment security, stating that the taxes and payments specified

38 in subsection (a) of this section and levied or assessed
39 against the corporation involved have been paid or pro-
40 vided for, or made or that such corporation is not subject
41 to pay such taxes or make such payments. Upon receipt
42 of such notice the secretary of state shall issue such cer-
43 tificate of expiration and upon issuance thereof, the cor-
44 poration shall expire as of the date of the issuance of such
45 certificate, subject to the provisions of section eighty-
46 three of this article.

CHAPTER 22

(House Bill No. 990—By Mr. Frazer)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section six-b, article four, chap-
ter thirty-one of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the sale
of capital notes or debentures by banking institutions.

Be it enacted by the Legislature of West Virginia:

That section six-b, article four, chapter thirty-one of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted to read as follows:

Article 4. Banking Institutions.

Section

6-b. Sale of capital notes or debentures.

Section 6-b. Sale of Capital Notes or Debentures.—

2 With the approval of the state banking commissioner any
3 banking institution may at any time through action of its
4 board of directors and without requiring any action of its
5 stockholders issue and sell its capital notes or debentures.
6 Such capital notes or debentures shall be subordinate
7 and subject to the claims of depositors and may be sub-
8 ordinated and subjected to the claims of other creditors.
9 The term "capital" as used in the laws of this state
10 relating to banking shall be construed to embrace the

11 amount of outstanding capital notes and debentures le-
12 gally issued by any banking institution. The capital stock
13 of any such banking institution may be deemed to be
14 unimpaired when the amount of such capital notes and
15 debentures as represented by cash or sound assets exceeds
16 the impairment as found by the state banking commis-
17 sioner. Before any such capital notes or debentures are
18 retired or paid by the bank any existing deficiency of its
19 capital (disregarding the notes or debentures to be re-
20 tired) must be paid in cash, to the end that the sound
21 capital assets shall at least equal the capital stock of the
22 bank.

23 Such capital notes or debentures shall in no case be
24 subject to any assessment. The holders of such capital
25 notes or debentures shall not be held individually re-
26 sponsible as such holders for any debts, contracts, or en-
27 gagements of such institution, and shall not be held liable
28 for assessments to restore impairments in the capital of
29 such institution.

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CHAPTER 23

(Com. Sub. for House Bill No. 984—By Mr. Ours)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections, designated sections three-j, three-k and three-l; to amend and reenact sections five, five-(thirteen), five-(twenty) and five-(twenty-four), article one, chapter seven of said code; and to amend and reenact sections two-(six), two-(twelve), two-(twenty-nine), two-(fifty-two), three-(two), three-(six), three-(twelve), three-(fifty-two), six-(six), six-(twelve), six-(twenty), six-(twenty-seven) and six-(thirty-one), article seven, chapter seven of said code, all relating to duties of certain county officers and the salaries of certain county officers and their assistants.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, designated sections three-j, three-k and three-l; that sections five, five-(thirteen), five-(twenty) and five-(twenty-four), article one, chapter seven of said code be amended and reenacted; that sections two-(six), two-(twelve), two-(twenty-nine), two-(fifty-two), three-(two), three-(six), three-(twelve), three-(fifty-two), six-(six), six-(twelve), six-(twenty), six-(twenty-seven) and six-(thirty-one), article seven, chapter seven of said code be amended and reenacted, all to read as follows:

Article

1. County Courts Generally.

7. Salaries; Deputies and Assistants and Their Salaries.

Article 1. County Courts Generally.

Section

3-j. Authority to establish county coordinating council; powers and duties of council; duties of county clerk.

3-k. Authority to establish county law libraries; control of circuit clerk; rules and regulations.

3-l. Authority to establish county appraisal-assessment board; functions and duties of board; duties of assessor.

5. Duties of county commissioners and payment for services other than services in court.

5-(13). Compensation of county commissioners—Greenbrier county.

5-(20). Same; Kanawha county.

5-(24). Same; Marion county.

Section 3-j. Authority to Establish County Coordinating Council; Powers and Duties of Council; Duties of County Clerk.—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to establish a county coordinating council for the purpose of coordinating county improvement programs with state and federal programs designed for this purpose. The council hereby created shall gather necessary facts and data and formulate needed local programs. The council shall submit the foregoing facts, data and plans to the county court for its guidance. The council shall act only in an advisory capacity. The county clerk is hereby designated the secretary of the council. The clerk shall attend all meetings of the council. He shall keep a record of all proceedings and shall transmit a copy of all such proceedings to the county court. The clerk shall

17 also perform such other reasonable duties as may be re-
18 quired of him by the council.

Sec. 3-k. Authority to Establish County Law Libraries; Control of Circuit Clerk; Rules and Regulations.—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to establish county law libraries which shall be wholly under the control and management of the circuit clerk under rules and regulations promulgated by the judge of the local judicial circuit. The county court may expend funds for the purchase of books or other expenses necessary to the operation of the county law library.

Sec. 3-l. Authority to Establish County Appraisal-Assessment Board; Functions and Duties of Board; Duties of Assessor.—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to establish a county appraisal-assessment advisory board. The purpose for which this board is created is to enable the county court, acting as the board of review and equalization, to better perform its duties in reviewing property assessments and to better inform the public with regard to assessments generally. The board is hereby authorized to review all appraisals made by the state tax commissioner under the provisions of section four, article nine-a, chapter eighteen of the code and all assessments made by the assessor and to submit to the county court all pertinent data and information gathered by the appraisal-assessment advisory board. The county assessor is hereby designated the secretary of the board. The assessor shall attend all meetings of the board. He shall keep record of all proceedings and shall transmit a copy of all such proceedings to the county court. The assessor shall also perform such other reasonable duties as may be required of him by the board.

Sec. 5. Duties of County Commissioners and Payment for Services Other Than Services in Court.—It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, and to arrange for the feeding and care of the pris-

7 oners therein, and to investigate the conditions of the poor
8 within their county, not housed within such institutions,
9 to visit detention homes for children within their coun-
10 ties, if any, and to visit and inspect bridges and bridge
11 approaches under their control; to provide for and have
12 general supervision over the repair and maintenance of
13 the county courthouse, jails, houses for the poor and other
14 county property, so as to prevent the undue deterioration
15 thereof; to supervise and control the maintenance and
16 operation of airport or airports owned and/or operated
17 by the county court; and to supervise and control the pur-
18 chase, erection and maintenance of airport facilities; to
19 supervise and control the purchase of furniture, fixtures
20 and equipment, and janitors' and other supplies, for their
21 county; to attend the annual meeting of county assessors,
22 and such district meetings as may be called by the state
23 tax commissioner, on matters pertaining to the work of
24 the county assessors and the county courts as boards of
25 review and equalization; to review and equalize the as-
26 sessments made by the assessors; to inspect and review
27 the lists of property, both real and personal, made up by
28 the assessor and his deputies for taxable purposes, and
29 to point out to the assessor any property, real or personal,
30 which the said assessors of their respective counties may
31 have overlooked or omitted to place on said tax lists; to
32 call to the attention of the assessor all real estate or per-
33 sonal property belonging to churches, lodges, schools or
34 other charitable institutions which may have been over-
35 looked or omitted by the assessor or his deputies in mak-
36 ing up his lists of property for entry on the land and per-
37 sonal property books; to cooperate with the county pub-
38 lic assistance council and supervise the general manage-
39 ment of the fiscal affairs and business of each county; and
40 as a further part of their duties they shall be empowered
41 to purchase, lease, rent, control, supervise, inspect, main-
42 tain and erect public parks, playgrounds and recreational
43 facilities, to purchase, lease or rent equipment therefor,
44 and to employ qualified recreational directors and per-
45 sonnel; to construct new four-H camps on county prop-
46 erty; to operate stone quarries and sand deposits on
47 county-owned or leased property; to construct buildings

48 for or aid in constructing and/or equipping civilian de-
49 fense buildings on sites approved by state office of civil-
50 ian defense; and to operate dog pounds for county-munic-
51 ipalities; and to purchase, lease, rent, control, supervise,
52 inspect, maintain and erect public markets and to pur-
53 chase, rent or lease equipment therefor, and to employ
54 qualified personnel to operate such public markets; and as
55 a further part of their duties they shall be empowered to
56 purchase, lease, rent, control, supervise, inspect, main-
57 tain, and erect county mental health clinics and engage
58 in any program designed for the betterment of the men-
59 tal and physical well-being of the residents of their county,
60 and to cooperate with any public or private agency for
61 these purposes.

62 Compensation shall be allowed and paid out of the
63 county treasury, in the same manner as salaries are paid,
64 to each county commissioner of each county (except as
65 otherwise provided by law for the county of Ohio), for
66 services performed for such county concerning the vis-
67 iting of the poor, inspection of jails, bridges and bridge
68 approaches, and for visiting detention homes for children;
69 and for providing for and supervising the repair and
70 maintenance of the county courthouse, jails, houses for
71 the poor and other county property; for supervising
72 and controlling the maintenance and operation of airport
73 or airports owned and/or operated by the county court,
74 and supervising and controlling the purchase, erection
75 and maintenance of airport facilities; and for supervising
76 and controlling the purchase of furniture, fixtures and
77 equipment and janitors' and other supplies of their
78 county; and for attending the annual meeting of assessors
79 and such district meetings as may be called by the state
80 tax commissioner, on matters pertaining to the work of
81 assessors and county courts as boards of review and equal-
82 ization; for reviewing and equalizing the assessments
83 made by the assessors; for inspecting and reviewing the
84 lists of property, both real and personal, made up by the
85 assessor and his deputies for taxable purposes, and for
86 pointing out to the assessor any property, real or per-
87 sonal, which the said assessors of their respective counties
88 may have overlooked or omitted to place on said tax lists;

89 for calling to the attention of the assessor all real estate
90 or personal property belonging to churches, lodges,
91 schools or other charitable institutions which may have
92 been overlooked or omitted by the assessor or his deputies
93 in making up his lists of property for entry on the land
94 and personal property books; and for duties of the county
95 commissioners in cooperating with the county public as-
96 sistance council; for purchasing, leasing, renting, control-
97 ling, supervising, inspecting, maintaining and erecting
98 public parks, playgrounds and recreational facilities, and
99 the purchasing, leasing or renting the equipment there-
100 for, and employing qualified recreational directors and
101 personnel therefor; for constructing new four-H camps on
102 county property; operating stone quarries and sand de-
103 posits on county-owned or leased property; constructing
104 buildings for or aiding in construction and/or equipping
105 civilian defense buildings on sites approved by state of-
106 fice of civilian defense; operating dog pounds for county-
107 municipalities; and to purchase, lease, rent, control, su-
108 pervise, inspect, maintain and erect public markets and
109 to purchase, rent or lease equipment therefor, and to em-
110 ploy qualified personnel to operate such public markets;
111 for constructing fall-out shelters and aiding individuals
112 to construct fall-out shelters through furnishing avail-
113 able information; for purchasing, leasing, renting, con-
114 trolling, supervising, inspecting, maintaining and/or
115 erecting county mental health clinics and/or engaging in
116 programs for the betterment of the mental and/or physi-
117 cal well-being of the residents of their county; for con-
118 ducting a survey of all abandoned and dilapidated build-
119 ings or structures within the county and to prepare an
120 inventory thereof which inventory shall be made avail-
121 able to any agency of state or federal government or to
122 local governmental agencies upon request; and for super-
123 vising the general management of the fiscal affairs and
124 business of each county, within their counties, and other
125 business by such commissioners, in addition to compen-
126 sation for services in court, the sums of money herein-
127 after provided in the following sections five-(one) to five-
128 (fifty-four), inclusive.

Sec. 5-(13). Compensation of County Commissioners—
 2 **Greenbrier County.**—For the county of Greenbrier, one
 3 hundred fifty dollars per month.

Sec. 5-(20). Same; Kanawha County.—For the county
 2 of Kanawha, eight hundred dollars per month.

Sec. 5-(24). Same; Marion County.—For the county
 2 of Marion, four hundred sixty dollars per month.

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

- 2-(6). Salary of county clerk—Cabell county.
- 2-(12). Same; Greenbrier county.
- 2-(29). Same; Monongalia county.
- 2-(52). Same; Wyoming county.
- 3-(2). Salary of circuit clerk—Berkeley county.
- 3-(6). Same; Cabell county.
- 3-(12). Same; Greenbrier county.
- 3-(52). Same; Wyoming county.
- 6-(6). Salaries of assistants and stenographers to prosecuting attorneys—Cabell county.
- 6-(12). Same; Grant county.
- 6-(20). Same; Kanawha county.
- 6-(27). Same; McDowell county.
- 6-(31). Same; Monongalia county.

Section 2-(6). Salary of County Clerk—Cabell County.
 2 —For the county of Cabell, nine thousand dollars.

Sec. 2-(12). Same; Greenbrier County.—For the county
 2 of Greenbrier, six thousand dollars.

Sec. 2-(29). Same; Monongalia County.—For the
 2 county of Monongalia, eight thousand five hundred dol-
 3 lars.

Sec. 2-(52). Same; Wyoming County.—For the county
 2 of Wyoming, seven thousand two hundred dollars.

Sec. 3-(2). Salary of Circuit Clerk—Berkeley County.—
 2 For the county of Berkeley, five thousand six hundred
 3 dollars.

Sec. 3-(6). Same; Cabell County.—For the county of
 2 Cabell, nine thousand six hundred dollars.

Sec. 3-(12). Same; Greenbrier County.—For the county
 2 of Greenbrier, five thousand three hundred dollars.

Sec. 3-(52). Same; Wyoming County.—For the county
 2 of Wyoming, seven thousand two hundred dollars.

Sec. 6-(6). Salaries of Assistants and Stenographers to Prosecuting Attorneys—Cabell County.—For the county of Cabell, three assistant attorneys, not more than seven thousand two hundred dollars each; two stenographers, not more than four thousand dollars each.

Sec. 6-(12). Same; Grant County.—For the county of Grant, one assistant attorney; one stenographer or clerk, not more than one thousand eight hundred dollars.

Sec. 6-(20). Same; Kanawha County.—For the county of Kanawha, first assistant attorney, not less than six thousand nor more than twelve thousand five hundred dollars, three assistant attorneys, not less than six thousand nor more than twelve thousand dollars each, and stenographers and clerks at a salary to be fixed by the county court payable out of the county treasury of said county of Kanawha.

Sec. 6-(27). Same; McDowell County.—For the county of McDowell, first assistant attorney, not less than three thousand nor more than five thousand four hundred dollars; second assistant attorney, not less than three thousand nor more than five thousand dollars; one stenographer, not less than three thousand three hundred nor more than four thousand two hundred dollars.

Sec. 6-(31). Same; Monongalia County.—For the county of Monongalia, one assistant attorney, six thousand dollars; one stenographer, not less than two thousand four hundred nor more than three thousand six hundred dollars.

CHAPTER 24

(House Bill No. 783—By Mr. Black and Mr. Bailey)

[Passed March 13, 1965; In effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article three, chapter seven of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, to provide that a county court of every county having a population in excess of two hundred thousand may provide at the county seat or elsewhere in the county, as the county court shall determine, a suitable jail or jails.

Be it enacted by the Legislature of West Virginia:

That section two, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. County Property.

Section

2. Courthouse, jail and offices.

Section 2. Courthouse, Jail and Offices.—The county court of every county, at the expense of the county, shall provide at the county seat thereof a suitable courthouse and jail, together with suitable offices for the judge of the circuit court and judges of courts of limited jurisdiction, clerks of such courts and of the county court, assessor, sheriff, prosecuting attorney, county superintendent of schools, and surveyor, and such other offices as are or may be required by law: *Provided*, That the county court of every county having a population in excess of two hundred thousand may provide at the county seat or elsewhere in the county, as the county court shall determine, a suitable jail or jails. The county court shall keep the courthouse, jail and such other offices in constant and adequate repair, and supplied with the necessary heat, light, furniture, record books, and janitor service, and, except as to the office for the judge of the circuit court, with the necessary stationery and postage, and such other things as shall be necessary; but all of the public records, books and papers belonging or appertaining to the county surveyor's office shall be delivered to the clerk of the county court and retained by him in his official possession and under his control and shall constitute a part of the public records, books and papers of his office. Such courthouses, jails and offices hereafter erected shall be built of stone and brick, or stone or brick, or other equally fireproof materials, and such offi-

28 ces shall be fireproof or be furnished with fireproof vaults
29 or safes. The jails shall be well secured, and sufficient
30 for the convenient accommodation of those who may be
31 confined therein, and so that the convicts may be in
32 apartments separate from each other, and from the other
33 prisoners; every apartment shall be so constructed that
34 it can be kept comfortable. The county court may also
35 provide other necessary offices and buildings, and may,
36 by purchase or otherwise, acquire so much land as may
37 be requisite or desirable for county purposes, and may
38 suitably inclose, improve and embellish the lands so
39 acquired.

40 Subject to the conditions hereinabove set forth with
41 respect to the site of the courthouse, jail, and other offices,
42 the court may, from time to time, as may seem to it
43 proper, provide, at the expense of the county, a new or
44 other building or buildings to be used for the courthouse
45 and jail, or for either, together with suitable offices, as
46 aforesaid, and for that purpose may acquire, by purchase
47 or otherwise, and hold any lands, or lands and buildings,
48 which may be necessary, and may inclose, improve and
49 embellish the same. When such new or other building
50 or buildings shall be ready for occupancy, the county
51 court shall make an order declaring that, on a day to be
52 therein named, such new or other building or buildings
53 shall become the courthouse and/or jail of the county,
54 and shall cause copies of the order to be posted at the
55 front door of the new as well as of the old courthouse,
56 at least twenty days before the day named in the order;
57 and on and after the day so named such new or other
58 building or buildings shall be and become, respectively,
59 the courthouse and/or jail of such county in all respects
60 and for all purposes. After such change shall have been
61 made the county court may sell or otherwise dispose of,
62 as may seem to it proper, the building or buildings pre-
63 viously used as a courthouse and jail, or either, and the
64 land on which the same are, or either is, situated, and
65 of the interest of the county therein.

CHAPTER 25

(Senate Bill No. 122—By Mr. Carson, Mr. President,
and Mr. Carrigan)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections fourteen, fifteen, sixteen and seventeen, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article three by adding thereto a new section, designated section fourteen-a, relating to the authority of a county court to acquire, own, etc., hospitals, clinics, long-term care facilities and other related facilities; defining the terms "hospital," "clinic" and "long-term care facility" as such terms are used in said article three; authorizing a county court to acquire by purchase or construction and to thereafter own, equip, furnish, operate, lease, improve and extend a clinic, long-term care facility and other related facilities; authorizing a county court to lease a hospital; empowering a county court, upon acquiring a hospital, clinic, long-term care facility or other related facility, to lease the same to others for such rentals and upon such terms and conditions as the county court may deem advisable; authorizing the issuance of revenue bonds to be serviced and paid out of the revenue of such clinic, long-term care facility or other related facility; investing the administration and management of any such clinic, long-term care facility or other related facility in a board of trustees and specifying the powers of such board.

Be it enacted by the Legislature of West Virginia:

That sections fourteen, fifteen, sixteen and seventeen, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article three be further amended by adding thereto a new section, designated section fourteen-a, all to read as follows:

Article 3. County Property.

Section

14. Authority to acquire and operate hospitals, clinics, long-term care facilities and other related facilities; financing.

- 14-a. "Hospital," "clinic" and "long-term care facility" defined.
15. Board of trustees for hospital, clinic or long-term care facility.
16. Operation with bonds outstanding.
17. Construction.

Section 14. Authority to Acquire and Operate Hospitals, Clinics, Long-term Care Facilities and Other Related Facilities; Financing.—The county court of any county is hereby authorized and empowered to acquire by purchase or construction and to thereafter own, equip, furnish, operate, lease, improve and extend a public hospital, clinic, long-term care facility and other related facilities, with all appurtenances, including the necessary real estate as a site therefor. Any such county public hospital acquired pursuant hereto may include a nurses home and nurses training school. The county court is further authorized and empowered, upon acquiring a hospital, clinic, long-term care facility or other related facility, to lease to others any or all such facilities for such rentals and upon such terms and conditions as the county court may deem advisable. For the purpose of paying all or any part of the costs, not otherwise provided, of acquiring, completing, equipping, furnishing, improving or extending such hospital, clinic, long-term care facility or other related facility, the county court is hereby authorized and empowered by order duly entered of record, to issue and sell the negotiable revenue bonds of such county, which shall be payable solely and only from all or such part of the net revenues from the operation of such county public hospital, clinic, long-term care facility or other related facility as may be provided by said order; and each such revenue bond so issued shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by the revenues pledged therefor, and that such bond does not constitute an indebtedness of such county or the county court thereof within the meaning of any constitutional or statutory limitation or provision. Such revenue bonds may bear such date or dates, may mature at such time or times not exceeding thirty-four years from their respective dates, may bear interest at such rate or rates not exceeding five per cent per annum, may be of such denomination or denominations, may be in such form, may carry

39 such registration privileges, may be made subject to such
40 terms of redemption with or without premium, and may
41 contain such other terms and covenants not inconsistent
42 with this article as may be provided in such order. Such
43 revenue bonds shall be exempt from taxation by the state
44 of West Virginia and the other taxing bodies of the state.
45 In determining the amount of revenue bonds to be issued,
46 there may be included any expenses in connection with
47 and incidental to the issuance and sale of bonds and for
48 the preparation of plans, specifications, surveys and esti-
49 mates, interest during the estimated construction period
50 and for six months thereafter, and a reasonable amount
51 for working capital and prepaid insurance. Such bonds
52 may be sold in such manner, at such times and upon such
53 terms as may be determined by the county court to be for
54 the best interests of the county: *Provided*, That no bonds
55 may be sold upon terms which will result in the net
56 interest cost of more than six per cent per annum com-
57 puted to maturity of the bonds according to standard
58 tables of bond values. There may be included in any such
59 order authorizing the issuance of revenue bonds such
60 covenants, stipulations and conditions as may be deemed
61 necessary with respect to the expenditure of the bond
62 proceeds, the operation and maintenance of the county
63 public hospital, clinic, long-term care facility or other
64 related facility, and the custody and application of the
65 revenues from such operation. The holder of any bond or
66 bonds may, by mandamus or other appropriate proceed-
67 ings, require and compel performance of any duties im-
68 posed by law in connection with the hospital, clinic, long-
69 term care facility or other related facility, or any cove-
70 nant, stipulation or condition that may have been ex-
71 pressed in such bond order.

Sec. 14-a. "Hospital," "Clinic" and "Long-term Care Facility" Defined.—The following terms whenever used
2 in this article shall have the following meanings:
3

4 (a) The term "hospital" shall mean any general hos-
5 pital, chronic disease hospital, mental hospital and other
6 related facilities.

7 (b) The term "clinic" shall mean any community

8 medical clinic, mental health center and other related
9 facilities.

10 (c) The term "long-term care facility" shall mean any
11 nursing home, rest home, housing facility for aged citizens
12 and other related facilities.

Sec. 15. Board of Trustees for Hospital, Clinic or Long-term Care Facility.—The administration and management of any county public hospital, clinic, long-term care facility or other related facility acquired, equipped, furnished, improved or extended under section fourteen of this article shall be vested in a board of trustees, consisting of not less than five members appointed by the county court. Prior to the issuance of any bonds under the provisions of section fourteen of this article, the county court shall appoint two of such trustees for a term of two years, two trustees for a term of four years, and one trustee for a term of six years from the first day of the month during which appointed. Upon the expiration of such initial appointments, the term of each new appointee shall be six years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any trustee shall be eligible for reappointment upon the expiration of his term. The trustees shall receive no compensation for their services, but shall be reimbursed for any expenses incurred in the performance of their duties. Any trustee may be removed by the county court for incompetency, neglect of duty or malfeasance in office after an opportunity to be heard at a public hearing before the county court. At the first meeting of the board of trustees, and annually thereafter, it shall organize by designating one of its members as chairman and by appointing a secretary who may, but need not, be a trustee. The sheriff of the county shall be ex officio treasurer of the board.

31 Such board of trustees shall provide for the employment
32 of and shall fix the compensation for and remove at pleasure
33 all professional, technical and other employees, skilled
34 or unskilled, as it may deem necessary for the operation
35 and maintenance of the hospital, clinic, long-term care

36 facility or other related facility; and disbursement of
37 funds in such operation and maintenance shall be made
38 only upon order and approval of such board. The board of
39 trustees shall make all rules and regulations governing its
40 meetings and the operation of the hospital, clinic, long-
41 term care facility or other related facility.

Sec. 16. Operation with Bonds Outstanding.—So long as
2 any revenue bonds remain outstanding under the provi-
3 sions of section fourteen of this article, the hospital, clinic,
4 long-term care facility or other related facility and all
5 appurtenances shall be operated and maintained on a
6 revenue-producing and self-sustaining basis; and the
7 board of trustees shall charge, collect and account for
8 revenues therefrom which will be sufficient to pay the
9 interest on such bonds as the same becomes due, to create
10 and maintain a sinking fund to pay and retire the princi-
11 pal at or before maturity, and to pay the costs of operating
12 and maintaining the hospital, clinic, long-term care fa-
13 cility or other related facility. The order authorizing such
14 bonds shall definitely fix and determine the amount of the
15 revenues which shall be necessary and set apart in a
16 special fund to pay such interest and to pay and retire
17 such principal; and all or such portion of the balance of
18 such revenues as may be necessary shall be set apart in a
19 special fund to pay the costs of operation and maintenance
20 of the hospital, clinic, long-term care facility or other re-
21 lated facility.

Sec. 17. Construction.—The provisions of sections four-
2 teen, fifteen and sixteen of this article shall be construed
3 as conferring separate and additional powers as herein
4 set forth and shall be deemed full authority for the ac-
5 quisition, improvement, extension, maintenance and op-
6 eration of the hospital, clinic, long-term care facility or
7 other related facility and for the issuance and sale of the
8 bonds by this article authorized: *Provided*, That all perti-
9 nent functions, powers and duties of the state department
10 of health shall remain in effect.

CHAPTER 26

(Senate Bill No. 252—By Mr. Martin)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nineteen, relating to payments to sheriffs, assessors and their deputies for mileage in driving their personally-owned cars in the discharge of their official duties.

Be it enacted by the Legislature of West Virginia:

That article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nineteen, to read as follows:

Article 5. Fiscal Affairs.

Section

19. Allowance for mileage of sheriffs, assessors, and their deputies.

Section 19. Allowance for Mileage of Sheriffs, Assessors, and Their Deputies.—Notwithstanding the provisions of section twelve, article seven, chapter seven, and section ten, article two, chapter eleven of this code, or any other provisions of law to the contrary, the county court of each county may allow the sheriff, assessor, and each deputy of the sheriff and assessor, when engaged in the discharge of his official duties, not less than seven cents nor more than ten cents per mile for each mile each sheriff, assessor, and each deputy of the sheriff and assessor is required to drive his personally-owned car. Each sheriff and assessor shall file monthly, under oath, a full and accurate account of all the actual mileage driven by him and his deputies in the discharge of their official duties, supported by verified accounts before payment thereof shall be allowed by the county court.

CHAPTER 27

(House Bill No. 787—By Mr. Speaker, Mr. White, and Mr. Beall)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment in county depositories of demand deposit accounts and time deposit accounts; authorizing the county treasurer, with the written approval of the various fiscal bodies, to deposit or transfer public funds in or to time deposit accounts; relating to the payment of interest by county depositories on such time deposit accounts, reports by county depositories to the clerk of the county court and county treasurer and the allocation of interest between the various fiscal bodies; and requiring the treasurer to report the allocation of interest to the various fiscal bodies.

Be it enacted by the Legislature of West Virginia:

That section five, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 6. County Depositories.

Section

5. Interest on deposits.

Section 5. Interest on Deposits.—The county treasurer
2 is authorized to establish with such depositories two ac-
3 counts, one to be designated “demand deposit account”
4 and the other to be designated “time deposit account.”
5 When it appears to the treasurer that funds on deposit
6 in the demand deposit account exceed the current re-
7 quirements or demands, or that funds should be deposited
8 in the time deposit account, and that a transfer or deposit
9 of such funds or a portion thereof to or in the time deposit
10 account would earn interest thereon, he may, with the
11 approval in writing of each fiscal body whose funds are
12 involved, transfer or deposit such funds or a portion of
13 such funds to said time deposit account.

14 The depositories shall pay interest on public funds
15 deposited therein in time deposit accounts at a rate of
16 interest equal to but not more than that paid by such
17 depositories on private funds deposited in similar time
18 deposit accounts. Nothing herein contained shall be con-
19 strued as requiring the transfer or deposit of any portion
20 of public funds to time deposit accounts. When interest
21 is credited to any such time deposit account, the deposi-
22 tory shall report in writing the amount thereof to the
23 clerk of the county court and the treasurer, each sep-
24 arately, before noon of the next business day. All of
25 such interest shall be allocated by the treasurer to each
26 fiscal body whose funds were on deposit in such time
27 deposit account, such allocation to be made on the basis
28 of the amount of funds of each fiscal body in such time
29 deposit account and the length of time each body's funds
30 were in such account. Within ten days after receipt of
31 the depository's report showing that interest has been
32 credited to such time deposit account, the treasurer shall
33 make the foregoing allocation of interest and report the
34 same to each of the fiscal bodies whose funds are involved.

CHAPTER 28

(Senate Bill No. 277—By Mr. Tompos)

[Passed March 12, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section six-(fifteen), article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salaries of the assistant prosecuting attorney and of the stenographer for the prosecuting attorney of Hancock county.

Be it enacted by the Legislature of West Virginia:

That section six-(fifteen), article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Salaries; Deputies and Assistants and Their Salaries.**Section**

6-(15). Same—Hancock county.

Section 6-(15). Same—Hancock County.—For the county of Hancock, one assistant attorney, not less than three thousand nor more than five thousand four hundred dollars; one stenographer, not less than three thousand six hundred dollars nor more than four thousand two hundred dollars.

CHAPTER 29

(Senate Bill No. 254—By Mr. Jackson)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to deputies and assistants of sheriffs and clerks of the courts.

Be it enacted by the Legislature of West Virginia:

That section seven, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Salaries; Deputies and Assistants and Their Salaries.**Section**

7. Deputies and assistants of sheriffs and clerks of the courts; salaries; fiscal budget.

Section 7. Deputies and Assistants of Sheriffs and Clerks of the Courts; Salaries; Fiscal Budget.—The sheriff, clerk of the county court, clerk of the circuit court, clerk of the criminal, common pleas or intermediate courts, on or before March first of each year, shall file with the county court, or tribunal in lieu thereof, a detailed statement of the probable amount necessary to be expended for deputies, assistants, and other employees of their respective offices in the following fiscal year. If any such officer shall fail to file the statement hereby required, he shall be

11 guilty of a misdemeanor, and, upon conviction thereof,
12 shall be fined not less than fifty nor more than one hun-
13 dred dollars, or imprisoned in the county jail not less
14 than thirty days nor more than six months, or both, in the
15 discretion of the court. The county court, or tribunal in
16 lieu thereof, shall not later than March twenty-eighth,
17 take up and consider the same and shall determine and
18 fix an aggregate sum to be expended for the period
19 covered by such statement for the compensation of all
20 such deputies, assistants, and other employees of the re-
21 spective officers, which shall be reasonable and proper,
22 regard being had to the amount of labor necessary to be
23 performed by those to receive the compensation, and shall
24 enter upon its court record a finding of its action.

25 The officers herein named shall appoint and employ
26 such deputies, assistants and other employees in the
27 manner provided by law, as may be necessary for their
28 respective offices and fix their compensation, and shall
29 file with the clerk of the county court, or other tribunal in
30 lieu thereof, a statement in writing showing such action
31 and setting forth the name of each deputy, assistant and
32 employee, the time for which employed and the monthly
33 compensation; but the compensation for all deputies, as-
34 sistants and other employees shall not exceed in the
35 aggregate, for each office, the amount so fixed for that
36 office as hereinbefore provided. The officers herein named
37 shall have authority to discharge any deputy, assistant or
38 other employee, by filing with the clerk of the county
39 court, or tribunal in lieu thereof, a statement in writing
40 showing such action. All statements required to be filed
41 by this section shall be verified by the affidavit of the per-
42 son making them, and among other things contained in
43 the affidavit shall be the statement that the amounts
44 shown therein were the amounts actually paid or intended
45 to be paid to the deputies, assistants, or other employees
46 without rebates, or any agreement, understanding and
47 expectation that any part thereof shall be repaid to him,
48 and that nothing has heretofore been paid or promised
49 him on that account, and that if he shall thereafter receive
50 any money, or thing of value, on account thereof, he will
51 account for and pay the same to the county. Until the

52 statements required by this section have been filed, no
53 allowance or payments shall be made to any officer for
54 deputies, assistants or other employees.

C

CHAPTER 30

(Com. Sub. for Senate Bill No. 161—By Mr. Carson, Mr. President,
and Mr. McCourt)

[Passed March 3, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, specifying the public purpose for which the article is enacted; relating to encouragement and promotion of the creation of local community action program organizations and the operation thereof; providing for their official recognition by the governor and the standards of eligibility for such recognition; providing for the state's orderly participation in the federal Economic Opportunity Act of 1964 (Public Law 88-452); providing for the creation of a governor's economic opportunity advisory committee; authorizing and empowering county courts, county boards of education and municipal governments to participate in community action program organization projects and to contribute money, goods, property, personnel, resources and services to duly recognized community action program organizations; specifying that community action program organizations must be duly recognized public or private nonprofit agencies for the public purpose for which the article is enacted; authorizing and empowering county courts, county boards of education and municipal governments to enter into and perform contracts, leases, cooperative arrangements or other transactions as may assist in the performance of component projects of a community action program; providing for accounting by community action program organizations; providing for the employees of such organizations to be covered by workmen's compensa-

tion; relating to the assignment of federal enlistees in volunteers in service to America; authorizing the reimbursement of legitimate expenses incurred in the line of official duty by volunteers in service to America enlistees assigned to work under the supervision of various departments of state government; providing a severability clause; providing that the article shall be liberally construed to effect the public purpose for which the article is enacted; and specifying that the amendment of the federal Economic Opportunity Act of 1964 (Public Law 88-452), or any section thereof, shall not be construed as negating any authority conferred by the provisions of the article.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen, to read as follows:

Article 13. Economic Opportunity Programs.

Section

1. Community action program organizations.
2. Recognition.
3. Economic opportunity advisory committee.
4. Eligibility.
5. Area encompassed in program.
6. Membership and participation in community action program organizations.
7. Status of community action program organizations.
8. Contributions by county courts, county boards of education and municipal governments.
9. Accountability of funds.
10. Employees covered by workmen's compensation.
11. Volunteers in service to America.
12. Severability.
13. Liberal construction of article.
14. Amendment of federal act.

Section 1. Community Action Program Organizations.—

- 2 In order to stimulate the communities of West Virginia
- 3 in mobilizing their resources and developing programs
- 4 to effect a permanent decrease in the incidence of poverty
- 5 and economic disadvantage, which is hereby declared to
- 6 be a public purpose, it shall be the responsibility of the
- 7 governor to encourage and promote the creation and
- 8 operation of community action programs consistent with
- 9 the provisions of Title II and other titles of the federal
- 10 Economic Opportunity Act of 1964 (Public Law 88-452).

Sec. 2. Recognition.—In furtherance of this objective, the governor is authorized to extend official recognition to duly constituted community action program organizations which comply, or are in the process of complying, with regulations as established by the federal office of economic opportunity or its delegate agencies.

Such official recognition shall be established by the governor notifying the president, chairman, administrator, or other chief executive officer of a community action program organization, in writing, of his acceptance of that body as an officially recognized community action program organization.

Sec. 3. Economic Opportunity Advisory Committee.—To assist in the promotion and development of community action program organizations, and other phases of the federal Economic Opportunity Act of 1964, the governor may consult with and request reports from a governor's economic opportunity advisory committee, on which the governor, or his designated representative, shall sit as chairman.

The economic opportunity advisory committee shall consist of:

- (a) The governor,
- (b) The state superintendent of schools,
- (c) The commissioner of agriculture,
- (d) The commissioner of employment security,
- (e) The commissioner of welfare,
- (f) The commissioner of commerce,
- (g) The commissioner of labor,
- (h) The director of the department of natural resources,
- (i) The state road commissioner,
- (j) The director of mental health,
- (k) The director of the department of health,
- (l) The president of the senate of West Virginia,
- (m) The speaker of the house of delegates of West Virginia,
- (n) The director of the division of vocational rehabilitation,
- (o) At least one representative from the state-supported colleges and universities of West Virginia, or

29 their designated representatives, temporary or perma-
30 nent, and such other members as the governor may
31 appoint or the committee may select by affirmative vote
32 of a majority of the members present and voting.

33 The committee shall meet upon call of the chairman.

Sec. 4. Eligibility.—In determining whether a commu-
2 nity action program organization shall be eligible for
3 official recognition and participation under the provisions
4 of Title II, and other titles of the federal Economic Op-
5 portunity Act of 1964, the governor shall direct his staff
6 to report on the eligibility and composition of any such
7 organization, or shall request the advice of the governor's
8 economic opportunity advisory committee.

Sec. 5. Area Encompassed in Program.—Community ac-
2 tion programs shall encompass a county or multicounty
3 unit, or regional or subregional unit comprising all or
4 parts of counties. However, only one community action
5 program organization shall be recognized in any single
6 county, except under unusual circumstances, which the
7 governor may determine. In any county where more than
8 one community action program organization is recognized,
9 each organization must be given such official recognition,
10 in writing, by the governor.

**Sec. 6. Membership and Participation in Community
2 Action Program Organizations.**—A county court, county
3 board of education, or municipal government is hereby
4 authorized and empowered to become associated with a
5 community action program organization, and to partici-
6 pate in the development and implementation of compo-
7 nent projects conceived and placed into operation by
8 community action program organizations.

9 In so doing, a county court, county board of education,
10 or municipal government may extend, without compen-
11 sation, the use of its buildings, equipment, machinery,
12 public lands, personnel, technical and other services, and
13 other resources for the benefit of a community action
14 program organization; may provide money, and real and
15 other property, tangible or intangible, to a recognized
16 community action program organization in the further-

17 ance of the objectives of the federal Economic Opportu-
18 nity Act of 1964, and may cooperate and act in conjunction
19 with other county courts, county boards of education,
20 municipal governments, public bodies, and all agencies of
21 federal, state and local governments in the promotion and
22 advancement of the projects, in operation or in evolution-
23 ary stages, under the jurisdiction of a recognized com-
24 munity action program organization: *Provided*, That any
25 such contribution, whether in cash or in kind, in goods or
26 in services fairly evaluated, should, in all practical in-
27 stances, constitute the whole or a portion of the matching
28 share required by the federal office of economic oppor-
29 tunity from the community action program organization
30 in the orderly implementation and conduct of community
31 action programs.

**Sec. 7. Status of Community Action Program Organi-
2 zations.**—In order to be a community action program
3 organization under the provisions of this article, such
4 organization must be a public governmental agency or a
5 nonprofit corporation qualified to do business in West
6 Virginia, other than a political party, and must be recog-
7 nized by the governor, in accordance with the provisions
8 of section two of this article, for the public purpose de-
9 clared in section one of this article.

10 In no instance shall the state, any agency thereof, or
11 a county court, county board of education, or municipal
12 government provide or extend, under the provisions of
13 this article, money, and real and other property, tangible
14 or intangible, or financial assistance to other than a
15 community action program organization recognized by
16 the governor in accordance with the provisions of section
17 two of this article.

**Sec. 8. Contributions by County Courts, County Boards
2 of Education and Municipal Governments.**—A county
3 court, county board of education, or municipal govern-
4 ment shall be authorized and empowered to contribute
5 to the costs of duly recognized community action program
6 organizations by appropriating for such purposes money
7 from its general funds not otherwise appropriated. A
8 county court, county board of education, or municipal

9 government likewise is authorized and empowered to
10 transfer and convey to a duly recognized community
11 action program organization property, equipment and
12 machinery, and other goods: *Provided*, That such transfer
13 will further the conduct and implementation of compo-
14 nent projects of a community action program.

15 A county court, county board of education, or muni-
16 cipal government is authorized and empowered to accept,
17 use and dispose of gifts of property, real, personal or
18 mixed, tangible or intangible, and to convey or otherwise
19 transfer the same to a recognized community action
20 program organization: *Provided, however*, That such
21 transfer will further the conduct and implementation of
22 component projects of a community action program.

23 A county court, county board of education, or muni-
24 cipal government is authorized and empowered to enter
25 into and perform such contracts, leases, cooperative ar-
26 rangements, or other transactions as may assist in the
27 performance of component projects of a community ac-
28 tion program: *Provided further*, That no county court,
29 county board of education, or municipal government shall
30 enter into any such contract, lease or cooperative arrange-
31 ment unless it is requested to assist in such manner
32 through notification, in writing, by the chairman, presi-
33 dent, administrator or other chief executive officer of a
34 recognized community action program organization.

Sec. 9. Accountability of Funds.—As a condition to par-
2 ticipation in community action program organization
3 activities, as specified in section eight, a county court,
4 county board of education, or municipal government may
5 require a community action program organization to
6 render an accounting, at such intervals as the county
7 court, county board of education, or municipal govern-
8 ment may designate, of the use of money, property, goods,
9 and services made available to the community action
10 program organization by the county court, county board
11 of education, or municipal government, and to make
12 available at quarterly intervals an itemized statement of
13 receipts and disbursements, and its books, records and
14 accounts, during the preceding quarter, for audit and

15 examination by the office of the state tax commissioner
16 of West Virginia and any other proper public body or
17 official.

Sec. 10. Employees Covered by Workmen's Compensation.—All employees of a community action program
2 organization eligible thereto shall be deemed to be within
3 the Workmen's Compensation Act of West Virginia and
4 premiums on their compensation shall be paid by the
5 organization, as required by law.

Sec. 11. Volunteers in Service to America.—Federal
2 enlistees in Volunteers in Service to America, hereafter
3 referred to as VISTA, as authorized under Title VI of the
4 federal Economic Opportunity Act of 1964, may be as-
5 signed to the department of mental health, department of
6 agriculture, department of natural resources and other
7 agencies of the state government.

8 Notwithstanding any other provision of state law, while
9 serving in such capacity, VISTA enlistees may, upon the
10 presentation of authenticated statements of expenses in-
11 curred solely in the line of their assigned duties for and
12 on behalf of the state of West Virginia, be reimbursed
13 by the state for such expenses, including mileage, fares
14 for public transportation, and meals and lodging when
15 detailed to duty away from their assigned station: *Pro-*
16 *vided*, That this section is in no way designed to supply
17 regular subsistence allowances to VISTA enlistees, as
18 provided in federal regulations allowing for their main-
19 tenance and subsistence during the term of their enlist-
20 ment.

21 VISTA enlistees, except for the reimbursement of ex-
22 penses as provided in this section, shall in no way be
23 considered to be employees of the state. They shall not
24 be eligible for participation in the public employees re-
25 tirement system of the state of West Virginia or to receive
26 any other benefits from the state whatever.

Sec. 12. Severability.—If any provision of this article,
2 or the applicability thereof to any person or circum-
3 stance, is held invalid, the remainder of this article, and

4 the application of such provision to other persons or
5 circumstances, shall not be affected thereby.

Sec. 13. Liberal Construction of Article.—This article
2 is enacted to assist with the reduction and elimination
3 of the incidence and causes of poverty in West Virginia,
4 hereinbefore declared to be a public purpose, and this
5 article shall be liberally construed so as to give com-
6 munity action program organizations the full and com-
7 plete power required to give maximum aid toward the
8 accomplishment of such public purpose.

Sec. 14. Amendment of Federal Act.—The amendment
2 of the federal Economic Opportunity Act of 1964 (Public
3 Law 88-452), or any section thereof, shall not be construed
4 as negating any authority conferred by the provisions of
5 this article.

CHAPTER 31

(Senate Bill No. 159—By Mr. Parker)

[Passed February 26, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section six, article one, chapter
nineteen of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to duty of as-
sessor to gather statistics.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter nineteen of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted to read as follows:

Article 1. Department of Agriculture.

Section

6. Duty of assessor to gather statistics.

Section 6. Duty of Assessor to Gather Statistics.—Com-
2 mencing on the first day of July of each year, the assessors
3 shall proceed to gather such statistics as the commis-
4 sioner of agriculture and the tax commissioner may
5 require, and the printed books, forms, blanks, papers and
6 reports when so completed shall be returned to the com-

7 missioner of agriculture, on or before the first day of
8 March next ensuing.

CHAPTER 32

(House Bill No. 511—By Mr. Edgar)

[Passed March 1, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one-h and one-k, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the terms of the circuit court of the eighth and eleventh judicial circuits.

Be it enacted by the Legislature of West Virginia:

That sections one-h and one-k, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

- 1-h. Eighth circuit.
- 1-k. Eleventh circuit.

Section 1-h. Eighth Circuit.—For the county of McDowell, on the second Monday in March, June and September, and the first Monday in December.

Sec. 1-k. Eleventh Circuit.—For the county of Pocahontas, on the third Tuesday in March, the second Tuesday in June and the first Tuesday in October.

For the county of Greenbrier, on the third Tuesday in April, the fourth Tuesday in July and the second Tuesday in November.

For the county of Monroe, on the first Tuesday in April, the second Tuesday in July and the third Tuesday in October.

For the county of Summers, on the second Tuesday in January, the third Tuesday in May and the second Tuesday in September.

CHAPTER 33

(Senate Bill No. 7—By Mr. Carson, Mr. President, and Mr. Carrigan)

[Passed February 1, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-four-b, prohibiting the manufacture, sale, offer or advertisement for sale, possession, gift or transfer of any instrument, apparatus, equipment, or device or plans for instructions therefor, designed, adapted, used, or employed with the intent or for the purpose of obtaining telephone or telegraph service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities without the payment of charges therefor, or with the intent or for the purpose of concealing or assisting another to conceal the existence or places of origin or of destination of any message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities; providing criminal penalties; and authorizing the seizure of any such instrument, apparatus, equipment, device, plans or instructions, and, following conviction, the destruction thereof as contraband.

Be it enacted by the Legislature of West Virginia:

That article three, chapter sixty-one 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-four-b, to read as follows:

Article 3. Crimes against Property.

Section

24-b. Making, selling, possessing, transferring or advertising for sale a device or plans for a device designed to obtain or use telephone or telegraph service or facilities by false or fraudulent means; penalty.

- Section 24-b. Making, Selling, Possessing, Transferring
2 or Advertising for Sale a Device or Plans for a Device
3 Designed to Obtain or Use Telephone or Telegraph Serv-
4 ice or Facilities by False or Fraudulent Means; Penalty.—**

5 It shall be unlawful for any person knowingly to make,
6 sell, offer or advertise for sale, possess, or give or other-
7 wise transfer to another any instrument, apparatus, equip-
8 ment, or device or plans or instructions for making or
9 assembling any instrument, apparatus, equipment, or
10 device which has been designed, adapted, used, or em-
11 ployed with the intent or for the purpose of (1) obtaining
12 telephone or telegraph service or the transmission of a
13 message, signal or other communication by telephone or
14 telegraph, or over telephone or telegraph facilities with-
15 out the payment of charges therefor, or (2) concealing
16 or assisting another to conceal from any supplier of tele-
17 phone or telegraph service or from any person charged
18 with the responsibility of enforcing this section, the
19 existence or place of origin or of destination of any mes-
20 sages, signal, or other communication by telephone or
21 telegraph, or over telephone or telegraph facilities.

22 Any person who violates any provision of this section
23 is guilty of a misdemeanor, and, upon conviction thereof,
24 shall be punished by imprisonment in the county jail not
25 exceeding twelve months, or by fine not exceeding five
26 hundred dollars, or by both such fine and imprisonment
27 at the discretion of the court. Any such instrument, ap-
28 paratus, equipment, or device, or plans or instructions
29 therefor, may be seized by court order or under the war-
30 rant of a justice; and, upon the conviction of any person
31 owning same or having any interest therein for a vio-
32 lation of any provision of this section, which conviction
33 has become final, such instrument, apparatus, equipment,
34 device, plans or instructions shall be destroyed as con-
35 traband by the sheriff of the county in which such person
36 was convicted.

CHAPTER 34

(Senate Bill No. 143—By Mr. Gainer)

[Passed March 11, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section forty-seven, article three, chapter sixty-one of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, relating to dams or obstructions in watercourses and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section forty-seven, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Crimes against Property.

Section

47. Dams or obstructions in watercourses; penalty.

Section 47. Dams or Obstructions in Watercourses; Pen-
2 **alty.**—No person shall fell any timber and permit the
3 same to remain in any navigable or floatable stream of
4 this state when to do so shall obstruct the passage of
5 boats, rafts, staves, ties or timber of any kind. No person
6 shall construct any dam or other obstruction more than
7 fifteen feet in height across any stream or watercourse
8 unless the design and proposed construction shall have
9 been declared to be safe by an order entered by the public
10 service commission after full investigation: *Provided,*
11 That no dam or other obstruction more than ten feet in
12 height shall be constructed across any stream or water-
13 course if such dam or other obstruction would create a
14 body of water covering ten or more acres, unless the
15 design and proposed construction of such dam or other
16 obstruction shall have been declared to be safe by an order
17 entered by the public service commission after full in-
18 vestigation. Except as may be provided by chapter twenty
19 of this code, no person shall construct or maintain any
20 dam or other structure in any stream or watercourse,
21 which shall in any way prevent or obstruct the free and
22 easy passage of fish up or down such stream or water-
23 course, without first providing as a part of such dam or
24 other structure a suitable fish ladder, way or flume, so con-
25 structed as to allow fish easily to ascend or descend the
26 same; which ladder, way or flume shall be constructed
27 only upon plans, in a manner, and at a place, satisfactory
28 to the natural resources commission: *Provided, however,*
29 That if the director of the department of natural resources
30 determines that there is no substantial fish life in such

31 stream or watercourse, or that the installation of a fish
32 ladder, way or flume would not facilitate the free and easy
33 passage of fish up or down a stream or watercourse, or that
34 an industrial development project requires the construc-
35 tion of such dam or other structure and the installation of
36 an operational fish ladder, way or flume is impracticable,
37 he may, in writing, permit the construction or mainte-
38 nance of a dam or other structure in a stream or water-
39 course without providing a suitable fish ladder, way or
40 flume; and in all navigable and floatable streams provi-
41 sions shall be made in such dam or structure for the pas-
42 sage of boats and other crafts, logs and other materials:
43 *Provided further*, That this section shall not relieve such
44 person from liability for damage to any riparian owner on
45 account of the construction or maintenance of such dam.

46 Any person who shall violate any of the provisions of
47 this section shall be guilty of a misdemeanor, and, upon
48 conviction thereof, shall be fined not exceeding one thou-
49 sand dollars, or imprisoned in the county jail not exceed-
50 ing one year, or both fined and imprisoned, and, whether
51 conviction be had under this section or not, such violation
52 shall be deemed a nuisance, which may be abated at the
53 suit of any citizen or taxpayer, the county court of the
54 county, or, as to fish ladders, at the suit of the natural
55 resources commission, and, if the same endangers county
56 roads, the county court may abate such nuisance peace-
57 ably without such suit.

————— C —————

CHAPTER 35

(Com. Sub. for Senate Bill No. 204—By Mr. Tompos)

—————
[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

—————
AN ACT to amend and reenact section sixteen, article eight,
chapter sixty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
the use of profanity, obscene, indecent or vulgar language

and the making of threats over the telephone, and providing penalties therefor.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 8. Crimes against Chastity, Morality and Decency.

Section

16. Profanity, obscene, indecent or vulgar language, or threats over telephone; penalty.

Section 16. Profanity, Obscene, Indecent or Vulgar Language, or Threats Over Telephone; Penalty.—If any person shall profanely curse, swear at or abuse another, or use profane, obscene, indecent or vulgar language over any telephone wire or system in this state, or, being in this state, shall use such language while talking to another person or persons out of the state, or over a telephone shall threaten to commit a crime against any person, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment.

CHAPTER 36

(House Bill No. 508—By Mr. Vickers)

[Passed February 10, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-four, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to cruelty to and abandonment or neglect of children and penalties therefor.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, article eight, chapter sixty-one of

the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 8. Crimes against Chastity, Morality and Decency.

Section

24. Cruelty to children.

Section 24. Cruelty to Children.—Any person who
 2 shall cruelly ill treat, abuse, or inflict unnecessarily cruel
 3 punishment upon, any infant or minor child, and any
 4 person, having the care, custody or control of any minor
 5 child, who shall wilfully abandon or neglect the same,
 6 shall be guilty of a misdemeanor, and, upon conviction
 7 thereof, shall be fined not less than ten nor more than
 8 one thousand dollars, and, in the discretion of the court,
 9 may be imprisoned in the county jail not exceeding one
 10 year for each offense.

— c —

CHAPTER 37

(Senate Bill No. 178—By Mr. Carrigan)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section twenty, article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to conducting marathon dances and like contests.

Be it enacted by the Legislature of West Virginia:

Article 10. Crimes against Public Policy.

Section

1. Repeal of statute relating to conducting marathon dances and like endurance tests.

**Section 1. Repeal of Statute Relating to Conducting
 2 Marathon Dances and Like Endurance Tests.**—Section
 3 twenty, article ten, chapter sixty-one of the code of West
 4 Virginia, one thousand nine hundred thirty-one, as amend-
 5 ed, is hereby repealed.

CHAPTER 38

(House Bill No. 505—By Mr. Speaker, Mr. White)

[Passed March 5, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal articles one and six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof new articles one and six; to repeal section eighteen, article two of said chapter sixty-two; to amend said chapter sixty-two by adding thereto three new articles designated articles one-a, one-b and one-c; to amend article eighteen, chapter fifty of said code by adding thereto a new section, designated section eleven-a; to amend article three of said chapter sixty-two by adding thereto a new section, designated section one-a; to amend and reenact sections two, three, four, six and ten, article eighteen of said chapter fifty; and to amend and reenact section fourteen, article two of said chapter sixty-two, relating to criminal procedure generally and specifically to complaints; the issuance, form, execution and return of arrest warrants; arrests without warrants; continuances generally; certain provisions with respect to appeals from justices of the peace in criminal cases; the construction of chapter fifty and chapter sixty-two of said code; the rights of defendant following arrest; offenses arising in another county; preliminary examinations; concurrent powers of officers and courts; the authority to issue search and seizure warrants and the grounds therefor; the definition of "property" which may be searched for and seized under a search and seizure warrant; the issuance, contents, execution and return of search and seizure warrants; the right to break into or out of and/or enter in execution of search and seizure warrants; motion for return of property and to suppress evidence obtained by an unlawful search and seizure and the grounds therefor; the disposition of property seized pursuant to search and seizure warrants; the scope of and legislative intent concerning said article one-a; discovery; requiring a bill

of particulars; motion for the production for examination, copying or photographing of statements or confessions of a defendant, the results or reports of examinations and tests or experiments, books, papers or tangible objects and the time for such motion; cases in which bail is mandatory; cases in which bail is discretionary; revocation of order admitting person to bail pending appeal from conviction in certain cases; review by summary petition of amount of or discretionary denial of bail; forms of bail permitted; receipt of bail; factors to be considered by court or justice in fixing amount of bail for one or more charges; the giving, execution, form and requirements of a recognizance; bail and indigent persons; holding of bail deposits and return of recognizance; the furnishing of reports by justices of the peace as to all cash deposited as bail and the disposition of all bail; the continuing in effect of bail; forfeiture of bail and the setting aside of such forfeiture; enforcement of forfeiture by judgment and execution; procedure for such enforcement; remission of penalty upon forfeiture; exoneration of surety on recognizance, release of bail and return of bail deposit; saving action or judgment for forfeiture in spite of failure to record declaration of forfeiture or defects in the form of bail; bailpieces; aid to surety on recognizance; bail for witnesses; guaranteed arrest bond certificates in lieu of cash or recognizance in certain cases; application to municipalities of provisions of said article one-c relating to justices of the peace; the direction and execution of process; guilty pleas in writing of persons under indictment; ascertaining that accused has received copy of indictment and understands charges against him before accepting guilty plea; advising accused of his right to counsel; offering to appoint counsel for indigent accused; form of writing entering guilty plea and, where counsel is waived, acknowledging such waiver; written guilty plea as prima facie evidence that accused was fully advised of his rights and that guilty plea was properly entered; effect of failure to have written guilty plea signed or witnessed; recognizance to keep the peace and the condition thereof; failure to give recognizance to keep the peace, the effect thereof and release from custody; **recognizance for insane person or minor; witnesses in crim-**

inal cases; failure of juror to attend inquest out of court and the effect thereof; proceedings for fines for contempt or disobedience of process; providing numerous severability clauses; providing general repealer provisions; and providing certain criminal penalties.

Be it enacted by the Legislature of West Virginia:

That articles one and six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that new articles one and six be enacted in lieu thereof; that section eighteen, article two of said chapter sixty-two be repealed; that said chapter sixty-two be amended by adding thereto three new articles, designated articles one-a, one-b and one-c; that article eighteen, chapter fifty of said code be amended by adding thereto a new section, designated section eleven-a; that article three of said chapter sixty-two be amended by adding thereto a new section, designated section one-a; that sections two, three, four, six and ten, article eighteen of said chapter fifty be amended and reenacted; and that section fourteen, article two of said chapter sixty-two be amended and reenacted, all to read as follows:

Chapter

- 50. JUSTICES AND CONSTABLES.
- 62. CRIMINAL PROCEDURE.

CHAPTER 50. JUSTICES AND CONSTABLES.

Article 18. Criminal Jurisdiction and Procedure; Appeals.

Section

- 2. Warrant; when not required.
- 3. Direction and execution of warrant.
- 4. Procedure following issuance of warrant.
- 6. Trial; continuance; bail.
- 10. Appeals; criminal cases; bail; procedure in appellate court.
- 11-a. Provisions of this chapter construed to be consistent with certain provisions of chapter sixty-two.

Section 2. Warrant; When Not Required.—Proceed-

- 2 ings before a justice shall be by warrant of arrest in the
- 3 name of the state, except that when an offense of which
- 4 the justice has jurisdiction is committed in his presence,
- 5 or in that of a constable, either of them may forthwith
- 6 apprehend the offender or cause him to be apprehended,
- 7 and in such case the offender may be tried before the jus-
- 8 tice and dealt with according to law. Following such ar-

9 rest, the provisions of section five, article one, chapter
10 sixty-two of this code shall apply with like effect as if set
11 forth herein.

Sec. 3. Direction and Execution of Warrant.—If the
2 justice have jurisdiction, the warrant of arrest may be
3 directed to and executed by any officer authorized by law
4 to arrest persons charged with offenses against the state:
5 *Provided*, That a constable, sheriff or deputy sheriff of a
6 particular county may execute the same anywhere within
7 his county, or on any river or creek adjoining thereto.
8 Such warrant may be directed to the officer by name or
9 official designation.

Sec. 4. Procedure Following Issuance of Warrant.—
2 Following issuance of the warrant of arrest, the provisions
3 of article one, chapter sixty-two of this code shall apply
4 with like effect as if set forth herein.

Sec. 6. Trial; Continuance; Bail.—Upon appearance of
2 the accused, the justice may proceed to try the case. How-
3 ever, if a continuance is requested, the provisions of sec-
4 tion nine, article one, chapter sixty-two of this code shall
5 apply. When a continuance is granted at the instance of
6 the accused and the justice determines not to release the
7 accused from custody unless bail is furnished, the pro-
8 visions of article one-c, chapter sixty-two of this code
9 shall apply. In the event of such a continuance, and if
10 the justice determines not to release the accused without
11 bail and the same is not furnished, the justice may com-
12 mit the accused to jail until the time appointed for trial,
13 but such imprisonment shall not exceed five days. The
14 justice may render judgment on bail taken by him pur-
15 suant to this section, in accordance with the provisions
16 of said article one-c.

**Sec. 10. Appeals; Criminal Cases; Bail; Procedure in
2 Appellate Court.**—Every person sentenced to imprison-
3 ment by the judgment of a justice, or to the payment of
4 a fine of ten dollars or more (and in no case shall a judg-
5 ment for a fine of less than ten dollars be given by a jus-
6 tice if the defendant, his agent or attorney object thereto),
7 shall be allowed an appeal to the court of the county hav-

8 ing jurisdiction thereof upon application therefor within
9 a reasonable time after such judgment is entered. The
10 provisions of article one-c, chapter sixty-two of this code
11 shall apply with respect to bail. If such appeal be taken,
12 the warrant of arrest, the transcript of the judgment, any
13 bail and other papers of the case shall be forthwith de-
14 livered by the justice to the clerk of the court, and the
15 court shall proceed to try the case as upon indictment or
16 presentment, and render such judgment, without remand-
17 ing the case, as the law and the evidence may require. If
18 the judgment be against the accused, it shall include the
19 costs incurred in the proceedings before the justice as
20 well as in such court, including a fee of ten dollars to the
21 prosecuting attorney, and the jailer's fee, if any.

**Sec. 11-a. Provisions of This Chapter Construed to Be
2 Consistent with Certain Provisions of Chapter Sixty-two.**
3 —Any inconsistent provisions of this chapter shall be
4 construed so as to conform to and be consistent with the
5 pertinent provisions of articles one, one-a, one-b and
6 one-c, chapter sixty-two of this code.

CHAPTER 62. CRIMINAL PROCEDURE

Article

1. Preliminary Procedure.
- 1-a. Search and Seizure.
- 1-b. Discovery.
- 1-c. Bail.
2. Presentments and Indictments.
3. Trial of Criminal Cases.
6. Miscellaneous Provisions Concerning Criminal Procedure.

Article 1. Preliminary Procedure.

Section

1. Complaint.
2. Warrant; issuance.
3. Same; form and contents.
4. Same; execution; arrest by officer without warrant in possession; duplicate warrants.
5. Same; delivery of prisoner before justice; complaint and warrant for person arrested without warrant; return.
6. Informing defendant of nature of complaint and his rights; opportunity to confer with counsel and arrange bail.
7. Offense arising in other county.
8. Preliminary examination.
9. Continuance.
10. Concurrent powers.
11. Repeal.
12. Severability.

Section 1. Complaint.—The complaint is a written statement of the essential facts constituting the offense charged. It shall be made upon oath before a justice of the peace.

Sec. 2. Warrant; Issuance.—If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue to any officer authorized by law to arrest persons charged with offenses against the state. More than one warrant may issue on the same complaint.

Sec. 3. Same; Form and Contents.—The warrant shall be signed by the justice and shall contain the name of the defendant or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall describe the offense charged in the complaint. It shall command that the defendant be arrested and brought before a justice of the county in which the warrant is executed.

Sec. 4. Same; Execution; Arrest by Officer without Warrant in Possession; Duplicate Warrants.—The warrant shall be executed by the arrest of the defendant. It may be executed at any time or place within the state. The officer need not have the warrant in his possession at the time of the arrest, but upon request by the defendant, the officer shall show the warrant to him as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued. While the complaint is pending, a warrant returned unexecuted and not cancelled or a duplicate warrant may be delivered to the same or another authorized officer for execution.

Sec. 5. Same; Delivery of Prisoner before Justice; Complaint and Warrant for Person Arrested without Warrant; Return.—An officer making an arrest under a warrant issued upon a complaint, or any person making an arrest without a warrant for an offense committed in his presence, shall take the arrested person without unnecessary

7 delay before a justice of the county in which the arrest is
8 made. When a person arrested without a warrant is
9 brought before a justice, a complaint shall be filed and a
10 warrant issued forthwith. The officer executing the war-
11 rant shall make return thereof to the justice before whom
12 the defendant is brought.

Sec. 6. Informing Defendant of Nature of Complaint and His Rights; Opportunity to Confer with Counsel and Arrange Bail.—The justice shall in plain terms inform the
2 defendant of the nature of the complaint against him, of
3 his right to counsel, and, if the offense is to be presented
4 for indictment, of his right to have a preliminary examina-
5 tion. He shall also inform the defendant that he is not
6 required to make a statement and that any statement
7 made by him may be used against him. He shall provide
8 the defendant reasonable means to communicate with an
9 attorney or with at least one relative or other person for
10 the purpose of obtaining counsel or arranging bail. The
11 defendant shall not be committed to jail or removed from
12 the county of arrest until he has had a reasonable oppor-
13 tunity to confer with counsel or to arrange bail. He may
14 be detained under such security measures as the circum-
15 stances warrant. If the defendant is unable to provide
16 bail or if the offense is unbailable, he shall be committed
17 to jail.

Sec. 7. Offense Arising in Other County.—If the war-
2 rant issued, or if the offense is alleged to have been com-
3 mitted, in a county other than the county of arrest, all
4 papers in the proceeding shall be promptly transmitted
5 to a justice of the county having jurisdiction of the offense
6 for preliminary examination or trial. If the defendant is
7 unable to provide bail in the county of arrest, he shall be
8 committed to the custody of an officer who shall take him
9 without unnecessary delay before a justice of the county
10 wherein the examination or trial is to be held, there to
11 be dealt with as provided by law.

Sec. 8. Preliminary Examination.—If the offense is
2 to be presented for indictment, the preliminary examina-
3 tion shall be conducted by a justice of the county in which
4 the offense was committed within a reasonable time after

5 the defendant is arrested, unless the defendant waives
6 examination. The defendant shall not be called upon to
7 plead. Witnesses shall be examined and evidence intro-
8 duced for the state under the rules of evidence prevailing
9 in criminal trials generally. The defendant or his attorney
10 may cross-examine witnesses against him and may intro-
11 duce evidence in his own behalf. On motion of either the
12 state or the defendant, witnesses shall be separated and
13 not permitted in the hearing room except when called to
14 testify. If the defendant waives preliminary examination
15 or if, after hearing, it appears from the evidence that
16 there is probable cause to believe that an offense has been
17 committed and that the defendant has committed it, the
18 justice shall forthwith hold him to answer in the court
19 having jurisdiction to try criminal cases. If the evidence
20 does not establish probable cause, the defendant shall be
21 discharged. After concluding the proceeding the justice
22 shall transmit forthwith to the clerk of the court to
23 which the defendant is held to answer all papers in the
24 proceeding and any bail taken by him.

Sec. 9. Continuance.—The justice shall grant upon re-
2 quest of the defendant one continuance for a period not
3 to exceed ten days. A continuance for a like period shall
4 be granted on request of the state if the defendant has
5 been admitted to bail. No other continuance shall be
6 granted except for good cause or by mutual consent of
7 the state and the defendant.

Sec. 10. Concurrent Powers.—A judge of a court hav-
2 ing jurisdiction to try criminal offenses shall have the
3 same power to issue warrants as conferred upon a justice
4 of the peace by this article. A mayor or judge of a
5 police court acting in the capacity of a justice of the
6 peace shall have all the powers and duties conferred upon
7 a justice by this article.

Sec. 11. Repeal.—All provisions of this code which
2 are inconsistent with the provisions of this article are
3 hereby repealed to the extent and only to the extent of
4 such inconsistency: *Provided*, That under no circum-
5 stances shall the foregoing repealer provision or the pro-
6 visions of this article be construed as repealing, limiting

7 or in any way altering the provisions of article nineteen,
8 chapter seventeen-c of this code.

Sec. 12. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

Article 1-a. Search and Seizure.

Section

1. Authority to issue warrant.
2. Grounds for issuance; property definition.
3. Issuance and contents.
4. Execution and return with inventory.
5. Breaking and entering.
6. Motion for return of property and to suppress evidence.
7. Disposition of seized property.
8. Scope of article; legislative intent; construction of other provisions dealing with search warrant; repeal.
9. Severability.

Section 1. Authority to Issue Warrant.—A search war-
2 rant authorized by this article may be issued by a judge
3 of a court having jurisdiction to try criminal cases in the
4 county, or by a justice of the county, or by the mayor
5 or judge of the police court of the municipality, wherein
6 the property sought is located.

Sec. 2. Grounds for Issuance; Property Definition.—A
2 warrant may be issued under this article to search for and
3 seize any property
4 (a) Stolen, embezzled or obtained by false pretenses;
5 or
6 (b) Designed or intended for use or which is or has
7 been used as a means of committing a criminal offense; or
8 (c) Manufactured, sold, kept, concealed, possessed,
9 controlled, or designed or intended for use or which is or
10 has been used, in violation of the criminal laws of this
11 state heretofore or hereinafter enacted.
12 The term “property” shall include documents, books
13 and papers and any other tangible objects.

Sec. 3. Issuance and Contents.—A warrant shall issue
2 only upon complaint on oath or affirmation supported by

3 affidavit sworn to or affirmed before the judge or magis-
4 trate setting forth the facts establishing the grounds for
5 issuing the warrant. If the judge or magistrate is satis-
6 fied that there is probable cause to believe that grounds
7 therefor exist, he shall issue a warrant identifying the
8 property and particularly describing the place, or naming
9 or particularly describing the person, to be searched. The
10 warrant shall be directed to the sheriff or any deputy
11 sheriff or constable of the county, to any member of the
12 department of public safety or to any police officer of
13 the municipality wherein the property sought is located,
14 or to any other officer authorized by law to execute
15 search warrants. It shall state the grounds or probable
16 cause for its issuance and the names of the persons whose
17 affidavits have been taken in support thereof. It shall
18 command the officer to search forthwith the person or
19 place named for the property specified, to seize such
20 property and bring the same before the judge or magis-
21 trate issuing the warrant. Such warrant may be executed
22 either in the day or night.

Sec. 4. Execution and Return with Inventory.—The
2 warrant may be executed and returned only within ten
3 days after its date. The officer taking property under the
4 warrant shall give to the person from whom or from
5 whose premises the property is taken a copy of the war-
6 rant and a receipt for the property taken; or if the person
7 from whose premises the property is taken is not present
8 at the time, the officer shall leave the copy and receipt
9 at the place from which the property is taken. The return
10 shall be made promptly and shall be accompanied by a
11 written inventory of any property taken. The judge or
12 magistrate shall upon request deliver a copy of the in-
13 ventory to the person from whom or from whose premises
14 the property was taken.

Sec. 5. Breaking and Entering Premises.—The officer
2 may break into a house, building or structure, or any
3 part thereof, or anything therein, or any vehicle, vessel
4 or other conveyance, to execute a search warrant, or
5 commit such breaking as may be necessary to liberate
6 himself or a person aiding him in the execution of the

7 warrant. If the place to be searched is a dwelling he shall
8 not attempt a forcible entry until he shall have given
9 notice of his authority and purpose and shall have been
10 refused admittance.

**Sec. 6. Motion for Return of Property and to Suppress
2 Evidence.**—A person aggrieved by an unlawful search
3 and seizure may move for the return of the property and
4 to suppress for use as evidence anything so seized on the
5 ground that (1) the property was illegally seized without
6 a warrant, or (2) the warrant is insufficient on its face,
7 or (3) the property seized is not that described in the
8 warrant, or (4) there was not probable cause for be-
9 lieving the existence of the grounds on which the war-
10 rant was issued, or (5) the warrant was illegally executed.
11 If the offense giving rise to the issuance of the warrant
12 be one which a magistrate has jurisdiction to hear and
13 determine, the motion may be made to him. If the offense
14 is cognizable only before a court of record the motion
15 shall be made to the court having jurisdiction. The judge
16 or magistrate shall receive evidence on any issue of fact
17 necessary to the decision of the motion. If the motion is
18 granted the property shall be returned unless otherwise
19 subject to lawful detention and it shall not be admissible
20 in evidence at any hearing or trial. The motion may be
21 made before trial or hearing upon three days' notice, or,
22 the motion may be made or renewed at the trial or
23 hearing.

Sec. 7. Disposition of Seized Property.—Property taken
2 pursuant to the warrant shall be preserved as directed
3 by the court or magistrate for use as evidence and there-
4 after shall be returned, destroyed or otherwise disposed
5 of as the court or magistrate may direct.

**Sec. 8. Scope of Article; Legislative Intent; Construc-
2 tion of Other Provisions Dealing with Search Warrant;
3 Repeal.**—It is intended that this article govern the issu-
4 ance and execution of all search warrants, and no subse-
5 quent legislation shall be held to supersede or modify the
6 provisions of this article except to the extent that such
7 legislation shall do so specifically and expressly. It is
8 recognized that throughout this code there are many pro-

9 visions dealing with the issuance and execution of search
10 warrants, and it is not possible at this time to amend and
11 reenact or to specifically repeal those provisions. Accord-
12 ingly, all such provisions shall be construed so as to con-
13 form to and be consistent with the pertinent provisions
14 of this article. In the event that there are provisions in
15 this code so inconsistent with the provisions of this article
16 as to preclude such construction, such other provisions are
17 hereby repealed to the extent of such inconsistency.

Sec. 9. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

Article 1-b. Discovery.

Section.

1. Bill of particulars.
2. Defendant's statements; reports of examinations and tests; defend-
ant's books, papers and tangible objects.
3. Time of motion.
4. Severability.

Section 1. Bill of Particulars.—The court for cause
2 may direct the prosecuting attorney to file a bill of par-
3 ticulars. A bill of particulars may be amended at any
4 time subject to such conditions as justice requires.

**Sec. 2. Defendant's Statements; Reports of Exami-
2 nations and Tests; Defendant's Books, Papers and Tan-
3 gible Objects.**—Upon motion of a defendant the court
4 may order the prosecuting attorney to permit the de-
5 fendant to examine and copy or photograph any relevant
6 (1) written or recorded statements or confessions made
7 by the defendant, or copies thereof, which are known by
8 the prosecuting attorney to be within the possession,
9 custody or control of the state, (2) results or reports of
10 physical or mental examinations, and of scientific tests
11 or experiments made in connection with the particular
12 case, or copies thereof, which are known by the prose-
13 cuting attorney to be within the possession, custody or
14 control of the state, and (3) books, papers or tangible

15 objects belonging to or seized from the defendant which
16 are known by the prosecuting attorney to be within the
17 possession, custody or control of the state.

Sec. 3. Time of Motion.—A motion under this article
2 may be made at any time not later than ten days before
3 trial, or at such reasonable later time as the court may
4 permit.

Sec. 4. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

Article 1-c. Bail.

Section

1. Right to bail; review.
2. Bail defined; form; receipts.
3. Fixing of amount; covering two or more charges.
4. Recognizance; signing; requirements for signers or surety company; release upon own recognizance; indigent persons.
5. Recognizance and deposits subject to order of court or justice; report by justice.
6. Continuing bail.
7. Forfeiture; declaration.
8. Same; setting aside.
9. Same; enforcement; procedure.
10. Same; bail in excess of jurisdictional limit of justice or of particular court.
11. Same; remission.
12. Same; exoneration; return of deposit.
13. Same; defects in form.
14. Bailpiece.
15. Bail for witness.
16. Guaranteed arrest bond certificate.
17. Offenses against municipalities.
18. Repeal.
19. Severability.

Section 1. Right to Bail; Review.—(a) A person
2 arrested for an offense not punishable by death or life
3 imprisonment shall be admitted to bail by the court or
4 justice. A person arrested for an offense punishable by
5 death or life imprisonment may, in the discretion of the
6 court that will have jurisdiction to try the offense, be ad-
7 mitted to bail.

8 (b) Bail may be allowed pending appeal from a con-
9 viction for an offense not punishable by death or life im-

10 imprisonment. The court or judge allowing bail pending
11 appeal may at any time revoke the order admitting the
12 defendant to bail.

13 (c) The amount of bail or the discretionary denial of
14 bail at any stage of the proceedings may be reviewed by
15 summary petition first to the lower appellate court, if
16 any, and thereafter by summary petition to the supreme
17 court of appeals or any judge thereof.

Sec. 2. Bail Defined; Form; Receipts.—Bail is security
2 for the appearance of a defendant to answer to a specific
3 criminal charge before any court or justice at a specific
4 time or at any time to which the case may be continued.
5 It may take any of the following forms:

6 (a) The deposit by the defendant or by some other
7 person for him of cash, provided, if cash totaling more
8 than five hundred dollars for one or more offenses is
9 tendered as bail to a justice by or on behalf of any de-
10 fendant, the justice shall not receive same but shall direct
11 that the sum be forthwith deposited with the clerk of the
12 court having jurisdiction to try criminal cases.

13 (b) The written undertaking by one or more persons
14 to forfeit a sum of money equal to the amount of the
15 bail if the defendant is in default for appearance, which
16 shall be known as a recognizance.

17 (c) Such other form as the judge of the court that
18 will have jurisdiction to try the offense may determine.

19 All bail shall be received by the clerk of the court, or
20 by the justice and, except in case of recognizance, re-
21 cepts shall be given therefor by him.

Sec. 3. Fixing of Amount; Covering Two or More
2 **Charges.**—The amount of bail shall be fixed by the court
3 or justice with consideration given to the seriousness of
4 the offense charged, the previous criminal record of the
5 defendant, his financial ability, and the probability of his
6 appearance. When two or more charges are filed or are
7 pending against the same person at or about the same
8 time, the bail given may be made to include all offenses
9 charged against the defendant.

Sec. 4. Recognizance; Signing; Requirements for Sign-
2 **ers or Surety Company; Release upon Own Recognizance;**

3 **Indigent Persons.**—The recognizance shall be signed by
4 the defendant. It shall also be signed by one or more adult
5 persons owning real property in the state. The court or
6 justice may require that justification of surety be fur-
7 nished. The assessed value of the real property as shown
8 on the county land books over and above all liens and
9 encumbrances shall not be less than one half the amount
10 of the bail. Or, the recognizance may be signed by the
11 defendant and a surety company authorized to do business
12 in this state. If the offense is a felony, the judge of the
13 court that will have jurisdiction to try the offense may
14 release the defendant on his own recognizance. If the
15 offense is a misdemeanor, either the court or justice may
16 release the defendant on his own recognizance. An in-
17 digent person who the court is satisfied will appear as
18 required shall not be denied bail because of his inability
19 to furnish recognizance.

**Sec. 5. Recognizance and Deposits Subject to Order of
2 Court or Justice; Report by Justice.**—The recognizance
3 shall be returnable to and all deposits shall be held by or
4 subject to the order of the court or justice before whom
5 the defendant is to appear initially, and upon the transfer
6 of the case to any other court or justice shall be returnable
7 to and transmitted to such other court or justice. Each
8 justice of the peace shall during the first week of each
9 month render under oath to the prosecuting attorney of
10 his county a true and complete statement of all cash de-
11 posited as bail with such justice during the preceding
12 calendar month and of all cash deposited as bail which
13 is, on the date of the report, in his possession. Such state-
14 ment shall also set forth the name of each defendant,
15 the amount of the bail deposited during the preceding
16 month and the disposition of the same. The failure to
17 render such report complete in all respects as to the de-
18 tails required herein shall be deemed a breach of the
19 justice's official duty.

Sec. 6. Continuing Bail.—The bail as initially given
2 may continue in effect pending indictment, arraignment,
3 continuance, trial and appeal after conviction, as the court
4 may direct.

Sec. 7. Forfeiture; Declaration.—If there is a breach
2 of condition of the bail, the court or justice shall declare
3 the bail forfeited.

Sec. 8. Same; Setting Aside.—The court or justice
2 may direct that a forfeiture be set aside, upon such con-
3 ditions as may be imposed, if it appears that justice does
4 not require the enforcement of the forfeiture.

Sec. 9. Same; Enforcement; Procedure.—When a forfei-
2 ture has not been set aside, the court or justice, upon mo-
3 tion of the state, shall enter a judgment of default and ex-
4 ecution may issue thereon: *Provided*, That if the forfei-
5 ture is declared in a court of record, the order taking judg-
6 ment shall be entered at the same term of court in which
7 the forfeiture was declared: *And provided further*, That
8 if the deposit for bail be by a person other than the de-
9 fendant, or if the bail be in the form of recognizance, such
10 person making the deposit or the surety on the recogni-
11 zance shall be given ten days' notice by certified mail at
12 his last known address to appear and show cause why a
13 judgment of default should not be entered. Execution
14 shall issue in the name of the state and shall proceed in
15 the manner provided by law in civil actions. If the bail
16 be in the form of bonds or stocks, the judgment order
17 may direct that all or part thereof be sold through a state
18 or national bank or through a brokers' exchange regis-
19 tered with the federal securities and exchange commis-
20 sion.

**Sec. 10. Same; Bail in Excess of Jurisdictional Limit of
2 Justice or of Particular Court.**—Where the forfeiture has
3 been declared by a justice or by a court of limited juris-
4 diction of bail in excess of the jurisdictional limit of jus-
5 tice or of the particular court, such forfeiture shall be
6 certified to a court of the county having sufficient juris-
7 diction, which court shall thereupon proceed as if the
8 forfeiture were originally declared in such court.

Sec. 11. Same; Remission.—After entry of such judg-
2 ment, the court or justice may remit the penalty in whole
3 or in part under the conditions applying to the setting
4 aside of forfeiture in section eight of this article.

Sec. 12. Same; Exoneration; Return of Deposit.—When
2 the condition of the bond has been satisfied or the for-
3 feiture thereof has been set aside or remitted, the court
4 or justice shall exonerate the surety and release any bail
5 and, if the bail be in a form other than a recognizance,
6 the deposit shall be returned to the person who made
7 the same. The surety may be exonerated by a deposit
8 of cash in the amount of the bail or by a timely surrender
9 of the defendant into custody.

Sec. 13. Same; Defects in Form.—No action or judg-
2 ment for forfeiture of bail shall be defeated or arrested
3 by the neglect or omission to record the declaration of
4 forfeiture or by reason of any defect in the form of the
5 bail, if it appear to have been taken by a court or justice
6 authorized to take it, and be substantially sufficient.

Sec. 14. Bailpiece.—A bailpiece is a certificate stating
2 that the bail became such for the accused in a particular
3 case and the amount thereof. Upon demand therefor, the
4 court, justice or clerk shall issue to the surety a bailpiece.
5 Any officer having authority to execute a warrant of ar-
6 rest shall assist the surety holding such bailpiece to take
7 the accused into custody and produce him before the court
8 or justice. The surety may take the accused into custody
9 and surrender him to the court or justice without such
10 bailpiece.

Sec. 15. Bail for Witness.—The bail for a witness
2 for or against the accused shall be conditioned upon his
3 appearance at such time and place as the court or justice
4 shall direct.

Sec. 16. Guaranteed Arrest Bond Certificate.—For a
2 misdemeanor violation of any motor vehicle law of the
3 state or any municipality, except reckless driving or driv-
4 ing while intoxicated, the guaranteed arrest bond cer-
5 tificate of any surety company licensed to do business by
6 the insurance commissioner, when presented by the per-
7 son whose signature appears thereon shall be accepted as
8 bail in lieu of cash or recognizance in an amount not to
9 exceed five hundred dollars. A “guaranteed arrest bond
10 certificate” shall mean any printed card or certificate

11 issued by an automobile club or association to its mem-
12 bers in good standing bearing the signature of the mem-
13 ber and containing a printed statement that such club
14 or association and a surety company will guarantee the
15 payment of any fine or forfeiture imposed on the member
16 in an amount not to exceed five hundred dollars if the
17 member fails to appear in court as required.

Sec. 17. Offenses against Municipalities.—Bail for a per-
2 son accused of an offense against a municipality shall be
3 governed by the provisions of this article applicable to a
4 justice, except that the bail may be deposited with the
5 mayor or with such other officer of the municipality as
6 may be designated by the mayor or other chief executive
7 officer of the municipality, and proceedings for forfeiture
8 shall be prosecuted in the name and for the benefit of the
9 municipality.

Sec. 18. Repeal.—All provisions of this code which are
2 inconsistent with the provisions of this article are hereby
3 repealed to the extent and only to the extent of such in-
4 consistency.

Sec. 19. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

Article 2. Presentments and Indictments.

Section

14. Direction and execution of process; several writs.

Section 14. Direction and Execution of Process; Sev-
2 **eral Writs.**—The fifth and eleventh sections of article
3 three, chapter fifty-six of this code shall apply to process
4 in criminal as well as in civil cases. Any summons to
5 answer an indictment for a misdemeanor may be served
6 as a notice is served under the first section of article two,
7 chapter fifty-six of this code. The court may, in the same
8 case against the same person, award at the same time, or

9 different times, several writs of summons or capias, directed to officers of different counties.

Article 3. Trial of Criminal Cases.

Section

1-a. **Written guilty plea; form; right to counsel; effect of plea; failure of plea to be signed or witnessed.**

Section 1-a. Written Guilty Plea; Form; Right to Counsel; Effect of Plea; Failure of Plea to Be Signed or Witnessed.—When a person under indictment for a crime indicates that he desires to plead guilty, he may be called upon to sign in open court a form acknowledging his plea to the indictment or to such count or counts thereof as he shall designate. Before accepting a plea of guilty, the court shall satisfy itself by interrogation of the defendant or his counsel that the defendant has received a copy of the indictment and understands the nature of the charges. If the defendant is without counsel, the court shall advise him of his constitutional right to the assistance of counsel before pleading to the indictment. If the defendant is an indigent, the court shall offer to appoint counsel for him. The plea when signed and witnessed shall become a part of the record of the case. The plea shall be sufficient if it is substantially in the following form:

A. If the defendant is represented by counsel:

STATE OF WEST VIRGINIA
vs. Indictment No.
.....
(Defendant)

In the presence of _____, my counsel, who has fully explained the charges contained in the indictment against me and, having received a copy of the indictment before being called upon to plead, I hereby plead guilty to said indictment and each count thereof.

Date:

Witness: _____
.....
(Defendant)
.....
(Counsel for Defendant)

B. If the defendant has waived counsel:

35 STATE OF WEST VIRGINIA

36 vs. Indictment No.

37

38 (Defendant)

39 I certify that I have been advised of my constitutional
40 right to the assistance of counsel; that I have no money
41 to employ counsel; that I have been offered counsel at
42 no cost to me; and that I have given up my right to have
43 counsel provided to assist me.

44 I have received a copy of the indictment before being
45 called upon to plead. It has been read or explained to
46 me and I fully understand the nature of the charges
47 against me, including the penalties that the court may
48 impose.

49 I hereby plead guilty to said indictment and each count
50 thereof.

51 Date:

52 Witness:

53

54 (Defendant)

55

56 (Clerk)

57 The plea when signed and witnessed shall constitute
58 prima facie evidence that the defendant was fully ad-
59 vised of his rights as herein provided, and that his plea
60 was properly entered. The neglect or failure to cause
61 a plea to be signed or witnessed shall not invalidate the
62 plea or any judgment rendered thereon, provided the
63 record otherwise discloses that the defendant was ad-
64 vised of his rights and that the plea was otherwise prop-
65 erly entered.

Article 6. Miscellaneous Provisions Concerning Criminal Procedure.

Section

1. Recognizance to keep the peace; condition.
2. Failure to give recognizance to keep the peace; commitment to jail; release.
3. Recognizance of insane person or minor.
4. Witnesses in criminal cases; forced attendance.
5. Failure of juror to attend inquest out of court.
6. Proceedings for fines for contempt or disobedience of process.
7. Severability.

Section 1. Recognizance to Keep the Peace; Condition.

2 —Every recognizance to keep the peace shall be condi-
3 tioned to the effect that the person of whom it is taken
4 shall keep the peace and be of good behavior for such
5 time, not exceeding one year, as the court or justice re-
6 quiring it may direct; and if such court or justice directs,
7 it may, when taken of a person charged with an offense,
8 be with condition for so keeping the peace and being of
9 good behavior, in addition to the other conditions of his
10 recognizance imposed in accordance with the provisions
11 of article one-c of this chapter.

**Sec. 2. Failure to Give Recognizance to Keep the
2 Peace; Commitment to Jail; Release.**—A person not giving
3 and for whom no other person gives, a recognizance to
4 keep the peace shall be committed to jail. He shall be
5 discharged therefrom when such recognizance is given
6 before the court or justice, or when the period for which
7 it was required has elapsed, or when the discharge of such
8 person is directed by the court or justice having jurisdic-
9 tion thereof.

Sec. 3. Recognizance of Insane Person or Minor.—A
2 recognizance which would be taken of a person but for
3 his being insane or a minor, may be taken of another per-
4 son, and without further surety, if such other person be
5 deemed sufficient.

**Sec. 4. Witnesses in Criminal Cases; Forced Attend-
2 ance.**—In a criminal case, a summons for a witness may be
3 issued by the prosecuting attorney. Sections one, four,
4 five, six and eight, article five, chapter fifty-seven of this
5 code shall, in other respects, apply to a criminal as well
6 as a civil case, except that a witness in a criminal case
7 shall be obliged to attend and may be proceeded against
8 for failing to do so, although there may not previously
9 have been any payment, or tender to him, of anything for
10 attendance, mileage or tolls.

Sec. 5. Failure of Juror to Attend Inquest out of Court.
2 —The name of any person summoned by an officer, in
3 failing to attend as a juror upon an inquest out of court,
4 shall be returned by such officer at the next term of the

5 circuit court of such officer's county. Such court shall fine
6 such person, unless he have a reasonable excuse for his
7 failure, ten dollars.

Sec. 6. Proceedings for Fines for Contempt or Disob-
2 **dience of Process.**—No court shall impose a fine upon a
3 juror, witness or other person, for disobedience of its pro-
4 cess or any contempt, unless he be present in a court at
5 the time, or shall have been served with a rule of the
6 court, returnable to a time certain, requiring him to show
7 cause why the fine should not be imposed, and shall have
8 failed to appear and show cause.

Sec. 7. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

CHAPTER 39

(House Bill No. 507—By Mr. Speaker, Mr. White)

[Passed February 27, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section seven, article seven,
chapter fifty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
transcripts to be furnished indigent persons under con-
viction for a criminal offense and specifying the time in
which requests for such transcripts are to be presented
and the method of payment therefor.

Be it enacted by the Legislature of West Virginia:

That section seven, article seven, chapter fifty-one of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted to read as follows:

Article 7. Official Reporters.**Section**

7. Transcripts to be furnished indigent persons under conviction upon timely request; payment therefor.

Section 7. Transcripts to Be Furnished Indigent Persons under Conviction upon Timely Request; Payment Therefor.—In any case wherein an indigent person has filed a notice of intent to seek an appeal or writ of error as specified in section four, article four, or section four, article five, chapter fifty-eight of this code, the court, or judge thereof in vacation, upon written request of such convicted person or his counsel, presented within sixty days after the entry of such judgment, shall, by order entered of record, authorize and direct the court reporter to furnish a transcript of the testimony and proceedings of the trial, or such part or parts thereof as such convicted person or his counsel shall have indicated in his request to be necessary, to the convicted person, without charge to him, for use in seeking his appeal or writ of error, and the cost of such transcript in the case of a misdemeanor conviction shall be certified by the judge of the court to the county court of the county wherein the accused person was convicted and shall be paid out of the county treasury thereof, and in cases of felony convictions the cost of such transcript shall be certified by the judge of the court to the auditor of the state and shall be paid out of the treasury of the state from the appropriation for criminal charges.

CHAPTER 40

(Com. Sub. for House Bill No. 517—By Mr. Barker
and Mr. Holliday)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to repeal section five, article three, and sections three, four, five and six, article seven, all of chapter sixty-two of the code of West Virginia, one thousand nine hundred

thirty-one, as amended; to amend and reenact section two, article one, sections two, fourteen-a and fifteen, article two and sections one and two, article eleven, all of chapter sixty-one of said code; and to amend and reenact sections six and fifteen, article three and section two, article eight, all of chapter sixty-two of said code, relating to the abolition of capital punishment; eliminating various references in said code to the death penalty in capital cases; altering the penalty provisions concerning kidnapping so as to refer to bodily harm instead of serious bodily harm; relating to the role of the court in sentencing persons who plead guilty to treason against the state, kidnapping, rape and murder; specifying the penalties for such offenses; providing that persons committed to life imprisonment for murder in the first degree, kidnapping and rape shall not be eligible for parole unless the jury in their discretion recommends mercy and unless the judge, in the event the accused pleads guilty, provides that such person shall be eligible for parole; and increasing the penalty for rape where mercy is recommended; and providing for life imprisonment and prohibiting parole of any person guilty of a killing or of an act from which death ensues in a penitentiary.

Be it enacted by the Legislature of West Virginia:

That section five, article three and sections three, four, five and six, article seven, all of chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section two, article one, sections two, fourteen-a and fifteen, article two and sections one and two, article eleven, all of chapter sixty-one of said code be amended and reenacted; and that sections six and fifteen, article three and section two, article eight, all of chapter sixty-two of said code be amended and reenacted, all to read as follows:

Chapter

61. CRIMES AND THEIR PUNISHMENT

62. CRIMINAL PROCEDURE

CHAPTER 61. CRIMES AND THEIR PUNISHMENT

Article

- 1. Crimes against the Government.**
- 2. Crimes against the Person.**
- 11. General Provisions Concerning Crimes.**

Article 1. Crimes against the Government.**Section****2. Punishment.**

Section 2. Punishment.—Whoever is guilty of treason
2 against the state shall be punished by confinement in the
3 penitentiary for life, or, at the discretion of the jury, or
4 the discretion of the court when there is a plea of guilty,
5 by confinement in the penitentiary for not less than three
6 nor more than ten years.

Article 2. Crimes against the Person.**Section**

- 2. Penalty for Murder of First Degree.**
14-a. **Penalty for enticing away, or otherwise kidnapping any person;**
when kidnapped person returned alive and uninjured after ransom
paid and without ransom paid; discretion of jury or court as to
parole when life imprisonment imposed.
15. **Rape; age of consent; carnal knowledge of male person; penalties.**

Section 2. Penalty for Murder of First Degree.—Mur-
2 der of the first degree shall be punished by confinement
3 in the penitentiary for life.

Sec. 14-a. Penalty for Enticing Away, or Otherwise
2 **Kidnapping Any Person; When Kidnapped Person Re-**
3 **turned Alive and Uninjured after Ransom Paid and**
4 **without Ransom Paid; Discretion of Jury or Court as to**
5 **Parole When Life Imprisonment Imposed.**—If any per-
6 son, by force, threat, duress, fraud or enticement take,
7 confine, conceal, or decoy, inveigle or entice away, or
8 transport into or out of this state or within this state, or
9 otherwise kidnap any other person, for the purpose or
10 with the intent of taking, receiving, demanding or ex-
11 torting from such person, or from any other person or
12 persons, any ransom, money or other thing, or any con-
13 cession or advantage of any sort, or for the purpose or
14 with the intent of shielding or protecting himself or
15 others from bodily harm or of evading capture or arrest
16 after he or they have committed a crime, he shall be
17 guilty of a felony, and, upon conviction, shall be punished
18 by confinement in the penitentiary for life, and he, not-
19 withstanding the provisions of article twelve, chapter
20 sixty-two of this code, shall not be eligible for parole:
21 *Provided*, That the jury may, in their discretion, recom-
22 mend mercy, and if such recommendation is added to

23 their verdict, such person shall be eligible for parole in
24 accordance with the provisions of said article twelve:
25 *Provided, however,* That if the accused pleads guilty, the
26 court may, in its discretion, provide that such person shall
27 be eligible for parole in accordance with the provisions
28 of said article twelve, and, if the court so provides, such
29 person shall be eligible for parole in accordance with the
30 provisions of said article twelve in the same manner and
31 with like effect as if such person had been found guilty
32 by the verdict of a jury and the jury had recommended
33 mercy: *Provided further,* That in all cases where the
34 person against whom the offense is committed is returned,
35 or is permitted to return, alive, without bodily harm hav-
36 ing been inflicted upon him, but after ransom, money or
37 other thing, or any concession or advantage of any sort
38 has been paid or yielded, the punishment shall be con-
39 finement in the penitentiary for any term of years not
40 less than twenty: *And provided further,* That in all cases
41 where the person against whom the offense is committed
42 is returned, or is permitted to return, alive, without
43 bodily harm having been inflicted upon him, but without
44 ransom, money or other thing, or any concession or ad-
45 vantage of any sort having been paid or yielded, the
46 punishment shall be confinement in the penitentiary for
47 any term of years not less than ten.

**Sec. 15. Rape; Age of Consent; Carnal Knowledge of
2 Male Person; Penalties.**—If any male person carnally
3 knows a female person, not his wife, against her will by
4 force, or if any male person over the age of sixteen years
5 carnally knows a female person of previous chaste char-
6 acter, not his wife, under that age, or if any male person
7 over the age of sixteen years carnally knows a female
8 person, not his wife, under the age of ten years, he shall
9 be guilty of a felony, and, upon conviction, shall be pun-
10 ished with confinement in the penitentiary for life, and
11 he, notwithstanding the provisions of article twelve,
12 chapter sixty-two of this code, shall not be eligible for
13 parole: *Provided,* That the jury may, in their discretion,
14 recommend mercy, and if such recommendation is added
15 to their verdict, such person shall be punished with con-
16 finement in the penitentiary for not less than ten nor

17 more than twenty years: *Provided, however,* That if the
 18 accused pleads guilty, the court may, in its discretion,
 19 provide that such person shall be punished with con-
 20 finement in the penitentiary for not less than ten nor
 21 more than twenty years.

22 This section shall not apply to any male person under
 23 sixteen years of age who carnally knows a female over
 24 twelve years of age with her free consent. Any female
 25 person over the age of sixteen years who shall carnally
 26 know any male person, not her husband, under that age
 27 shall be guilty of a misdemeanor, and, upon conviction,
 28 shall be confined in the county jail not less than two nor
 29 more than six months.

Article 11. General Provisions Concerning Crimes.

Section

1. Classification of offenses.
2. Capital punishment abolished.

Section 1. Classification of Offenses.—Offenses are
 2 either felonies or misdemeanors. Such offenses as are
 3 punishable by confinement in the penitentiary are fel-
 4 onies; all other offenses are misdemeanors.

5 The word “penitentiary” as used in this section shall
 6 mean and include any and all institutions provided by
 7 the state for the confinement of persons sentenced to con-
 8 finement in the penitentiary, notwithstanding that trans-
 9 fers of such persons from any one of such institutions to
 10 another may be authorized.

Sec. 2. Capital Punishment Abolished.—Capital pun-
 2 ishment is hereby abolished for all offenses against the
 3 laws of the state of West Virginia, and no person here-
 4 tofore or hereafter convicted of any offense in violation
 5 of said laws shall be executed, irrespective of whether
 6 the crime was committed, the conviction had, or the sen-
 7 tence imposed, before or after the enactment of this sec-
 8 tion.

CHAPTER 62. CRIMINAL PROCEDURE

Article

3. Trial of Criminal Cases.
8. Crimes By and Proceedings Against Convicts.

Article 3. Trial of Criminal Cases.

Section

6. Custody of jury; expenses; no conversation with jurors.
15. Verdict and sentence in murder cases.

Section 6. Custody of Jury; Expenses; No Conversation with Jurors.—After a jury in a case of felony is impaneled and sworn, the court, in its discretion, may order the jury to be placed in the custody of the sheriff or other officer or officers designated by the court until the jury agree upon a verdict or are discharged by the court. While a jury is in the custody of the sheriff or other officer or officers as herein provided, they shall be furnished with suitable board and lodgings by the sheriff or other officer. After a jury has been impaneled no sheriff or other officer shall converse with, or permit any one else to converse with, a juror unless by leave of the court. When the court orders a jury to be placed in the custody of the sheriff or other officer or officers, the court shall, in its discretion, determine the manner in which such jury shall be kept in custody by the sheriff or other officer or officers until the jury agree upon a verdict or are discharged by the court.

Sec. 15. Verdict and Sentence in Murder Cases.—If a person indicted for murder be found by the jury guilty thereof, they shall in their verdict find whether he is guilty of murder of the first degree or second degree. If the person indicted for murder is found by the jury guilty thereof, and if the jury find in their verdict that he is guilty of murder of the first degree, or if a person indicted for murder pleads guilty of murder of the first degree, he shall be punished by confinement in the penitentiary for life, and he, notwithstanding the provisions of article twelve, chapter sixty-two of this code, shall not be eligible for parole: *Provided*, That the jury may, in their discretion, recommend mercy, and if such recommendation is added to their verdict, such person shall be eligible for parole in accordance with the provisions of said article twelve: *Provided, however*, That if the accused pleads guilty of murder of the first degree, the court may, in its discretion, provide that such person shall be eligible for parole in accordance with the provisions of said article twelve, and, if the court so provides, such person shall be eligible for parole in accordance with the provisions of said article twelve in the same manner and with like effect as if such person had been found guilty

24 by the verdict of a jury and the jury had recommended
25 mercy.

Article 8. Crimes By and Proceedings Against Convicts.

Section

2. Punishment of convicts; no discharge from penitentiary while prosecution is pending.

Section 2. Punishment of Convicts; No Discharge from Penitentiary While Prosecution is Pending.—A convict guilty of such killing as is mentioned in the first section of this article, or any act mentioned therein, from which death ensues to such officer or guard, shall be punished by confinement in the penitentiary for life, and such person shall not be released from such confinement on parole, notwithstanding the provisions of article twelve, chapter sixty-two of this code. If such person is already under a sentence of confinement for life, such person shall not be released from such confinement on parole, notwithstanding the provisions of article twelve, chapter sixty-two of this code. For any other offense mentioned in said section, a convict, unless he be under a sentence of confinement for life, shall be confined in the penitentiary not less than one nor more than five years after the end of the term for which he shall then be subject to confinement. A person prosecuted for an offense under this article shall not be discharged from the penitentiary while such prosecution is pending. And a person convicted of such offense shall not, by reason thereof, be sentenced under sections eighteen or nineteen, article eleven, chapter sixty-one of this code, except that, if a convict in the penitentiary shall commit any felony, other than is provided for in the first section of this article which is punishable by confinement therein, he shall suffer the same punishment as if he had been discharged before committing it.

CHAPTER 41

(Senate Bill No. 39—By Mr. Carrigan)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section five-a, article twelve, chapter sixty-two of the code of West Virginia, one thou-

sand nine hundred thirty-one, as amended, relating to probation officers of the second judicial circuit, third judicial circuit, fifth judicial circuit, twelfth judicial circuit, fourteenth judicial circuit, twenty-third judicial circuit, twenty-fifth judicial circuit, twenty-ninth judicial circuit, and the circuit court of Wayne county, and the circuit court of Hancock county; salary and expenses.

Be it enacted by the Legislature of West Virginia:

That section five-a, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 12. Probation and Parole.

Section

5-a. Probation officers of second judicial circuit, third judicial circuit, fifth judicial circuit, twelfth judicial circuit, fourteenth judicial circuit, twenty-third judicial circuit, twenty-fifth judicial circuit, twenty-ninth judicial circuit, and of Hancock and Wayne counties; salary and expenses.

Section 5-a. Probation Officers of Second Judicial Circuit, Third Judicial Circuit, Fifth Judicial Circuit, Twelfth Judicial Circuit, Fourteenth Judicial Circuit, Twenty-third Judicial Circuit, Twenty-fifth Judicial Circuit, Twenty-ninth Judicial Circuit, and of Hancock and Wayne Counties; Salary and Expenses.—The judge of the circuit courts of the second judicial circuit, third judicial circuit, fifth judicial circuit, twelfth judicial circuit, fourteenth judicial circuit, twenty-third judicial circuit, twenty-fifth judicial circuit, twenty-ninth judicial circuit, and of the circuit court of Wayne county in the twenty-fourth judicial circuit and the circuit court of Hancock county in the first judicial circuit, each is authorized to appoint a court probation officer to serve during the pleasure of the appointing judge, without first obtaining approval of the county courts of the counties of said judicial circuits and of Hancock and Wayne counties, respectively, as provided in section five of this article: *Provided*, That the judge of the circuit court of the second judicial circuit is authorized to appoint an assistant probation officer in the same manner as probation officers are appointed. Such appointment shall be effective upon the entry of the appointment order in the court order book. A certified copy of said

24 order shall be delivered to the county court of each of the
25 counties concerned and said county courts, respectively,
26 shall arrange for and appropriate funds for payment of,
27 and shall pay the salary and expenses of such probation
28 officers and clerical assistant in a manner consistent with
29 contribution provisions of said section five. The probation
30 officers so appointed shall have and may exercise all of
31 the powers and perform all of the duties and services of
32 probation officers as provided in this article.

CHAPTER 42

(Com. Sub. for House Bill No. 607—By Mr. Auvil)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, creating a division of correction within the office and under the authority, jurisdiction and control of the commissioner of public institutions; transferring to the office of the commissioner of public institutions, division of correction, as aforesaid, the administrative and supervisory functions of the board of probation and parole; and repealing all acts and parts of acts inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen, to read as follows:

Article 13. Division of Correction.

Section

1. Construction and purpose of article.
2. Establishment of division; responsibility for correctional institutions; appointment of wardens; supervisor of probationers and parolees; final determinations remaining with board of probation and parole.
3. Appointment and qualifications of director.
4. Powers and duties of director generally; compensation and funds of inmates.

5. Commitments; transfers.
6. Compensation of director and employees; traveling and other expenses; payment of funds.
7. Repeal of inconsistent laws; transfer of certain functions of board of probation and parole to division of corrections.

Section 1. Construction and Purpose of Article.—This article shall be liberally construed, to the end that persons committed to institutions of the state for crime or delinquency shall be afforded individual and group treatment to re-establish their ability to live peaceably and, consistent with the protection of the community, to release such individuals at the earliest possible date, and to establish a just, humane and efficient program, and to avoid duplication and waste of effort and money on the part of public and private agencies.

Sec. 2. Establishment of Division; Responsibility for Correctional Institutions; Appointment of Wardens; Supervisor of Probationers and Parolees; Final Determinations Remaining with Board of Probation and Parole.—The commissioner of public institutions is hereby directed to establish within his department a separate division of correction, which shall consist of a director of correction, such deputy directors as herein provided, and the officers, employees and institutions of such division.

a. The director of the division of correction shall be directly responsible to the commissioner of public institutions for the custody and care of all persons committed for conviction of a felony and such other persons as may be committed to the commissioner of public institutions or penal or correctional institutions under his jurisdiction and control including the following institutions, and such other institutions as now or may hereafter be established by law:

West Virginia penitentiary at Moundsville, West Virginia;

West Virginia state prison for women at Pence Springs, West Virginia;

West Virginia medium security prison, Huttonsville, West Virginia;

West Virginia industrial home for girls, Salem, West Virginia;

27 West Virginia industrial home for boys, Grafton, West
28 Virginia;

29 West Virginia forestry camp for boys, Davis, West Vir-
30 ginia.

31 The warden or superintendent of each of the aforemen-
32 tioned institutions shall be appointed by the governor by
33 and with the advice and consent of the senate.

34 b. The director of the division of correction shall also
35 be charged with the duty of supervising all persons re-
36 leased on probation and placed in the charge of a state
37 probation and parole officer, and all persons released on
38 parole under any law of this state. He shall also be
39 charged with the duty of supervising all probationers
40 and parolees whose supervision may have been under-
41 taken by this state by reason of any interstate compact
42 entered into pursuant to the uniform act for out-of-state
43 parolee supervision. The director of the division of cor-
44 rection shall prescribe rules and regulations for the super-
45 vision of probationers and parolees under its supervision
46 and control. The director of the division of correction
47 shall succeed to all administrative and supervisory powers
48 of the board of probation and parole and the authority of
49 said board of probation and parole in such matters only.

50 c. The director of the division of correction, with the
51 approval and consent of the commissioner of public in-
52 stitutions, shall administer all other laws affecting the
53 custody, control, treatment and employment of persons
54 sentenced or committed to institutions under the super-
55 vision of the commissioner of public institutions, or affect-
56 ing the operation and administration of institutions or
57 functions of the division of correction or activities therein.

58 d. The final determination regarding the release of in-
59 mates from penal institutions and the final determination
60 regarding the revocation of paroles from such institu-
61 tions pursuant to the provisions of article twelve, chapter
62 sixty-two of the code of West Virginia, one thousand nine
63 hundred thirty-one, as amended, shall remain within the
64 exclusive jurisdiction of the board of probation and pa-
65 role.

Sec. 3. Appointment and Qualifications of Director.—

2 The commissioner of public institutions shall appoint the
3 director of the division of correction who shall be duly
4 qualified by education and experience, with a degree in
5 sociology, psychology, social science or some related field,
6 and with a minimum of three years' experience in the
7 field of correction or a related field.

Sec. 4. Powers and Duties of Director Generally; Compensation and Funds of Inmates.—Subject to the approval
3 and consent of the commissioner of public institutions the
4 director shall:

- 5 a. Exercise general supervision over the administra-
6 tion of the division of correction;
- 7 b. Establish separate subdivisions, to be headed by
8 deputy directors, of adult services, youth services, and
9 other subdivisions as he deems advisable, which may be
10 headed by the same or different deputy directors, which
11 said deputy directors must be graduates of an accredited
12 college or university with a degree in sociology, psychol-
13 ogy, social science or a related field;
- 14 c. At the close of each fiscal year, submit to the com-
15 missioner of public institutions a report with statistical
16 and other data of the division's work, including any rec-
17 ommendations for legislation for the improvement of
18 correctional treatment and the more effective work of
19 the division;
- 20 d. Recommend qualifications for employment of dep-
21 uty directors, wardens and superintendents of institu-
22 tions within the division, all necessary staff for the oper-
23 ation of the institutions and subdivisions, and state em-
24 ployed probation and parole personnel;
- 25 e. Establish rules and regulations in writing govern-
26 ing all subdivisions and institutions within the division;
- 27 f. Establish an in-service, training program for per-
28 sonnel of the division;
- 29 g. Establish a plan of classification of institutions,
30 varying according to such factors as security features,
31 program, age and sex of inmates, physical stature or size,
32 character of inmates, and recommend the organization

33 of the institutions of the division in accordance with such
34 plan;

35 h. Establish a system of classification of inmates,
36 through a reception and examination procedure, and in
37 each institution a classification committee and procedure
38 for assignment of inmates within the programs of the
39 institution;

40 i. Establish, maintain and direct a varied program of
41 education for inmates in all institutions within the divi-
42 sion;

43 j. Supervise the treatment, custody and discipline of
44 all inmates and the maintenance of the institutions of
45 the division and its industries;

46 k. Establish a system of compensation for inmates of
47 the correctional institutions of the state who perform
48 good and satisfactory work either within the industrial
49 program or in the servicing and maintenance of the cor-
50 rectional institutions or any other institutions or camps
51 within the state. The director, with the approval of the
52 commissioner of public institutions, may establish a grad-
53 uated scale of compensation to be paid to inmates in
54 accordance with their skill in industry, and the director
55 shall recommend rules and regulations for carrying out
56 the purposes of this subsection.

57 The principal officer of any correctional institution, on
58 request of an inmate, may expend up to one half of the
59 money so earned by such inmate on behalf of the family
60 of such inmate. The remainder of the money so earned,
61 after deducting amounts expended as aforesaid, shall be
62 accumulated to the credit of the inmate and be paid to
63 the inmate at such times as may be prescribed by such
64 rules and regulations. Such funds so accumulated on
65 behalf of inmates shall be held by the principal officer
66 of each institution, under a bond approved by the attor-
67 ney general.

68 The accumulation of such total funds, not necessary for
69 current distribution, shall be invested, with the approval
70 of the director, through the state sinking fund commis-
71 sion, in short term bonds or treasury certificates or equiv-
72 alent of the United States. Bonds and certificates so pur-

73 chased shall remain in the custody of the state treasurer.
74 The earnings from investments so made shall be reported
75 to the principal officer of each institution from time to
76 time, as earned, and shall be credited to the respective
77 accounts of such institutions by the sinking fund com-
78 mission.

79 When such earnings are transferred to the respective
80 institutions, they shall be credited by the principal officer
81 to the credit of and for the benefit of the inmates' activi-
82 ties account.

Sec. 5. Commitments; Transfers.—All persons com-
2 mitted by courts of criminal and juvenile jurisdiction for
3 custody in penal, correctional or training institutions
4 under the jurisdiction of the commissioner of public insti-
5 tutions shall be committed to an appropriate institution,
6 but the director shall have the authority to and may order
7 the transfer of any person committed to the division to
8 any appropriate institution within the division. How-
9 ever, no person committed as a juvenile shall be held in
10 any institution except one for training and care of chil-
11 dren; and no one may be transferred to a state prison
12 unless the crime for which such person is incarcerated
13 was of the grade which would warrant direct commit-
14 ment to the prison.

15 The director may transfer any prisoner or inmate who
16 is mentally disturbed and who would more appropriately
17 be treated in an institution under the jurisdiction of the
18 department of mental health, to such department, subject
19 to the approval of the director of the department of men-
20 tal health. The director may transfer any prisoner or in-
21 mate to an appropriate mental facility for specialized
22 medical treatment.

**Sec. 6. Compensation of Director and Employees;
2 Traveling and Other Expenses; Payment of Funds.**—The
3 director shall receive a salary of thirteen thousand dollars
4 per annum. Each deputy director shall receive a salary
5 of ten thousand dollars per annum. Within the limits
6 of available funds the commissioner of public institutions
7 shall fix the salaries or compensation of the other officers
8 and employees employed pursuant to the provisions of

9 this article. All persons employed hereunder shall re-
10 ceive necessary traveling and other expenses. The com-
11 pensation, salaries, expenses and appropriations provided
12 for the division of correction and its employees shall be
13 paid in the same manner as are those of other state em-
14 ployees and agencies upon recommendation of the director
15 and certification and approval of the commissioner of
16 public institutions.

**Sec. 7. Repeal of Inconsistent Laws; Transfer of Certain
2 Functions of Board of Probation and Parole to Division
3 of Corrections.**—All other laws or parts of laws incon-
4 sistent with this article are hereby repealed to the extent
5 of such inconsistency: *Provided, however,* That nothing
6 in this article shall be construed to affect in any way the
7 laws relating to juvenile probation. Whenever in the
8 official code of West Virginia the words “board of proba-
9 tion and parole” are used and refer to specific adminis-
10 trative and supervisory functions and duties transferred
11 to the division of correction within the office of the com-
12 missioner of public institutions by this article, the words
13 shall be construed to mean said division of correction.

CHAPTER 43

(Com. Sub. for House Bill No. 718—By Mr. Boiarsky)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections one and three, article nine, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said article by adding thereto a new section, designated section two-a, all relating to the department of commerce.

Be it enacted by the Legislature of West Virginia:

That sections one and three, article nine, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article

be further amended by adding thereto a new section, designated section two-a, all to read as follows:

Article 9. Department of Commerce.

Section

1. Department created; appointment, term and compensation of commissioner; divisions of department; powers and duties of commissioner and division directors.
- 2-a. Approval of agreements and contracts.
3. General powers and duties of department.

Section 1. Department Created; Appointment, Term and Compensation of Commissioner; Divisions of Department; Powers and Duties of Commissioner and Division Directors.—There is hereby created in the state government a department of commerce and the office of commissioner of commerce. The commissioner shall be the chief executive officer of the department and shall be appointed by the governor by and with the advice and consent of the senate for a term of four years, which term shall run concurrently with the term of the governor or until said commissioner's successor is appointed and qualified. The annual compensation of the commissioner shall be fixed by the governor, but not in excess of fourteen thousand dollars. There shall be in the department of commerce a planning and research division, an industrial development division, and a travel development division. Each division shall be headed by a director, who shall be appointed by the commissioner of commerce, to serve at the will and pleasure of the commissioner of commerce. Each division director shall be qualified in his respective field by special training and experience. The director of the planning and research division shall be trained and have experience in the field of state, local or national economic planning. The director of the industrial development division shall be trained and have experience in the field of industrial development. The director of the travel development division shall be trained and have experience in the field of travel development.

The commissioner of commerce shall have control and supervision of the department of commerce and shall be legally responsible for the work of each of its divisions. Under his control, each division director shall be ac-

34 countable to the commissioner for the work of his division.
35 The commissioner of commerce shall have the authority
36 to employ such assistants as may be necessary for the
37 efficient operation of the department.

Sec. 2-a. Approval of Agreements and Contracts.—

2 All agreements and/or contracts of the department of
3 commerce by and with any federal, state, county or mu-
4 nicipal departments or agencies and any other groups
5 which are in harmony with the purposes of this article,
6 which said agreements and/or contracts necessitate the
7 expenditure by the department of commerce of funds
8 shall prior to the execution thereof by the department of
9 commerce be submitted to the purchasing division for
10 the approval by the director of said purchasing division
11 of the department of finance and administration as to
12 substance.

Sec. 3. General Powers and Duties of Department.—

2 The department of commerce shall have the authority
3 and, within the limits of available funds, it shall be its
4 duty to:

5 (1) Investigate, study and undertake ways and means
6 of promoting and encouraging the prosperous develop-
7 ment and protection of the legitimate interests and wel-
8 fare of West Virginia business, industry and commerce,
9 within and outside the state.

10 (2) Serve as a clearinghouse for industrial problems
11 of the state.

12 (3) Promote and encourage the expansion and develop-
13 ment of markets for West Virginia products.

14 (4) Promote and encourage the location and develop-
15 ment of new business in the state and the maintenance
16 and expansion of existing business.

17 (5) Investigate and study conditions affecting West
18 Virginia business, industry and commerce; collect and
19 disseminate information, and engage in technical studies,
20 scientific investigations, statistical research and education
21 activities necessary or useful for the proper execution
22 of the powers and duties of the department.

23 (6) Plan and develop an effective business information
24 service that will directly assist West Virginia industry

25 and also encourage industries outside the state to use
26 business facilities within the state.

27 (7) Compile, collect and periodically make available
28 scientific indices and other information relating to cur-
29 rent business conditions.

30 (8) Encourage and develop commerce with other states
31 and devise methods of removing trade barriers that
32 hamper the free flow of commerce between this and other
33 states, and for these purposes cooperate with interstate
34 commissions engaged in formulating and promoting the
35 adoption of interstate compacts and agreements helpful
36 to business, industry and commerce.

37 (9) Conduct or encourage research designed to further
38 new and more extensive uses of the natural and other
39 resources of the state, with a view to the development of
40 new products and industrial processes.

41 (10) Compile periodically a census of business and
42 industry in the state, in cooperation with other agencies,
43 and analyze and publish the information in such form
44 as to be most valuable to business and industry.

45 (11) Compile periodically a census of the crafts,
46 trades, skills and occupations of all adult persons in the
47 state, in cooperation with other agencies, and analyze
48 and publish the information in such form as to be most
49 valuable to business and industry.

50 (12) Study long-range trends and developments in
51 the industries of the state, and analyze the reasons un-
52 derlying such trends; study costs and other factors affect-
53 ing successful operation of businesses within the state.

54 (13) Advertise and publicize the material, economic
55 and other advantages of the state which render it a de-
56 sirable place for business and residence.

57 (14) Collect, compile and distribute information and
58 literature concerning the advantages and attractions of
59 the state, its historic and scenic points of interest, and
60 the highway, transportation and other facilities of the
61 state.

62 (15) Plan and carry out a program of information
63 and publicity designed to attract to West Virginia tourists,

64 visitors and other interested persons from outside the
65 state.

66 (16) Encourage and cooperate with other public and
67 private organizations or groups in their efforts to pub-
68 licize the attractions and industrial advantages of the
69 state.

70 (17) Accept and expend, without the necessity of ap-
71 propriation by the Legislature, any gift or grant of money
72 made to the department for any or all of the purposes
73 specified in this section.

74 (18) Publish information as an aid to planning on
75 both community and state levels, and provide planning
76 assistance and do planning work, including surveys,
77 land use, studies, urban renewal plans, technical services
78 and other elements of comprehensive planning programs,
79 in and for any counties, cities, towns and regions; and,
80 for this purpose, to accept and utilize any funds, per-
81 sonnel or other assistance made available by the federal
82 government or any of its agencies, or made available from
83 any other source, public or private; and, notwithstanding
84 the provisions of any other law and for the purposes
85 of receiving and using federal planning grants for pro-
86 viding urban planning assistance, to serve as the official
87 state planning agency of the state and, to these ends,
88 to enter into agreements or contracts regarding the ac-
89 ceptance or utilization of such funds or assistance for
90 any of the purposes authorized by this article.

91 (19) Enter into agreements with federal and state
92 departments or agencies, including those of other states,
93 and any other groups which are in harmony with the
94 purposes of this article, as well as with counties or mu-
95 nicipalities of this state, for the promotion of and for
96 the rendering of consultive service with respect to the
97 planning of the county or municipality, and the agree-
98 ment may provide that the county or municipality shall
99 pay part or all of the expense of such service. In this
100 connection, the department of commerce is hereby ex-
101 pressly authorized to participate in the federal planning
102 assistance programs as set forth in the "Federal Housing
103 Act of 1954," as amended, and any subsequent acts, to
104 give planning assistance to municipalities, whatever their

105 size, and metropolitan and regional areas, and any other
106 areas now or hereafter engaged in such activity; and to
107 accept, on behalf of said municipalities, metropolitan and
108 regional areas, funds provided by the government of the
109 United States in accordance with the aforesaid "Federal
110 Housing Act of 1954," as amended. Also, the department
111 of commerce shall be the official state government de-
112 partment to administer and supervise any provisions of
113 a federal area redevelopment act, and is expressly au-
114 thorized to participate in any federal area redevelopment
115 act within the limits of the funds that are or may be
116 made available for such purposes.

117 (20) Initiate, promote and conduct, or cause to be con-
118 ducted, research designed to further new and more exten-
119 sive uses and consumption of natural and other resources
120 and their by-products; and for such purposes, to enter into
121 contracts and agreements with research laboratories main-
122 tained by educational or endowed institutions in this state,
123 and to expend appropriations to the department for such
124 purposes.

125 (21) Prepare and maintain a comprehensive plan for
126 the physical, social, and economic development of the
127 state; and the department shall prepare and keep current
128 a proposed long-range program of major state improve-
129 ments relating to the comprehensive development of
130 natural and artificial resources of this state, and shall
131 cooperate with existing federal and state departments and
132 other agencies or groups in perfecting and promoting the
133 aforesaid comprehensive plan.

134 (22) Assist voluntary county or regional councils or
135 groups in order to help effectuate the purposes of this
136 article on a local level.

137 (23) Make recommendations to the governor and the
138 Legislature of any legislation deemed necessary to facili-
139 tate the carrying out of any of the foregoing powers and
140 duties, and to exercise any other power that may be
141 necessary or proper for the orderly conduct of the busi-
142 ness of the department and the effective discharge of the
143 duties of the department.

CHAPTER 44

(House Bill No. 856—By Mr. Speaker, Mr. White)

[Passed March 5, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section one, article one thereof, and by amending and reenacting section seven, article three thereof, all relating to the authority of the director of purchases to give preference to commodities and printing produced by nonprofit workshops approved by the division of vocational rehabilitation.

Be it enacted by the Legislature of West Virginia:

That chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section one, article one thereof, and by amending and reenacting section seven, article three thereof, all to read as follows:

Article

1. Department of Finance and Administration.
3. Purchasing Division.

Article 1. Department of Finance and Administration.

Section

1. Definitions.

- Section 1. Definitions.**—For the purpose of this chapter:
- 2 ter:
 - 3 “Commissioner” means the commissioner of finance and
 - 4 administration and, as used in article two of this chapter,
 - 5 the director of the budget.
 - 6 “Board” means the board of public works.
 - 7 “Director” means the director of the division referred
 - 8 to in the heading of the article in which the word ap-
 - 9 pears.
 - 10 “Spending unit” means a department, agency or insti-
 - 11 tution of the state government for which an appropri-
 - 12 ation is requested, or to which an appropriation is made
 - 13 by the Legislature.

14 "Spending officer" means the executive head of a spend-
15 ing unit, or a person designated by him.

16 "Commodities" means supplies, material, equipment,
17 contractual services, and any other articles or things used
18 by or furnished to a department, agency or institution of
19 the state government.

20 "Contractual services" shall include telephone, tele-
21 graph, electric light and power, water and similar serv-
22 ices.

23 "Printing" means printing, binding, ruling, lithograph-
24 ing, engraving and other similar services.

25 "Expendable commodities" means those commodities
26 which, when used in the ordinary course of business, will
27 become consumed or of no market value within the period
28 of one year or less.

29 "Removable property" means any personal property not
30 permanently affixed to or forming a part of real estate.

31 "Nonprofit workshops" means an establishment (a)
32 where any manufacture or handiwork is carried on, and
33 (b) which is operated either by a public agency or by a
34 cooperative or by a nonprofit private corporation or non-
35 profit association, in which no part of the net earnings
36 thereof inures, or may lawfully inure, to the benefit of any
37 private shareholder or individual, and (c) which is operated
38 for the primary purpose of providing remunerative em-
39 ployment to blind and severely disabled persons who can-
40 not be absorbed into the competitive labor market, and
41 (d) which shall be approved, as evidenced by a certificate
42 of approval, by the state board of vocational education,
43 division of vocational rehabilitation.

Article 3. Purchasing Division.

Section

7. Preference given state products; nonprofit workshop products.

**Section 7. Preference Given State Products; Nonprofit
2 Workshop Products.**—The director shall, in the purchases
3 of commodities and printing, give preference, so far as
4 may be practicable and not conflicting with the provisions
5 of this article, to commodities and printing produced in
6 this state.

7 Further, the director may, in the purchases of com-

8 modities and printing, give preference, so far as may be
9 practicable, to commodities and printing produced and
10 offered for sale by nonprofit workshops, as defined in
11 section one of article one of this chapter, which are lo-
12 cated in this state, without the necessity of competitive
13 bidding: *Provided*, That such commodities and printing
14 are of a price and quality comparable to other commodi-
15 ties and printing otherwise available.

CHAPTER 45

(Senate Bill No. 249—By Mr. Carson, Mr. President, and
Mr. Lambert)

[Passed March 11, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend article one, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-b, and to amend and reenact section one, article four of said chapter, relating to appointment of security officers by the commissioner of finance and administration, the authority and powers of such officers, the removal of the authority of the director of the general services division to appoint guards, and some of the general duties and responsibilities of such director.

Be it enacted by the Legislature of West Virginia:

That article one, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section two-b; and that section one, article four of said chapter be amended and reenacted, all to read as follows:

Article

1. Department of Finance and Administration.
4. General Services Division.

Article 1. Department of Finance and Administration.

Section

- 2-b. Security officers; appointment; oath; carrying weapons; powers and duties generally, etc.

Section 2-b. Security Officers; Appointment; Oath; Carrying Weapons; Powers and Duties Generally, etc.—

3 In addition to the other powers given and assigned to the
4 commissioner in this chapter, he is hereby authorized to
5 appoint bona fide residents of this state to act as security
6 officers upon any premises owned or leased by the state
7 of West Virginia and under the jurisdiction of the com-
8 missioner, subject to the conditions and restrictions here-
9 inafter imposed. Before entering upon the performance
10 of his duties as such security officer, each person so ap-
11 pointed shall qualify therefor in the same manner as is
12 required of constables by the taking and filing of an
13 oath of office as required by article one, chapter six of
14 this code. No such person shall have authority to carry
15 a gun or any other dangerous weapon until he shall have
16 obtained a license therefor in the manner prescribed by
17 section two, article seven, chapter sixty-one of this code.

18 It shall be the duty of any person so appointed and
19 qualified to preserve law and order on any premises
20 under the jurisdiction of the commissioner to which he
21 may be assigned by the commissioner. For this purpose
22 he shall as to offenses committed on such premises have
23 and may exercise all the powers and authority and shall
24 be subject to all the responsibilities of regularly elected
25 constables of the county. The assignment of security
26 officers to any premises under the jurisdiction of the
27 commissioner shall not be deemed to supersede in any
28 way the authority or duty of other peace officers to
29 preserve law and order on such premises.

30 The commissioner may at his pleasure revoke the au-
31 thority of any such officer by filing a notice to that effect
32 in the office of the clerk of each county in which his
33 oath of office was filed, and in the case of officers licensed
34 to carry a gun or other dangerous weapons by notifying
35 the clerk of the circuit court of the county in which the
36 license therefor was granted.

Article 4. General Services Division.

Section

1. Care, control and custody of capitol building and grounds.

**Section 1. Care, Control and Custody of Capitol Build-
2 ings and Grounds.—**The director shall be charged with

3 the full responsibility for the care, control and custody
4 of the capitol buildings and in this connection he shall:

5 (1) Furnish janitors for the capitol buildings and
6 grounds, together with all the departments therein, or
7 connected therewith, regardless of the budget or budgets,
8 departmental or otherwise, from which such janitors
9 are paid, and shall furnish janitorial supplies, light, heat
10 and ventilation for all the rooms and corridors of the
11 buildings. Under the direction of the president of the
12 senate and speaker of the house of delegates, the director
13 shall have charge of the halls and committee rooms of
14 the two houses and any other quarters at the state capitol
15 provided for the use of the Legislature or its staff, and
16 keep the same properly cleaned, warmed and in good
17 order, and shall do and perform such other duties in
18 relation thereto as either house may require;

19 (2) Furnish messenger service to the various state
20 departments. Department heads shall be consulted with
21 reference to the amount of messenger service required
22 for their departments. Janitor-messengers, or messengers,
23 shall receive from the director compensation for total
24 services in the same manner as other employees are paid;

25 (3) Have immediate control and direction of the
26 switchboard telephone service for the various depart-
27 ments of the state capitol. Changes in telephone instru-
28 ments or equipment in the various departments of the
29 state capitol shall be referred to the director, and pay-
30 ment for any such changes will not be honored unless
31 such changes have been approved by the director. A
32 simple accounting system shall be installed and main-
33 tained by the director for all telephone service to the
34 state departments;

35 (4) Landscape and take care of the lawns and gardens;

36 (5) Direct the making of all minor repairs to and al-
37 terations of the capitol buildings and governor's mansion
38 and the grounds of such buildings and mansion. Major
39 repairs and alterations shall be made under the super-
40 vision of the director, subject to the direction of the board.

41 The offices of the assistants and employees appointed
42 to perform these duties shall be located where desig-
43 nated by the board, except that they shall not be located

44 in any of the legislative chambers, offices, rooms or halls.
 45 Office hours shall be so arranged that emergency or tele-
 46 phone service shall be available at all times. The hours
 47 of employment shall be so arranged that janitorial serv-
 48 ice shall not interfere with other employment during
 49 regular office hours.

CHAPTER 46

(House Bill No. 999—By Mr. Boiarsky and Mr. Cann)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections three and ten, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the department of finance and administration.

Be it enacted by the Legislature of West Virginia:

That sections three and ten, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Budget Division.

Section

3. Requests for appropriations; copies to legislative auditor.
10. Preparation of tentative budget submitted to board.

Section 3. Requests for Appropriations; Copies to Legislative Auditor.—The spending officer of each spending unit, other than the Legislature and the judicial branch of state government, shall, on or before the fifteenth day of August of each year, submit to the commissioner a request for appropriations for the fiscal year next ensuing. Immediately upon receipt of such requests, the commissioner shall transmit two copies thereof to the legislative auditor for the use of the finance committees of the Legislature.

Sec. 10. Preparation of Tentative Budget Submitted to Board.—The commissioner shall prepare for the consid-

3 eration of the board a tentative budget for the fiscal year
4 next ensuing. The budget shall state actual receipts and
5 expenditures for the fiscal year next preceding, estimated
6 receipts and expenditures for the current fiscal year,
7 recommended expenditures for the current fiscal year
8 as shown in the legislative digest, and it shall state also
9 the requested amounts, or estimates, for the fiscal year
10 next ensuing with respect to:

11 (1) Appropriations requested by each spending unit
12 and requested general appropriations;

13 (2) The amount of the total of each appropriation to
14 be paid out of collections;

15 (3) Amounts and purposes of appropriations re-
16 quested other than for spending units of the state;

17 (4) Revenues of each of the funds of the state;

18 (5) A summary statement of requests and revenues
19 showing the amount of an anticipated surplus or deficit;

20 (6) Balances carried forward to July first from fiscal
21 year next preceding on all reappropriated accounts from
22 general revenue fund and general school fund;

23 (7) Percentage of increase or decrease by comparison
24 of recommended appropriation for next ensuing year with
25 current fiscal year.

26 On or before November fifteenth, the commissioner
27 shall submit the tentative budgets to the board. The com-
28 missioner shall convey to the board all explanatory and
29 justification statements and statements of personnel re-
30 quirements of spending units as reported and filed in his
31 office.

CHAPTER 47

(Com. Sub. for Senate Bill No. 99—By Mr. Carson, Mr. President,
and Mr. Moreland)

[Passed March 8, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article three, chapter five-a of the code of
West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new section, designated section fourteen-a, relating to the purchasing division of the department of finance and administration; requiring prequalification disclosure by vendors, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section fourteen-a, to read as follows:

Article 3. Purchasing Division.

Section

14-a. Prequalification disclosure by vendors required; form and contents; register of vendors; false affidavits, etc.; penalties.

Section 14-a. Prequalification Disclosure by Vendors

2 Required; Form and Contents; Register of Vendors; False
3 Affidavits, etc.; Penalties.—The director shall reject any
4 bid received from any vendor unless the vendor has filed
5 with the director an affidavit of the vendor or the affidavit
6 of a member of the vendor's firm, or, if the vendor be a
7 corporation, the affidavit of an officer, director, or man-
8 aging agent, of such corporation, disclosing the following
9 information: (1) If the vendor be an individual, his name
10 and residence address, and, if he has associates or partners
11 sharing in his business, their names and residence ad-
12 dresses; (2) if the vendor be a firm, the name and resi-
13 dence address of each member, partner or associate of the
14 firm; (3) if the vendor be a corporation created under
15 the laws of this state, the name and business address of
16 the corporation; the names and residence addresses of the
17 president, vice president, secretary, treasurer, and general
18 manager, if any, of the corporation; and the names and
19 residence addresses of each stockholder of the corporation
20 owning or holding more than ten per cent of the capital
21 stock thereof; (4) if the vendor be a foreign corporation,
22 the name and business address of the corporation; the
23 names and residence addresses of the president, vice presi-
24 dent, secretary, treasurer, and general manager, if any, of
25 the corporation; the names and residence addresses of each
26 stockholder of the corporation owning or holding more

27 than ten per cent of the capital stock thereof; and a certifi-
28 cate from the secretary of state verifying that said foreign
29 corporation has qualified to do business in this state, prior
30 to the submission of any bid. Whenever a change occurs
31 in the information heretofore submitted as required, such
32 change shall be reported immediately in the same manner
33 as required in the original disclosure affidavit.

34 The affidavit and information so received by the direc-
35 tor shall be kept in a register of vendors which shall be
36 a public record and open to public inspection during
37 regular business hours in the director's office and made
38 readily available to the public at such time.

39 The director may waive the above requirements in the
40 case of corporations listed on any nationally-recognized
41 stock exchange.

42 Any person who makes such affidavit falsely or who
43 shall knowingly file or cause to be filed with the director,
44 an affidavit containing a false statement of a material fact
45 or omitting any material fact, shall be guilty of a mis-
46 demeanor, and, upon conviction thereof, shall be fined
47 not more than one thousand dollars and in the discretion
48 of the court, confined in jail not more than one year.
49 In any such case, the person convicted shall be adjudged
50 forever incapable of holding any office of honor, trust or
51 profit in this state, or of serving as a juror.



CHAPTER 48

(Senate Bill No. 197—By Mr. Smith)

[Passed March 6, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section forty-five, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the right of the state agency for surplus property to charge the donee of such property a fee to cover actual expenses.

Be it enacted by the Legislature of West Virginia:

That section forty-five, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Purchasing Division.

Section

45. Surplus property agency; authority of director.

Section 45. Surplus Property Agency; Authority of Director.—The purchasing division is hereby designated as a sole agency for the purposes of sections forty-four and forty-five of this article, and the director shall be the director of the state agency for surplus property. As such, he shall have sole authority to:

(a) Make such reasonable rules and regulations, require such certifications and agreements by eligible recipients of surplus property, and employ such persons as may be necessary for the accomplishment of the purposes of sections forty-four and forty-five of this article;

(b) Make such certification and enter into such agreements or understandings for and in the name of the state (including cooperative agreements with federal agencies) as may be appropriate or required by federal law or regulations in carrying out the functions hereby authorized; the state agency for surplus property shall have the right to charge the donee of such surplus property a service charge for the care and handling of donable surplus property which shall be limited to the amount necessary to pay actual expenses of current operations and to purchase necessary equipment. The service charge assessed by the state agency for surplus property for the transfer of any single item of donable surplus property shall be reasonable in relation to the costs incident to the transfer; such service charges shall be used by the state agency for surplus property to defray the general operating expenses of such state agency for surplus property;

(c) Require such reports and make such investigations and take such actions as may be necessary for the accomplishment of the purposes of this and the preceding section.

CHAPTER 49

(House Bill No. 972—By Mr. Boiarsky and Mr. Cann)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections three and thirty-four, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said chapter by adding thereto a new article, designated article five, all relating to the leasing of grounds, buildings, office or other space by any department, agency or institution of state government.

Be it enacted by the Legislature of West Virginia:

That sections three and thirty-four, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said chapter be further amended by adding thereto a new article, designated article five, all to read as follows:

Article

3. Purchasing Division.

5. Leasing of Grounds, Buildings, Office or Other Space by State Government.

Article 3. Purchasing Division.

Section

3. Powers and duties of director.

34. Conditions affecting application of article.

Section 3. Powers and Duties of Director.—The director, under the direction and supervision of the commissioner, shall be the executive officer of the purchasing division and shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the commodities and printing required by the departments of the state government;

(2) Apply and enforce standard specifications established in accordance with section five of this article, as hereinafter provided;

(3) Transfer to or between departments or sell commodities that are surplus, obsolete, or unused, as hereinafter provided;

14 (4) Have charge of central storerooms for the supply
15 of departments;

16 (5) Establish and maintain a laboratory for the testing
17 of commodities and make use of existing facilities in state
18 institutions for that purpose, as hereinafter provided;

19 (6) Direct the state agency for surplus property as
20 provided in sections forty-four and forty-five of this ar-
21 ticle;

22 (7) Recommend to the commissioner that the right
23 and privilege of a person to bid on state purchases be
24 suspended when the director has evidence that such per-
25 son has violated any of the provisions of the purchasing
26 law or the rules and regulations of the director;

27 (8) Examine the provisions and terms of every con-
28 tract entered into for and on behalf of the state of West
29 Virginia which imposes any obligation upon the state
30 to pay any sums of money or perform any particular
31 service or do any act or deed, and approve said contract
32 as to said provisions and terms; and the duty of examina-
33 tion and approval herein set forth shall not supersede
34 the responsibility and duty of the attorney general to
35 approve said contracts as to form: *Provided*, That the
36 provisions of this subdivision shall not apply in any
37 respect whatever to contracts entered into by the state
38 road commissioner or commission.

Sec. 34. Conditions Affecting Application of Article.—

2 The application of this article shall be subject to the fol-
3 lowing conditions:

4 (1) The purchases of stock for state liquor stores shall
5 be made by the West Virginia alcohol beverage control
6 commissioner;

7 (2) In the purchase and contracting for textbooks by
8 the state board of education, the director shall perform
9 only such duties as may be required by law.

**Article 5. Leasing of Grounds, Buildings, Office or Other
Space by State Government.**

Section

1. Prohibition on leasing of space.
2. Leasing of space by commissioner; delegation of authority when rental and costs do not exceed five hundred dollars in a fiscal year or when emergency.
3. Selection of grounds, etc.; acquisition by contract or lease.

4. Leases and other instruments signed by commissioner; form approved; filing.
5. Power and authority of commissioner generally; rules and regulations.

Section 1. Prohibition on Leasing of Space.—Notwithstanding any other provision of this code, no department, agency or institution of state government shall lease, or offer to lease, as lessee, any grounds, buildings, office or other space except in accordance with this article: *Provided*, That the provisions of this article except as to office space shall not apply in any respect whatever to the state road commissioner or commission.

Sec. 2. Leasing of Space by Commissioner; Delegation of Authority When Rental and Costs Do Not Exceed Five Hundred Dollars in a Fiscal Year or When Emergency.—The commissioner is authorized to lease, in the name of the state, any grounds, buildings, office or other space required by any department, agency or institution of state government: *Provided*, That the commissioner may expressly delegate, in writing, the authority granted to him by this article to the appropriate department, agency or institution of state government when the rental and other costs to the state do not exceed the sum of five hundred dollars in any one fiscal year or when necessary to meet bona fide emergencies arising from unforeseen causes.

Sec. 3. Selection of Grounds, etc.; Acquisition by Contract or Lease.—The commissioner shall have sole authority to select and to acquire by contract or lease, in the name of the state, all grounds, buildings, office space or other space, the rental of which is necessarily required by any spending unit, upon a certification from the chief executive officer of said spending unit that the grounds, buildings, office space or other space requested is necessarily required for the proper function of said spending unit and that satisfactory grounds, buildings, office space or other space is not available on grounds and in buildings now owned or leased by the state. The commissioner shall, before executing any rental contract or lease, determine the reasonable market value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall contract

17 for or lease said premises at a price not to exceed the
18 reasonable market value thereof.

2 **Sec. 4. Leases and Other Instruments Signed by Com-**
3 **missioner; Form Approved; Filing.**—Leases and other
4 instruments shall be signed by the commissioner in the
5 name of the state. They shall be approved as to form
6 by the attorney general. A lease or other instrument
7 that contains a term, including any options, of more than
8 six months for its fulfillment shall be filed with the state
9 auditor.

2 **Sec. 5. Power and Authority of Commissioner Gen-**
3 **erally; Rules and Regulations.**—The commissioner shall
4 have the power and authority to:
5 (1) Administer the provisions of this article;
6 (2) Employ such assistants and employees as may be
7 necessary for the efficient administration of the provisions
8 of this article;
9 (3) Promulgate in accordance with the provisions of
10 this article such rules and regulations as he may deem
11 necessary to carry out its provisions.

CHAPTER 50

(Com. Sub. for House Bill No. 800—By Mr. Speaker, Mr. White,
and Mr. Poling)

[Passed March 11, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend chapter five-a of the code of West Virginia, by adding thereto a new article, designated article six, relating to the formation of a transportation division of the department of finance and administration, and authorizing the commissioner of the department of finance and administration to prescribe rules and regulations with respect to the ownership, purchase, use, storage, maintenance and repair of certain state-owned motor vehicles and aircraft.

and means for the enforcement of rules and regulations prescribed with respect thereto.

Be it enacted by the Legislature of West Virginia:

That chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six, to read as follows:

Article 6. Transportation Division.

Section

1. Division created; power and duties generally; rules and regulations; exceptions.
2. Central motor pool for state-owned vehicles and aircraft.
3. Acquiring and disposing of vehicles.
4. Employees of transportation division; maintenance and service to vehicles and aircraft.
5. Funds of transportation division.
6. Administration.
7. Enforcement.

Section 1. Division Created; Power and Duties Generally; Rules and Regulations; Exceptions.—The West Virginia transportation division of the department of finance and administration is hereby created. The commissioner of finance and administration shall promulgate rules and regulations relating to the ownership, purchase, use, storage, maintenance, and repair of all motor vehicles and aircraft owned by the state of West Virginia and in the possession of any department, institution, or agency thereof: *Provided, however,* That the provisions of this article shall not apply to the state road commissioner or to the department of public safety. If, in the judgment of the commissioner, economy or convenience indicate the expediency thereof, the commissioner may require all vehicles and aircraft subject to regulation by this article, or such of them as he may designate, to be kept in such garages, and other places of storage, and to be made available in such manner and under such terms for the official use of such departments, institutions, agencies, officers, agents and employees of the state as the commissioner may designate by any such rule or regulation as he may from time to time promulgate.

Sec. 2. Central Motor Pool for State-owned Vehicles and Aircraft.—The commissioner shall create a central motor pool, which pool shall be maintained by the trans-

4 portation division of the department of finance and ad-
5 ministration, subject to such rules and regulations as the
6 commissioner may from time to time promulgate. Said
7 transportation division shall be responsible for the storage,
8 maintenance, and repairs of all vehicles and aircraft
9 assigned to it.

Sec. 3. Acquiring and Disposing of Vehicles.—The
2 commissioner shall be empowered to purchase new
3 vehicles and aircraft and dispose of old vehicles and air-
4 craft as is practical from time to time.

Sec. 4. Employees of Transportation Division; Maintenance and Service to Vehicles and Aircraft.—The com-
2 missioner may utilize any building or land owned by the
3 state, any department, institution or agency thereof, for
4 the storing, garaging, and repairing of such motor vehicles
5 and aircraft. The commissioner shall provide for the em-
6 ployment of a supervisor and such clerical help as needed
7 to manage said motor pool, as well as for employment of
8 watchmen, guards, mechanics and other labor and repair
9 to service such vehicles and aircraft and for the purchase
10 of gasoline, oil, and other supplies for use in connection
11 therewith, and may utilize the facilities, services and em-
12 ployees of any department, institution or agency of the
13 state to effectuate the purposes thereof.

Sec. 5. Funds of Transportation Division.—There is
2 hereby created a special fund in the state treasury,
3 out of which all costs and expenses incurred pur-
4 suant to this section shall be paid. All allocations of
5 costs and charges for operating, repairing and servicing
6 motor vehicles and aircraft made against any institution,
7 agency or department shall be paid into such special
8 fund by said department or agency. All funds so paid
9 or transferred into this special fund are hereby ap-
10 propriated for the purposes of this section and shall be
11 paid out as the commissioner may designate; said funds
12 to be transferred to include all appropriations for the ac-
13 quisition, maintenance, repair and operation of motor
14 vehicles and aircraft for the fiscal year beginning July
15 one, one thousand nine hundred sixty-five, and as may
16 thereafter be appropriated by the Legislature, of the de-

17 partments and state agencies within the purview of this
18 article.

Sec. 6. Administration.—The commissioner is author-
2 ized to designate a director of the motor pool and to
3 impose upon such director or any other agency of the
4 executive department of the government, any or all ad-
5 ministrative duties pertaining to the administration of
6 this section.

Sec. 7. Enforcement.—If any state officer, agent or em-
2 ployee fails to comply with any rule or regulation of the
3 commissioner made pursuant to the provisions of this
4 article, the state auditor shall, upon order of the com-
5 missioner, refuse to issue any warrant or warrants on
6 account of expenses incurred, or to be incurred, in the
7 purchase, operation, maintenance, or repairs of any motor
8 vehicle or aircraft now or to be in the possession or under
9 the control of such officer, agent or employee. The com-
10 missioner may take possession of any state-owned vehicle
11 or aircraft and transfer it to the central motor pool or
12 to make such other disposition thereof as the commis-
13 sioner may direct.

CHAPTER 51

(Com. Sub. for House Bill No. 884—By Mr. Speaker,
Mr. White, and Mr. Vickers)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to repeal sections thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend chapter twenty-nine of said code by adding thereto a new article, designated article sixteen, relating to the powers and duties of the director of the department of personnel, and the duties of certain state departments and agencies in relation to their personnel.

Be it enacted by the Legislature of West Virginia:

That sections thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that chapter twenty-nine of said code be amended by adding thereto a new article, designated article sixteen, to read as follows:

Article 16. Department of Personnel.

Section

1. Creation; powers and duties.
2. Director; appointment; powers and duties generally; salary.
3. Departments and individuals excepted.
4. Certification of personnel.
5. Personnel, classification and compensation schedules.
6. Authority of governor.
7. Separability.

Section 1. Creation; Powers and Duties.—There is here-
2 by created a department of personnel which shall have
3 the power and duty to establish a system of personnel
4 administration, and shall exercise and perform the other
5 powers and duties conferred upon it by this article.

**Sec. 2. Director; Appointment; Powers and Duties Gen-
2 erally; Salary.**—The director of the department shall be
3 appointed by the governor, with the advice and consent of
4 the senate, to serve at the will and pleasure of the gover-
5 nor, who shall have the power and duty to establish and
6 administer a system of personnel administration based
7 upon scientific methods governing the appointment, pro-
8 motion, transfer, layoff, removal, discipline, classification,
9 compensation and welfare of state personnel and other
10 incidents of state employment, except as hereinafter speci-
11 fied, in order to attract to and retain in the service of this
12 state competent and qualified personnel of the highest
13 ability and integrity. The salary of the director shall be
14 in the amount of ten thousand dollars annually.

Sec. 3. Departments and Individuals Excepted.—The
2 provisions of this article shall not apply to:

- 3 (1) Officers and employees under the present classi-
4 fied service (chapter twenty-nine, article six of the code
5 of West Virginia), whether by the express terms of the
6 present law or by executive order of the governor made
7 pursuant thereto, at the effective date of this article, and

8 officers and employees added to the list of personnel in
9 the classified service by executive order of the governor;

10 (2) Members of the state Legislature and other elec-
11 ted officials, and persons appointed to fill vacancies in
12 elective offices, their assistants, deputies, directors or
13 heads of major divisions and not more than one secretary
14 therefor;

15 (3) Members of boards and commissions, heads of
16 departments, and wardens and superintendents of state
17 institutions appointed by the governor or such heads of
18 departments selected by commissions or boards, their
19 assistants, deputies, directors or heads of major divisions
20 and not more than one secretary therefor;

21 (4) Judges, referees, receivers, jurors and notaries
22 public;

23 (5) The secretaries and clerks of each judge of a court
24 of record;

25 (6) Patients or inmates employed in state institu-
26 tions;

27 (7) Persons employed in a professional or scientific
28 capacity to make or conduct a temporary or special in-
29 quiry, investigation or examination on behalf of the Leg-
30 islatre or a committee thereof, an executive department
31 or by authority of the governor;

32 (8) Employees of the legislative and judicial branches
33 of the state government;

34 (9) Officers and members of the teaching staff, ad-
35 ministrative personnel and students employed in institu-
36 tions under the control of the state board of education
37 and the board of governors of West Virginia University;

38 (10) Employees of the office of the governor;

39 (11) Part-time professional personnel engaged in pro-
40 fessional services without administrative duties and per-
41 sonnel employed for less than ninety working days a
42 year.

Sec. 4. Certification of Personnel.—The spending offi-
2 cer of each spending unit, within thirty days prior to
3 the beginning of each fiscal year, shall certify to the
4 director a schedule of personnel appointed to or employed
5 by the spending unit, and showing the personnel classifi-
6 cation and compensation approved for such personnel.

7 Amounts appropriated for personal services shall be
8 expended upon requisition only for the appointees and
9 employees included upon the personnel schedule and only
10 in accordance with the rate of compensation shown by
11 the schedule.

Sec. 5. Personnel, Classification and Compensation Schedules.—The director shall prepare schedules of the approved or certified personnel showing the personnel employed in each spending unit of the state government and the classification and compensation authorized to be paid for each person employed. Such schedules shall be preserved as a public record and shall be open to inspection by any person showing good cause.

Sec. 6. Authority of Governor.—The governor is hereby authorized to direct by executive order the transfer to the department of personnel of such records and equipment, the performance by the department of such additional functions and duties, and the discontinuance of such functions and duties of other state officers, agencies and departments as may be necessary to effectuate the purposes of this article.

Sec. 7. Separability.—If any provision of this article or of any rule, regulation or order promulgated or issued thereunder or the application of such provision to any person or circumstance shall be held invalid the remainder of this article and the application of such provision of this article or of such rule, regulation or order to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.



CHAPTER 52

(Com. Sub. for Senate Bill No. 34—By Mr. Kaufman)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the ap-

plication for a marriage license, and the requirements for the issuance of a marriage license.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Marriage.

Section

6. Application for license; requirements for issuance of license.

Section 6. Application for License; Requirements for Issuance of License.—Every license for marriage shall be issued by the clerk of the county court of the county in which the female to be married usually resides except, in cases of a female who is a nonresident of the state of West Virginia, by the clerk of the county court of the county in which application is made: *Provided*, That such license shall be issued not sooner than three days after the filing with said clerk of a written application therefor. The day upon which such application is filed shall be counted as the first day, but two full days shall elapse after the day of such filing before the license shall be issued: *Provided, however*, That before any such license is issued each applicant therefor shall file with the clerk a certificate or certificates from any physician duly licensed in the state, stating that each party thereto has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty days prior to the date on which such license is issued, and stating that in the opinion of the physician the person therein named either is not infected with syphilis or, if so infected, is not in the state of the disease which is or may later become communicable. Such examinations and tests as are required hereunder may be given as provided by section nineteen, article four, chapter sixteen of this code.

The application for a marriage license shall contain a statement of the full names of both parties, their respective ages and their places of birth and residence. It shall be signed by both of the parties to the contemplated marriage, under oath before the clerk of the county court or

32 before a person authorized to administer oaths under the
33 laws of this state. At the time of the execution of such
34 application, the clerk, or the person administering the
35 oath to the applicants, shall require some evidence of the
36 age of each of the applicants. Evidence of the age of
37 each applicant may be in the form of a certified or photo-
38 static copy of a birth certificate, a voter's registration
39 certificate, an operator's or chauffeur's license, an affidavit
40 of both parents of the applicant or other good and suf-
41 ficient evidence of such age. Where such an affidavit is
42 relied upon as evidence of the age of an applicant, and
43 one parent is dead, the affidavit of the surviving parent
44 or of the guardian of the applicant shall suffice; if both
45 parents are dead, the affidavit of the guardian of the ap-
46 plicant shall suffice. If the parents of the applicant are
47 living separate and apart, the affidavit of the parent having
48 the custody of the applicant shall suffice. Such applica-
49 tion shall be recorded in the register of marriages pro-
50 vided for in section eleven of this article. The date of
51 the filing of the application shall be noted in said register,
52 which notation, or a certified copy thereof, shall be legal
53 evidence of the facts therein contained.

54 To the extent otherwise provided by section six-c of
55 this article, the provisions of this section shall not apply.
56 No application for license shall be received nor any li-
57 cense issued on any Sunday, or before the hours of eight
58 o'clock a. m. and after five o'clock p. m. on any week day.

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CHAPTER 53

(Senate Bill No. 33—By Mr. Brotherton)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article one, chap-
ter forty-eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the con-
sent of parents or a guardian to the marriage of a minor.

Be it enacted by the Legislature of West Virginia:

That section eight, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Marriage.

Section

8. Consent of parents, parent or guardian.

Section 8. Consent of Parents, Parent or Guardian.—If
2 any person intending to marry be under twenty-one years
3 of age, and has not been previously married, the consent
4 of the parents of such person, or of the parent living, or,
5 if the parents be living separate and apart, of the one to
6 whom was awarded the custody of such person, or, if
7 there be a guardian entitled to the custody of such person,
8 then of such guardian, shall be given either personally
9 to the clerk of the county court or in writing subscribed
10 by such parents, parent or guardian, as the case may be,
11 and duly acknowledged before an officer authorized to take
12 the acknowledgment of deeds.

CHAPTER 54

(Com. Sub. for Senate Bill No. 9—By Mr. Carson,
Mr. President, and Mr. Hubbard)

[Passed March 13, 1965: in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-a, and to amend and reenact section one, article three, chapter forty-nine of said code, relating to revocation of parental consent for adoption, revocation of relinquishment of legal custody for adoption, and relinquishment of a child to, and consent to an adoption by, private and public child welfare agencies.

Be it enacted by the Legislature of West Virginia:

That article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended by adding thereto a new section, designated section one-a, and that section one, article three, chapter forty-nine of said code be amended and reenacted, all to read as follows:

Chapter

48. DOMESTIC RELATIONS.

49. CHILD WELFARE.

CHAPTER 48. DOMESTIC RELATIONS.

Article 4. Adoption.

Section

1-a. Revocation of consent or relinquishment for adoption.

Section 1-a. Revocation of Consent or Relinquishment for Adoption.—Parental consent or relinquishment of legal custody for adoption purposes, if given prior to the expiration of seventy-two hours after the birth of the child, may be revoked by such parent within ten days after the birth of said child. Except as provided in the preceding sentence and except where a court of competent jurisdiction finds that such consent or relinquishment for adoption was obtained by fraud or duress, no consent or relinquishment of legal custody for adoption of a child, whether given by an adult or a minor, shall be revocable: *Provided*, That a relinquishment of legal custody for adoption of a child given by a minor parent or parents to a licensed private child welfare agency or to the state department of welfare shall be revocable unless the relinquishment was given in compliance with section one, article three, chapter forty-nine of the code: *Provided, however*, That the foregoing proviso shall not be construed as precluding a minor parent or parents from consenting to the adoption of his or her or their child by an individual or individuals.

CHAPTER 49. CHILD WELFARE.

Article 3. Child Welfare Agencies.

Section

1. Private and public child welfare agencies.

Section 1. Private and Public Child Welfare Agencies.—Whenever a child welfare agency licensed to place children for adoption or the state department of welfare shall have been given the permanent care, custody and guard-

5 ianship of any child and the rights of the parents of such
6 child shall have been terminated by order of a court of
7 competent jurisdiction or by a legally executed relin-
8 quishment of parental rights, the child welfare agency or
9 department of welfare may consent to the adoption of
10 such child pursuant to the statutes regulating adoption pro-
11 ceedings. The parents or the surviving parent of a child
12 or the mother of an illegitimate child may relinquish the
13 child to a child welfare agency licensed to place children
14 for adoption, or to the department of welfare, by a written
15 statement acknowledged as deeds are required to be ac-
16 knowledged by law: *Provided*, That if either of the par-
17 ents of such child is under twenty-one years of age, such
18 relinquishment shall not be valid unless and until the
19 same shall have been approved in writing by a judge
20 of a court having jurisdiction of adoption proceedings
21 in the county in which such parent may reside or in
22 which such relinquishment is made. Notwithstanding
23 any other provision in this article, no minor parent or
24 parents shall be required to go before any court in order
25 to execute a consent to the adoption of his, her, or their
26 child by an individual or individuals.

CHAPTER 55

(House Bill No. 789—By Mr. Poindexter and Mr. Pauley,
of McDowell)

[Passed March 13, 1965: in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen-h, relating to the acquisition, construction and regulation of parking facilities at the colleges and universities under the control and management of the state board of education.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirteen-h, to read as follows:

Article 2. State Board of Education.

Section

13-h. Acquisition and operation of college or university parking facilities.

Section 13-h. Acquisition and Operation of College or University Parking Facilities.—The state board of education is hereby authorized to construct, maintain and operate automobile parking facilities upon any premises owned or leased at any college or university under its jurisdiction for use by students, faculty, staff and visitors. Such facilities shall be open to use on such terms and subject to such reasonable regulations as may be prescribed by the state board of education. A summary of the regulations shall be posted conspicuously in each parking area.

The state board of education shall have authority to charge fees for use of the parking facilities under its control. All moneys collected for such use shall be paid into a special fund which is hereby created in the state treasury. The moneys in such fund shall be used first to pay the cost of maintaining and operating such facilities, but any excess not needed for this purpose may be used for the acquisition of property by lease or purchase and the construction thereon of additional parking facilities. Any money in the fund not needed immediately for the acquisition, construction, maintenance, or operation of such facilities may be temporarily invested by the institution in the state sinking fund.

Whenever a vehicle is parked on any college or university parking facility in violation of the posted regulations, the institution shall have authority to remove the vehicle, by towing or otherwise, to an established garage or parking lot for storage until called for by the owner or his agent. The owner shall be liable for the reasonable cost of such removal and storage, and until payment of such cost the garage or parking lot operator

32 may retain possession of the vehicle subject to a lien for
33 the amount due. Notice to this effect shall be posted
34 conspicuously in each parking area. The garage or park-
35 ing lot operator may enforce his lien for towing and
36 storage in the manner provided in section fourteen, ar-
37 ticle eleven, chapter thirty-eight of this code, for the en-
38 forcement of other liens.

CHAPTER 56

(House Bill No. 869—By Mr. Poling)

[Passed March 3, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section sixteen-a, relating to state camp and conference center.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section sixteen-a, to read as follows:

Article 2. State Board of Education.

Section

16-a. Construction of buildings and recreational facilities at state camp and conference center; charges for use; financing by revenue bonds permissible.

Section 16-a. Construction of Buildings and Recreational Facilities at State Camp and Conference Center; Charges for Use; Financing by Revenue Bonds Permissible.—The West Virginia board of education is hereby authorized to construct, erect, acquire and improve dining halls, cottages, and such other building or buildings or recreational facilities as it shall deem necessary and beneficial for the proper conduct and management of the camp and conference center and may charge such rates, fees, rentals

10 and other charges for the use of such buildings and rec-
11 reational facilities as it shall deem necessary and advis-
12 able.

13 The construction, erection, acquisition and improve-
14 ment of such dining halls, cottages and such other build-
15 ing or buildings or recreational facilities may be financed
16 by the issuance of revenue bonds of the state of West Vir-
17 ginia payable solely from the revenues derived from the
18 operation of said camp and conference center notwith-
19 standing any of the provisions of section sixteen.

20 Said revenue bonds shall be authorized by resolution
21 of the West Virginia board of education and shall be is-
22 sued and sold in the same manner and pursuant to the
23 terms, provisions and conditions as other revenue bonds
24 of the state of West Virginia are issued and sold under
25 article one of chapter twenty-five of the code of West Vir-
26 ginia and such revenue bonds shall not constitute a debt
27 of the state of West Virginia within the meaning of any
28 of its statutes or constitution.

CHAPTER 57

(Com. Sub. for Senate Bill No. 102—By Mr. Carson,
Mr. President, and Mr. McKown)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-three, relating to comprehensive educational programs and financial support thereof.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen 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-three, to read as follows:

Article 2. State Board of Education.**Section**

23. Comprehensive educational programs; standards, etc.; evaluation and approval; allocation and distribution of funds; distribution of excess funds.

Section 23. Comprehensive Educational Programs; Standards, etc.; Evaluation and Approval; Allocation and Distribution of Funds; Distribution of Excess Funds.—The West Virginia board of education, through the state superintendent of schools, shall establish standards and criteria especially designed to guide the development of plans for a comprehensive educational program or programs in county school systems, to provide for their evaluation and approval, and to provide, as herein directed, for the allocation and distribution of state funds, which may be appropriated to assist county school systems to meet additional costs of development and operation of such programs. The plans shall include, but need not be restricted to an analysis of existing program area deficiencies and the procedures for their correction. The plans shall be submitted to and be approved by the West Virginia board of education.

County plans shall include one or more of the following: (1) A plan to initiate comprehensive educational programs in any or all areas or parts of the curriculum, and provide necessary supporting services, or (2) a plan to provide for the maintenance or extension of areas or parts of comprehensive educational programs developed or established under this section, or (3) a plan to give essential aid for instruction or supporting services for enrichment of curriculum in schools designated as isolated by the West Virginia board of education where consolidation of schools or the development of county comprehensive educational programs are not possible or feasible.

The state superintendent of schools shall provide assistance to counties in the development and preparation of their plans for a comprehensive educational program or programs in order to insure that every county may have the opportunity to fully participate and receive its maximum share of the funds available. All plans shall be submitted to the West Virginia board of education on or before the first day of July of the school year in

37 which they are operative. The state superintendent of
38 schools shall as soon as possible and before the first day
39 of August each year notify any county whose plan fails
40 to receive approval specifying the manner in which the
41 plan fails to meet the criteria established and suggesting
42 the necessary corrections. If the county modifies its
43 plan so that its program or programs become acceptable
44 on or before the first day of September of that year,
45 the county shall be entitled to receive the computed share
46 of its allocation for which it is eligible under its ap-
47 proved plan.

48 The total potential cost of the comprehensive educa-
49 tional program for each county shall be determined prior
50 to the first day of July by multiplying the applicable
51 net enrollments at the close of the third month of the
52 current school term by the following amounts: Ten dol-
53 lars for an adult in a public school program; ten dollars
54 per senior high school student; seven dollars and fifty
55 cents per junior high school student; and five dollars per
56 elementary school student, including kindergarten. If
57 the appropriation is not sufficient to provide for all coun-
58 ties their total potential costs as herein set forth, the
59 allocation to all counties shall be reduced proportion-
60 ately to secure a total which matches the appropriation.

61 Funds allocated to the counties shall be distributed to
62 them annually not later than the first day of November
63 on the basis of net enrollment in approved programs
64 which are part of their current comprehensive educa-
65 tional plan and the funds distributed shall be computed
66 as provided herein.

67 The West Virginia board of education shall establish
68 by regulation the number of areas in which a county
69 shall participate to qualify for full or partial distribution
70 of its allocation. The number of curriculum areas in
71 which a county shall be required to participate to qualify
72 for its full allocation shall depend upon factors such as
73 county size, population sparsity, topography and avail-
74 ability of school staff personnel. In no case shall the
75 allocation for any one county exceed the amount derived
76 from application of the maximum pupil allocation as
77 hereinbefore set forth.

78 If the county plans approved by the first day of Sep-
79 tember do not utilize the total allocations by reason of
80 the plan or plans of one or more counties not requiring
81 the full allocations or by failure of one or more counties
82 to submit an acceptable plan or plans by the first day
83 of September, then those moneys which were available
84 to such county or counties shall be declared by the state
85 board of education to be excess funds. These excess
86 funds shall be available for that year only for special
87 distribution. All counties shall be eligible for additional
88 moneys as a special distribution from excess funds if,
89 and to the extent that, such county or counties approved
90 plan or plans requires funds in excess of the amount
91 allocated to each county on or before the first day of
92 September: *Provided*, That no county may receive any
93 funds in excess of its total potential cost as determined
94 prior to the first day of July. If the moneys for which
95 the counties are eligible from the special distribution of
96 excess funds exceed the total amount available for such
97 distribution, the special distribution to each county shall
98 be reduced proportionately. It is the intention to dis-
99 tribute all excess funds, in any given year, on a prorata
100 basis to all counties who have approved comprehensive
101 educational programs for that year and who have not
102 received their total potential funds.

103 Appropriations for the purpose of this section shall be
104 used only to meet the requirements of the allocation
105 schedule and of approved county plans.

CHAPTER 58

(Senate Bill No. 134—By Mr. McKown and Mr. Floyd)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section four, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of county superintendents.

Be it enacted by the Legislature of West Virginia:

That section four, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 4. Compensation.

Section

4. Compensation; master's degree or equivalent required for new appointee.

Section 4. Compensation; Master's Degree or Equivalent Required for New Appointee.—On or before the first day of May of the year in which the superintendent is appointed, the board shall fix the annual salary of the superintendent for the period of appointment for the term beginning on the first day of July following. The board shall pay the salary from the general current expense fund of the district: *Provided, That*, beginning with the effective date of this section, any newly appointed superintendent and not now employed and/or serving as superintendent, shall not only have met the requirements set forth in section two of this article but in addition thereto shall hold at least a master's degree or its equivalent obtained in an institution of higher education approved to offer graduate work and that such work shall be related to public school education.

CHAPTER 59

(Com. Sub. for Senate Bill No. 29—By Mr. Carson, Mr. President,
and Mr. McKown)

[Passed February 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend article nine-a of said chapter by adding thereto a new section, designated section twelve-a, relating to salaries for teachers and improvement of supporting services.

Be it enacted by the Legislature of West Virginia:

That section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that article nine-a of said chapter be amended by adding thereto a new section, designated section twelve-a, all to read as follows:

Article

7. Teachers.

9-a. Allocation of State Aid for Schools.

Article 7. Teachers.

Section

2. Salaries for teachers; basic salaries; advanced salaries.

Section 2. Salaries for Teachers; Basic Salaries; Advanced Salaries.—For the purpose of this section, assistant superintendents, directors and supervisors of instruction, and elementary and secondary principals shall be defined as teachers. Salaries shall be defined as: (a) “Basic salaries” which shall mean the salaries paid to teachers with zero years of experience and in accordance with the classification of certification and of training of said teachers; and (b) “advanced salaries” which shall mean the basic salary plus an experience increment based on the allowable years of experience of the respective teachers in accordance with the schedule established herein for the applicable classification of certification and of training of said teachers. “Classification of certification” means the class or type of certificate issued by the state superintendent of schools under the statutory provisions of this chapter. “Classification of training” means the number of collegiate or graduate hours necessary to meet the requirements stipulated in the definitions set forth in the next paragraph in items (2) to (10), inclusive.

The column heads of the state minimum salary schedule, set forth below, are defined as follows:

(1) “Years experience” means the number of years taught by the teacher and allowed under each classification of the said state minimum salary schedule.

(2) “Fourth Class” means all certificates previously identified as (a) “certificates secured by examination,”

29 (b) "other first grade certificates," and (c) "short course
30 certificates."

31 (3) "Third Class" means all certificates previously
32 identified as (a) "standard normal certificates" and (b)
33 "third class temporary (sixty-four semester hours) cer-
34 tificates."

35 (4) "Second Class" means all certificates previously
36 identified as "second class temporary certificates based
37 upon the required ninety-six hours of college work."

38 (5) "B.A." means a bachelor's degree, from an accred-
39 ited institution of higher education, which has been issued
40 to, or for which the requirements for such have been met,
41 by a person who qualifies for and holds a professional
42 certificate or its equivalent.

43 (6) "B.A. + 15" means a bachelor's degree as defined
44 above plus fifteen hours of graduate work, from an ac-
45 credited institution of higher education certified to do
46 graduate work, in an approved planned program at the
47 graduate level which requirements have been met by a
48 person who qualifies for and holds a professional cer-
49 tificate or its equivalent under the above-defined bache-
50 lor's degree.

51 (7) "M.A." means a master's degree, earned in an in-
52 stitution of higher education approved to do graduate
53 work, which has been issued to or the requirements for
54 such have been met by a person who qualifies for and
55 holds a professional certificate under the above-defined
56 bachelor's degree.

57 (8) "M.A. + 15" means the above-defined master's
58 degree plus fifteen hours of graduate work, earned in
59 an institution of higher education approved to do graduate
60 work: *Provided*, That the person is qualified and holds a
61 professional certificate or its equivalent.

62 (9) "M.A. + 30" means the above-defined master's
63 degree plus thirty graduate hours, earned in an institution
64 approved to do graduate work: *Provided*, That the per-
65 son holds or is qualified to hold a professional certificate
66 or its equivalent.

67 (10) "Doctorate" means a doctor's degree, which is of
68 the type normally associated with the educational system,

69 from a university qualified and approved to confer such
 70 a degree: *Provided*, That the person who holds or is quali-
 71 fied to hold such a degree meets the requirements for a
 72 professional certificate or its equivalent.

73

State Minimum Salary Schedule

(1) Years Exp.	(2) 4th Class	(3) 3rd Class	(4) 2nd Class	(5) B.A.	(6) B.A. + 15	(7) M.A.	(8) M.A. + 15	(9) M.A. + 30	(10) Doctor- ate
0	\$2350	\$2850	\$3050	\$4000	\$4250	\$4500	\$4750	\$5000	\$5250
1	2470	2970	3170	4120	4370	4620	4870	5120	5370
2	2590	3090	3290	4240	4490	4740	4990	5240	5490
3	2710	3210	3410	4360	4610	4860	5110	5360	5610
4	2830	3330	3530	4480	4730	4980	5230	5480	5730
5	2950	3450	3650	4600	4850	5100	5350	5600	5850
6	3070	3570	3770	4720	4970	5220	5470	5720	5970
7		3690	3890	4840	5090	5340	5590	5840	6090
8		3810	4010	4960	5210	5460	5710	5960	6210
9			4130	5080	5330	5580	5830	6080	6330
10			4250	5200	5450	5700	5950	6200	6450
11				5320	5570	5820	6070	6320	6570
12				5440	5690	5940	6190	6440	6690
13				5560	5810	6060	6310	6560	6810
14						6180	6430	6680	6930
15						6300	6550	6800	7050
16						6420	6670	6920	7170
17								7040	7290
18								7160	7410
19								7280	7530

74 The state board of education shall establish the mini-
 75 mum salary schedule for teachers where specialized train-
 76 ing may be required for vocational, technical and adult
 77 education and such other permits as may be authorized
 78 by said board.

79 County boards of education in fixing the salaries of
 80 teachers shall use as a minimum the salaries in the sched-
 81 ular set forth above as to classification of certification
 82 and of training and as to the years of experience, said
 83 schedule being based upon a ten-month employment term.
 84 For teachers employed for a longer or shorter term, or
 85 on a part-time basis, said minimum salary shall be in
 86 ratio to said schedule in accordance with the classification
 87 and experience of such teachers. Salaries under said
 88 schedule shall be uniform throughout the state as to cer-
 89 tification classification, as to training, and as to experience.

90 County boards of education may establish for teachers
91 local salary schedules which shall be in excess of the
92 minimums scheduled by this section. Such county sched-
93 ules shall be uniform throughout the county as to classi-
94 fication of certification, of training, and as to the experi-
95 ence of the teachers.

96 In addition thereto, said boards may fix higher salaries
97 for teachers assigned to or employed for duties other than
98 regular instructional duties, for teachers of one-teacher
99 schools, for principals, and for other supervisory and
• 100 administrative personnel; and may provide additional
101 compensation for any teacher assigned duties in addition
102 to his regular instructional duties wherein such nonin-
103 structional duties are not a part of the scheduled hours
104 of the regular school day, as may be defined by the state
105 board. Such additional salary increments or compensation
106 shall conform to the regulations of the state board of
107 education and such shall be uniform for all persons per-
108 forming like duties within said county.

109 Upon the change of the certification or training classi-
110 fication of any teacher, his salary shall be made to comply
111 with requirements of state schedules and of any county
112 schedules, where such exist, based upon his new classifi-
113 cation and allowable years of experience thereunder.

114 In determining the number of regular terms of school
115 a teacher has taught, county boards of education shall
116 credit as teaching experience: (1) Active work in educa-
117 tional positions other than teaching and (2) service in
118 the armed forces of the United States provided the teacher
119 was under contract to teach at the time of his induction.
120 No teacher shall be given credit for more than one year
121 of experience for any school year.

122 The above state minimum salary schedule for teachers
123 shall go into effect in the order of the following steps:

124 Step one—During the school year one thousand nine
125 hundred sixty-five—sixty-six: (1) The basic salaries for
126 all teachers shall be increased an amount equal to one
127 half the difference between the salaries established in
128 the above state minimum salary schedule, except columns
129 (6), (8), and (9), adjusted to an employment term of nine

130 and one-half months, and the legal minimum basic salaries
131 which were in effect during the school year one thousand
132 nine hundred sixty-four—sixty-five; (2) the experience
133 increment for all teachers shall be increased an amount
134 equal to one third the difference between the experience
135 increment established in the above state minimum salary
136 schedule, adjusted to an employment term of nine and
137 one-half months, and the legal minimum experience in-
138 crements which were in effect during the school year one
139 thousand nine hundred sixty-four—sixty-five.

140 Step two—During the school year one thousand nine
141 hundred sixty-six—sixty-seven: (1) The basic salaries for
142 all teachers shall be those established in the above state
143 minimum salary schedule, except columns (6), (8), and
144 (9), adjusted to an employment term of nine and one-
145 half months; (2) the experience increment for all teach-
146 ers shall be increased an amount equal to one half the
147 difference between the experience increment established
148 in the above state minimum salary schedule, adjusted to the
149 employment term of nine and one-half months, and the ex-
150 perience increments which were in effect during the school
151 year one thousand nine hundred sixty-five—sixty-six.

152 Step three—Beginning with the school year one thou-
153 sand nine hundred sixty-seven—sixty-eight, and for each
154 year thereafter, the basic and advanced salaries shall be
155 those established in the above state minimum salary
156 schedule.

157 Any board of education failing to comply with the pro-
158 visions of this section may be compelled to do so by
159 mandamus.

Article 9-a. Allocation of State Aid for Schools.

Section

12-a. Improvement of supporting services.

Section 12-a. Improvement of Supporting Services.—

2 For the purpose of providing supplementary aid to the
3 counties for the improvement of supporting services to
4 the instructional program, there shall be allocated an
5 amount equal to thirty-five per cent of the difference be-
6 tween the current allocation made under the provisions
7 of section twelve of this article and that allocation made

8 under the provisions of said section twelve for the school
9 year one thousand nine hundred sixty-four—sixty-five.
10 The amount so determined shall be distributed among
11 the counties on a per pupil basis, with one half allocated
12 according to net enrollment and the remaining one half
13 according to weighted pupils.

14 Appropriations under this section shall go into the cur-
15 rent expense fund of the county school budget and shall
16 not be used as a substitute for any expenditure in
17 the current operating program, now in effect in any
18 county, which is supported in whole or in part in any
19 county by regular or special levies: *Provided, however,*
20 That no moneys so appropriated shall be used for sites
21 and buildings in the capital outlay item of such fund.
22 Further, the intent of this section is that the improvement
23 and procurement of instructional supporting services such
24 as instructional aids and aides, secretarial help, custodial
25 care, ordinary maintenance, transportation, and the pro-
26 tection of all school personnel in such areas as salaries,
27 social security, sick leave and workmen's compensation
28 shall be the first charge upon the use of such funds.

CHAPTER 60

(House Bill No. 576—By Mr. Speaker, Mr. White, and
Mr. Boiarsky)

[Passed March 10, 1985; in effect July 1, 1985. Approved by the Governor.]

AN ACT to amend and reenact section twenty-six-a, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to additional benefits for certain annuitants under the state teachers' retirement system.

Be it enacted by the Legislature of West Virginia:

That section twenty-six-a, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7-a. State Teachers' Retirement System.**Section****26-a. Additional benefits for certain annuitants.**

Section 26-a. Additional Benefits for Certain Annuitants.—Annuitants whose annuities were approved by the retirement board on or before December eighteen, one thousand nine hundred sixty-two, shall, upon written application, receive in addition to such approved annuities a monthly allowance computed as follows: The annuitant's years of service shall be multiplied by thirty dollars and this product shall then be divided by his monthly retirement allowance, as computed prior to the above-stated date, excluding any portion of said allowance which is based on voluntary deposits of the annuitant.

In addition thereto, beginning July one, one thousand nine hundred sixty-five, each annuitant under the provisions of this section shall receive a monthly amount equal to seventy-six cents multiplied by his total service credit.

CHAPTER 61

(House Bill No. 573—By Mr. England)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty-four, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the amount of maximum loan to members of teacher retirement system.

Be it enacted by the Legislature of West Virginia:

That section thirty-four, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7-a. State Teachers' Retirement System.**Section****34. Loans to members.**

Section 34. Loans to Members.—A member of the retirement system upon written application may borrow from his individual account in the teachers' accumulation fund, subject to these restrictions:

(1) Loans shall be made in multiples of ten dollars, the minimal loan being forty dollars and the maximum being one thousand two hundred dollars.

(2) Loans to any one member shall not exceed one half of his contributions to his individual account in the teachers' accumulation fund.

(3) Interest charged on the amount of the loan shall be six per cent per annum, and minimal interest charge shall be for six months.

(4) No member shall be eligible for more than one loan in any one year, except in cases of accidents, illness requiring medical or hospital care for himself or a member of his immediate family.

(5) If a refund or benefit is payable to the borrower or his beneficiary before he repays the loan with interest, the balance due with interest to date shall be deducted from such benefit or refund.

(6) From his monthly salary as a teacher the member shall pay the loan and interest by deductions which will pay the loan and interest in not more than twenty-four nor less than six months. Upon notice of loan granted and payment due, the employer shall be responsible for making such salary deductions and reporting them to the retirement board. At the option of the retirement board, loan deductions may be collected as prescribed herein for the collection of members' contribution, or may be collected through issuance of warrant by employer. If the borrower decides to make loan payments while not paid for service as a teacher, the retirement board must accept such payments.

CHAPTER 62

(House Bill No. 668—By Mr. Speaker, Mr. White)

[Passed February 24, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two-d, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authorization of temporary investment of funds of county boards of education raised by levy or by the sale of bonds.

Be it enacted by the Legislature of West Virginia:

That section two-d, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 9. School Finances.

Section

2-d. Authorizing temporary investment of funds raised by levy or the sale of bonds.

Section 2-d. Authorizing Temporary Investment of

2 **Funds Raised by Levy or the Sale of Bonds.**—Any funds
3 of a county board of education raised by levy or by the
4 sale of bonds which cannot be used within a reasonable
5 time may be transferred to the state sinking fund com-
6 mission for investment, except as otherwise provided in
7 this chapter.

CHAPTER 63

(House Bill No. 913—By Mr. Schupbach)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article ten-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine, relating to the authority of the division of

vocational rehabilitation to enter into contracts with private persons, and to pay the clients of that division a remuneration for work done under said contracts.

Be it enacted by the Legislature of West Virginia:

That article ten-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine, to read as follows:

Article 10-b. Vocational Rehabilitation Centers and Workshops.

Section

9. Contracts for supplying goods and services; remuneration to client; vocational rehabilitation industries account.

Section 9. Contracts for Supplying Goods and Services;

2 Remuneration to Client; Vocational Rehabilitation Industries Account.—Whereas, it is considered to be an essential part of any complete rehabilitation program to provide remunerative employment to severely handicapped or blind persons in order to prepare them to take their place in the competitive labor market, the division is hereby authorized to:

- 9 (a) Enter into contracts with any person, firm, corporation or association for the provision of goods and services by the division;
- 12 (b) Provide remuneration to the clients of the division from the proceeds of said contracts based upon standards established by the director of the division: *Provided, however,* That said clients so paid shall in no way be considered employees of the state for any purpose whatsoever. To effectuate the provisions of this section, there is hereby created a special revolving account in the office of the state treasurer designated "vocational rehabilitation industries account." All moneys collected by the division from the sale or disposition of articles, products manufactured, and services provided by the clients of the division in accordance with the provisions of this article shall be deposited in said special account, and shall be used solely for the purchase of manufacturing supplies, equipment, machinery and materials used to carry out the purposes of this article, as well as for the

28 payment of remuneration to the clients of the division
29 who are utilized in the manufacture of said products or
30 articles. The division may deposit into said account an
31 initial amount which the director determines necessary
32 to establish the program herein authorized, and may
33 deposit additional amounts in said account as from time
34 to time may become necessary to continue said program.
35 All funds so deposited shall be from moneys appropriated
36 therefor, or which are made available by the federal gov-
37 ernment or other sources for such purposes.

CHAPTER 64

(House Bill No. 729—By Mr. Mentz and Mr. Bowling)

[Passed March 3, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article nineteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to educational opportunities for children of deceased soldiers, sailors and marines.

Be it enacted by the Legislature of West Virginia:

That section one, article nineteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 19. Educational Opportunities for Children of Deceased Soldiers, Sailors and Marines.

Section

1. Appropriation to provide educational opportunities.

Section 1. Appropriation to Provide Educational Opportunities.—For the purpose of providing educational opportunities for the children of those who served in the army, navy or marine corps of the United States during the world war from April sixth, one thousand nine hundred seventeen, to July second, one thousand nine hundred twenty-one, or served in the armed forces of the

8 United States of America at any time between December
9 first, one thousand nine hundred forty-one, and the dec-
10 laration of peace by the Congress of the United States, or
11 served in the armed forces of the United States of Amer-
12 ica at any time between June twenty-seventh, one thou-
13 sand nine hundred fifty, and January thirty-first, one
14 thousand nine hundred fifty-five, all dates inclusive, and
15 who were killed in action or have died or may hereafter
16 die from disease or disability resulting from such war
17 service, there shall be appropriated from the state fund
18 general revenue the sum of at least five thousand dollars
19 for each fiscal year commencing July first and ending
20 on June thirty of each year of the next biennium to be
21 used for the benefit of such children while attending
22 state education or training institutions.

CHAPTER 65

(House Bill No. 906—By Mr. Watson)

[Passed March 10, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article one-a by adding thereto a new section, designated section one-d, relating to the imposition, collection and use of tuition and other student fees at state educational institutions, including the imposition and collection of student union fees and the use thereof to finance the cost of construction of student union or combination student union-dining buildings at such institutions.

Be it enacted by the Legislature of West Virginia:

That section one, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article one-a be further amended by adding thereto a new section, designated section one-d, all to read as follows:

Article 1-a. Fees and Other Money Collected at State Institutions.**Section**

1. Enrollment and other fees at educational institutions; refund of fees.
- 1-d. Disposition and use of student union fees; issuance, etc., of revenue bonds.

Section 1. Enrollment and Other Fees at Educational Institutions; Refund of Fees.—The governing boards of state educational institutions shall fix enrollment, tuition, and other fees for each semester or school term for the different classes or categories of students enrolling at the state educational institutions, and may include among such fees any one or more of the following: (1) Health service fees; (2) infirmary fees; (3) student activities, recreational, athletic and extracurricular fees; and (4) graduate center fees, and branch college fees, or either, if the establishment and operation of graduate centers or branch colleges are otherwise authorized by law. All fees collected under (1), (2) and (3) shall be paid into special funds and shall be used only for the purposes for which the fees are collected; and all fees collected at any graduate center or at any branch college shall be paid into special funds and shall be used solely for the maintenance and operation of the graduate center or branch college at which they were collected: *Provided, however,* That except in the case of graduate center fees or branch college fees, the minimum tuition fee for full-time resident students shall be twenty-five dollars per semester and the minimum tuition fee for full-time non-resident students shall be one hundred seventy-five dollars per semester at all state institutions of higher education except West Virginia University: *And provided further,* That the minimum tuition fee for full-time resident students at West Virginia University shall be forty dollars per semester and the minimum tuition fee for full-time nonresident students at West Virginia University shall be two hundred five dollars per semester: *And provided further,* That except for graduate center fees, branch college fees, and the student union fees hereinafter authorized, the maximum fees to be collected under this section for resident students shall not exceed two

36 hundred dollars per semester; and for nonresident stu-
37 dents, five hundred dollars per semester. The schedule
38 of all fees, and any changes therein, shall be entered in
39 the minutes of the meeting of the governing board, and
40 the governing board shall file with the state auditor and
41 director of the budget division a certified copy of such
42 schedule and changes.

43 In addition to the fees mentioned in the preceding
44 paragraph, the governing board of any state educational
45 institution may impose and collect a student union build-
46 ing fee. All such building fees collected at the institution
47 shall be paid into a special student union building fund
48 for such institution, which is hereby created in the state
49 treasury, and shall be used only for the construction,
50 operation, and maintenance of a student union building
51 or a combination student union-dining hall building or
52 for the renovation of an existing structure for use as a
53 student union building or a combination student union-
54 dining hall building or for the payment of the principal
55 of and interest on any bonds issued to finance part or all
56 of the construction of a student union building or a com-
57 bination student union-dining hall building or the reno-
58 vation of an existing structure for use as a student union
59 building or a combination student union-dining hall
60 building, all as more fully provided in section one-d of
61 this article. Any moneys in such funds not immediately
62 needed for such purposes may be invested in any such
63 bonds or other securities as are now or may hereafter be
64 authorized as proper investments for state funds.

65 Refund, as an erroneous payment, may be made of any
66 such fees, upon the voluntary or involuntary withdrawal
67 from classes of any student, until eight weeks of the
68 school semester or term have expired, but no refund may
69 be made thereafter.

Sec. 1-d. Disposition and Use of Student Union Fees;
2 **Issuance, etc., of Revenue Bonds.**—Wherever the term
3 “student union building” is used in this section the same
4 shall mean a student union building or a combination stu-
5 dent union building and dining hall building; and wher-
6 ever the term “building fund” is used in this section the

7 same shall mean the respective special student union
8 building funds created as provided in section one of this
9 article for each state educational institution which has im-
10 posed student union fees pursuant to section one of this
11 article, to be expended by the board of governors of West
12 Virginia University for the benefit of West Virginia Uni-
13 versity and Potomac state college of West Virginia Uni-
14 versity, and by the West Virginia board of education for
15 the benefit of the state educational institutions under its
16 control.

17 The respective boards may make expenditures from
18 such building funds at the various state educational insti-
19 tutions under their control to finance in whole or in part,
20 together with any federal, state or other grants or con-
21 tributions, any one or more of the following purposes:

22 (1) The construction and acquisition of new student union
23 buildings. (2) The acquisition, renovation and improve-
24 ment of existing buildings to be used as student union
25 buildings. (3) The construction of additions, extensions
26 and improvements to existing student union buildings.
27 (4) The acquisition of furnishings and equipment for any
28 existing student union buildings or student union build-
29 ings to be constructed or acquired, or the construction of
30 any roads, utilities or other properties, real or personal, or
31 for any other purposes necessary, appurtenant or incident-
32 al to the construction, acquisition, financing and placing
33 in operation of such student union buildings. (5) The pay-
34 ment of the cost of the operation and maintenance of such
35 student union buildings, subject however to any cove-
36 nants or agreements made with the holders of revenue
37 bonds heretofore or hereafter issued pursuant to this sec-
38 tion or pursuant to section one of this article.

39 The respective boards, at their discretion, may use the
40 moneys in such building funds to finance the costs of
41 the above purposes on a cash basis, or may from time to
42 time issue revenue bonds of the state as provided in
43 this section to finance all or part of such purposes and
44 pledge all or any part of the moneys in such building
45 funds for the payment of the principal of and interest
46 on such revenue bonds, and for reserves therefor. Any
47 pledge of such building funds for such revenue bonds

48 shall be a prior and superior charge on such special funds
49 over the use of any of the moneys in such funds to pay
50 for the cost of any of such purposes on a cash basis, or
51 for the payment of the cost of operation and maintenance,
52 or any part thereof, of such student union buildings,
53 under such terms and conditions as shall be provided in
54 the proceedings which authorized the issuance of such
55 revenue bonds.

56 Such revenue bonds may be authorized and issued from
57 time to time by the respective boards to finance in whole
58 or in part the purposes at any state educational institution
59 under their control provided for in this section in an
60 aggregate principal amount not exceeding the amount
61 which the respective boards shall determine can be paid
62 as to both principal and interest and reasonable margins
63 for a reserve therefor from the moneys in such building
64 funds.

65 The issuance of such revenue bonds shall be authorized
66 by a resolution adopted by the respective board, and such
67 revenue bonds shall bear such date or dates, mature at
68 such time or times not exceeding forty years from their
69 respective dates; bear interest at such rate or rates not
70 exceeding five per centum per annum; be in such form
71 either coupon or registered, with such exchangeability
72 and interchangeability privileges; be payable in such
73 medium of payment and at such place or places, within
74 or without the state; be subject to such terms of prior
75 redemption at such prices not exceeding one hundred
76 five per centum of the principal amount thereof; and shall
77 have such other terms and provisions as such respective
78 board shall determine. Such revenue bonds shall be
79 signed by the governor and by the president of the respec-
80 tive board authorizing the issuance thereof, under the
81 great seal of the state, attested by the secretary of state,
82 and the coupons attached thereto shall bear the facsimile
83 signature of the president of such respective board. Such
84 revenue bonds shall be sold in such manner as the respec-
85 tive board may determine to be for the best interests of
86 the state, such sale to be made at a price not lower than
87 a price which will show a net return of not more than
88 six per centum per annum to the purchaser upon the

89 amount paid therefor computed to the stated maturity
90 dates of such revenue bonds without regard to any right
91 of prior redemption.

92 Such respective boards may enter into trust agree-
93 ments with banks or trust companies, within or without
94 the state, and in such trust agreements or the resolutions
95 authorizing the issuance of such bonds may enter into
96 valid and legally binding covenants with the holders of
97 such revenue bonds as to the custody, safeguarding and
98 disposition of the proceeds of such revenue bonds, the
99 moneys in such building funds, sinking funds, reserve
100 funds, or any other moneys or funds; as to the rank and
101 priority, if any, of different issues of revenue bonds issued
102 by the same board for the same educational institution
103 under the provisions of this section; as to the mainte-
104 nance or revision of the amounts of such student union
105 fees, and the terms and conditions, if any, under which
106 any of such student union fees may be reduced; and as
107 to any other matters or provisions which are deemed
108 necessary and advisable by such respective board in
109 the best interests of the state and to enhance the market-
110 ability of such revenue bonds.

111 Any revenues or income derived from the operation of
112 such student union buildings may, in the discretion of
113 the respective boards, be used to pay the cost of the
114 operation and maintenance of such student union build-
115 ings, or for the debt service on any bonds issued pur-
116 suant to this section or pursuant to any other law.

117 After the issuance of any of such revenue bonds, the
118 student union fees at the state educational institution
119 for which such revenue bonds were issued shall not be
120 reduced as long as any of such revenue bonds are out-
121 standing and unpaid except under such terms, provi-
122 sions and conditions as shall be contained in the resolu-
123 tion, trust agreement or other proceedings under which
124 such revenue bonds were issued.

125 Such revenue bonds shall be and constitute negotiable
126 instruments under the law merchant and the negotiable
127 instruments law of the state; shall, together with the
128 interest thereon, be exempt from all taxation by the state
129 of West Virginia, or by any county, school district, mu-

130 nicipality or political subdivision thereof; and such rev-
131 enue bonds shall not be deemed to be obligations or debts
132 of the state, and the credit or taxing power of the state
133 shall not be pledged therefor, but such revenue bonds
134 shall be payable only from the student union fees pledged
135 therefor as provided in this section.

136 The provisions of this section shall constitute an addi-
137 tional, alternative and complete authority for the exercise
138 of the powers and the issuance of the bonds provided for
139 in this section, but shall not prevent said respective
140 boards from exercising similar or related powers or
141 issuing bonds therefor under any other law or laws, but
142 such respective boards, in exercising the powers and
143 issuing the bonds provided for in this section, shall only
144 be required to comply with the provisions of this section
145 and shall not be required to comply with or be subject
146 to the provisions of any other law or laws.

CHAPTER 66

(Senate Bill No. 77—By Mr. McCourt)

[Passed March 6, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section one-b, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to imposition, collection and disposition of registration fees at state institutions of higher education.

Be it enacted by the Legislature of West Virginia:

That section one-b, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1-a. Fees and Other Money Collected at State Institutions.**Section**

- 1-b. Additional registration fee at state institutions of higher education; refund of fee; special capital improvements funds created; disposition and use of additional registration fee; revenue bonds.

Section 1-b. Additional Registration Fee at State Institutions of Higher Education; Refund of Fee; Special Capital Improvements Funds Created; Disposition and Use of Additional Registration Fee; Revenue Bonds.—In addition to all other fees imposed by the governing boards of state institutions of higher education, there is hereby imposed and the governing board of each state institution of higher education is hereby directed to provide for the collection of an additional registration fee from all students in the amounts as hereinafter provided.

For full-time students at each state institution of higher education, the additional registration fee shall be fifty dollars per semester. The board of governors of West Virginia University and the West Virginia board of education shall have authority to increase such additional registration fee at any institution of higher education under their respective control for students who are non-residents of this state. For all part-time students and for all summer-school students, the respective governing boards shall impose and collect such fee in proportion to, but not exceeding, that paid by full-time students.

The fee imposed by this section shall be in addition to the maximum fees allowed to be collected under the provisions of section one of this article and shall not be limited thereby. Refunds of such fee may be made in the same manner as any other fee collected at state institutions of higher education.

There is hereby created in the state treasury a special capital improvements fund, to be expended by the board of governors of West Virginia University for the benefit of West Virginia University and Potomac state college of West Virginia University, as provided in this section. On and after the first day of July, one thousand nine hundred sixty-three, there shall be paid into such special fund all proceeds of the additional registration fees col-

36 lected from students at West Virginia University and at
37 Potomac state college.

38 There is hereby created in the state treasury a special
39 capital improvements fund, to be expended by the West
40 Virginia board of education for the benefit of the state
41 institutions of higher education under its control, as pro-
42 vided in this section. On and after the first day of July,
43 one thousand nine hundred sixty-three, there shall be
44 paid into such special fund all proceeds of the additional
45 registration fees collected from students at such institu-
46 tions.

47 The respective boards may make expenditures from
48 such special capital improvements funds at the various
49 state institutions of higher education under their control
50 to finance in whole or in part, together with any federal,
51 state or other grants or contributions, any one or more
52 of the following purposes: (1) The acquisition of land
53 or any rights or interest therein. (2) The construction
54 or acquisition of new buildings. (3) The renovation or
55 construction of additions to existing buildings. (4) The
56 acquisition of furnishings and equipment for any such
57 buildings. (5) The construction or acquisition of any
58 other capital improvements or capital educational facili-
59 ties at such state institutions of higher education, includ-
60 ing any roads, utilities or other properties, real or per-
61 sonal, or for other purposes necessary, appurtenant or
62 incidental to the construction, acquisition, financing and
63 placing in operation of such buildings, capital improve-
64 ments or capital educational facilities.

65 The respective boards, at their discretion, may use the
66 moneys in such special capital improvements funds to
67 finance the costs of the above purposes on a cash basis,
68 or may from time to time issue revenue bonds of the
69 state as provided in this section to finance all or part of
70 such purposes and pledge all or any part of the moneys
71 in such special funds for the payment of the principal
72 of and interest on such revenue bonds, and for reserves
73 therefor. Any pledge of such special funds for such
74 revenue bonds shall be a prior and superior charge on
75 such special funds over the use of any of the moneys in
76 such funds to pay for the cost of any of such purposes

77 on a cash basis: *Provided*, That any expenditures from
78 such special funds, other than for the retirement of rev-
79 enue bonds, may only be made by the board of governors
80 of West Virginia University and the West Virginia board
81 of education to meet the cost of a predetermined capital
82 improvements program for one or more of the state in-
83 stitutions of higher education under their control, in such
84 order of priority as shall have been agreed upon by the
85 respective boards and presented to the board of public
86 works for inclusion in the annual budget bill, and only
87 with the approval of the Legislature as indicated by direct
88 appropriation for the purpose.

89 Such revenue bonds may be authorized and issued from
90 time to time by the respective boards to finance in whole
91 or in part the purposes provided in this section in an
92 aggregate principal amount not exceeding the amount
93 which the respective boards shall determine can be paid
94 as to both principal and interest and reasonable margins
95 for a reserve therefor from the moneys in such special
96 funds.

97 The issuance of such revenue bonds shall be authorized
98 by a resolution adopted by the respective board, and such
99 revenue bonds shall bear such date or dates, mature at
100 such time or times not exceeding forty years from their
101 respective dates; bear interest at such rate or rates not
102 exceeding five per centum per annum; be in such form
103 either coupon or registered, with such exchangeability
104 and interchangeability privileges; be payable in such
105 medium of payment and at such place or places, within
106 or without the state; be subject to such terms of prior
107 redemption at such prices not exceeding one hundred
108 five per centum of the principal amount thereof; and
109 shall have such other terms and provisions as such re-
110 spective board shall determine. Such revenue bonds
111 shall be signed by the governor and by the president of
112 the respective board authorizing the issuance thereof,
113 under the great seal of the state, attested by the secretary
114 of state, and the coupons attached thereto shall bear the
115 facsimile signature of the president of such respective
116 board. Such revenue bonds shall be sold in such manner
117 as the respective board may determine to be for the best

118 interests of the state, such sale to be made at a price
119 not lower than a price which will show a net return of
120 not more than six per centum per annum to the purchaser
121 upon the amount paid therefor computed to the stated
122 maturity dates of such revenue bonds without regard to
123 any right of prior redemption.

124 Such respective board may enter into trust agreements
125 with banks or trust companies, within or without the
126 state, and in such trust agreements or the resolutions
127 authorizing the issuance of such bonds may enter into
128 valid and legally binding covenants with the holders of
129 such revenue bonds as to the custody, safeguarding and
130 disposition of the proceeds of such revenue bonds, the
131 moneys in such special funds, sinking funds, reserve
132 funds, or any other moneys or funds; as to the rank and
133 priority, if any, of different issues of revenue bonds by
134 the same board under the provisions of this section; as
135 to the maintenance or revision of the amounts of such
136 additional registration fees, and the terms and conditions,
137 if any, under which such additional registration fees may
138 be reduced; and as to any other matters or provisions
139 which are deemed necessary and advisable by such
140 respective board in the best interests of the state and
141 to enhance the marketability of such revenue bonds.

142 After the issuance of any of such revenue bonds, the ad-
143 ditional registration fees at the state institutions of higher
144 education under the control of the board which issued the
145 bonds shall not be reduced as long as any of such revenue
146 bonds are outstanding and unpaid except under such
147 terms, provisions and conditions as shall be contained in
148 the resolution, trust agreement or other proceedings un-
149 der which such revenue bonds were issued.

150 Such revenue bonds shall be and constitute negotiable
151 instruments under the law merchant and the negotiable
152 instruments law of the state; shall, together with the
153 interest thereon, be exempt from all taxation by the state
154 of West Virginia, or by any county, school district, munic-
155 ipality or political subdivision thereof; and such revenue
156 bonds shall not be deemed to be obligations or debts of
157 the state, and the credit or taxing power of the state shall
158 not be pledged therefor, but such revenue bonds shall be

159 payable only from the revenue pledged therefor as pro-
160 vided in this section.

CHAPTER 67

(Senate Bill No. 259—By Mr. Smith and Mr. McKown)

[Passed March 11, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fees and money derived from athletic contests, and the collection and expenditure thereof.

Be it enacted by the Legislature of West Virginia:

That section two, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1-a. Fees and Other Money Collected at State Institutions.

Section

2. Fees and money derived from athletic contests; collection and expenditure thereof.

Section 2. Fees and Money Derived from Athletic Contests; Collection and Expenditure Thereof.—The directors of athletics at state educational institutions may fix and charge admission fees to athletic contests at state educational institutions and may enter into contracts, spend and receive money under such contracts for the student athletic teams of state educational institutions to contest with other athletic teams inside or outside the state.

All money derived from such fees and under such contracts shall be used to defray the cost of maintaining the athletic department and athletic program of such institutions. The operation of training camps and training tables and providing room accommodations for participants in the athletic program of such institutions shall be recog-

15 nized and considered as a proper part of such maintenance,
16 but the specific mention of training camps and training
17 tables and providing room accommodations shall not be
18 construed or understood to limit in any way the general
19 power and authority otherwise granted and conferred by
20 this section.

CHAPTER 68

(Com. Sub. for Senate Bill No. 80—By Mr. McKown)

[Passed March 8, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section six-c, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the addition of motor pools to the special services and programs which the governing boards of state educational institutions may provide, and for which they may fix, collect and retain special fees or charges.

Be it enacted by the Legislature of West Virginia:

That section six-c, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1-a. Fees and Other Money Collected at State Institutions.

Section

6-c. Fees or charges for special services and programs provided by educational institutions; collection and expenditure thereof.

Section 6-c. Fees or Charges for Special Services and Programs Provided by Educational Institutions; Collection and Expenditure Thereof.—The governing board of each state educational institution shall have authority to provide special services and special programs at such institutions and may fix and collect special fees or charges therefor. Such special services and special programs may include any one or more of the following:

9 (1) The conduct of music camps and band, orchestra,
10 or voice clinics for secondary school students or other
11 youth groups, summer tutoring programs for primary
12 and secondary school students, speech therapy clinics
13 and services, educational and psychological testing pro-
14 grams, student guidance programs, and statistical studies
15 and calculations by electronic computer service.

16 (2) Rental of lockers or other storage facilities and the
17 maintenance and operation of parking facilities for use
18 by students, faculty, staff, and visitors.

19 (3) Rental of musical recordings, educational films,
20 slides, and other audio-visual aids.

21 (4) Microfilming or other mechanical reproduction of
22 records and noncopyrighted library reference materials.

23 (5) Institutes, conferences, workshops, postgraduate
24 and refresher noncredit courses, and any other special
25 program or special service customarily provided by in-
26 stitutions of higher education.

27 (6) Motor pools, consisting of motor vehicles for the
28 use of their employees when carrying on the business and
29 affairs of the institutions.

30 All fees or charges collected for any such special serv-
31 ices or programs shall be paid into a special fund and
32 shall be expended solely for the maintenance, operation,
33 and support of such services and programs.

34 Whenever any such special service is provided by one
35 school, division or department of an educational institu-
36 tion for the benefit of any other school, division or de-
37 partment in the same institution, the cost shall be paid
38 by the school, division or department requesting the
39 service and shall be deposited and expended as provided
40 above. Whenever a motor pool is provided by the gov-
41 erning board of a state educational institution, such board
42 may charge any school, college, department or division of
43 such institution for which a vehicle is used a reasonable
44 amount for such use, which amount shall be paid by such
45 school, college, department or division and shall be depos-
46 ited and expended as above provided.

CHAPTER 69

(House Bill No. 862—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, three, eighteen, twenty-eight and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions of certain terms as used in the West Virginia election code, persons entitled to vote in certain elections, elections to fill certain offices, election officials in certain elections, and compensation of election officials in certain elections, and providing that expenses of certain elections be borne by the state.

Be it enacted by the Legislature of West Virginia:

That sections two, three, eighteen, twenty-eight and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. General Provisions and Definitions.

Section

2. Scope of chapter; definitions.
3. Persons entitled to vote.
18. Election to fill other offices.
28. Election commissioners and clerks; appointment and notification; vacancies; authority to administer oaths, etc.
44. Compensation of election officials; expenses.

Section 2. Scope of Chapter; Definitions.—Unless restricted by the context, the provisions of this chapter shall apply to every general, primary, and special election in which candidates are nominated or elected or in which voters pass upon any public question submitted to them, except that the provisions hereof shall be construed to be operative in municipal elections only in those instances in which they are made expressly so applicable.

Unless the context clearly requires a different meaning, as herein used:

12 "Voter" shall mean any person who possesses the stat-
13 utory and constitutional qualifications for voting;

14 "Election" shall mean the procedure whereby the
15 voters of this state or any subdivision thereof elect per-
16 sons to fill public offices, or elect members of a constitu-
17 tional convention, or vote on public questions;

18 "Any election" or "all elections" shall include every
19 general, primary, or special election held in this state,
20 or in any of its subdivisions, for the purpose of nominating
21 or electing federal or state officers, or county, city, town
22 or village officers of any subdivision now existing or
23 hereafter created, or for the purpose of electing members
24 of a constitutional convention, or for voting upon any
25 public question submitted to the people of the state or
26 any of the aforesaid subdivisions;

27 "Office" shall be construed to mean "public office"
28 which shall include (1) any elective office provided for
29 by the constitution or laws of the United States or of
30 this state to which a salary or other compensation
31 attaches, and (2) membership in a constitutional con-
32 vention;

33 "Candidate" shall mean any person to be voted for
34 at an election;

35 "Public question" shall mean any issue or proposition,
36 now or hereafter required by the governing body of this
37 state or any of its subdivisions to be submitted to the
38 voters of the state or subdivision for decision at elections.

Sec. 3. Persons Entitled to Vote.—Citizens of the state
2 shall be entitled to vote at all elections held within the
3 precincts of the counties and municipalities in which
4 they respectively reside. But no person who has not been
5 registered as a voter as required by law, or who is a
6 minor, or of unsound mind, or a pauper, or who is under
7 conviction of treason, felony or bribery in an election,
8 or who, in the case of state-county elections has not been
9 a bona fide resident of the state for one year and of the
10 county in which he offers to vote for sixty days next pre-
11 ceding such election, or who, in the case of a special elec-
12 tion to elect members to a constitutional convention, has
13 not been a bona fide resident of the state for one year and

14 of the county in which he offers to vote for sixty days next
15 preceding such election, or who in the case of municipal
16 elections has not been a bona fide resident of the state
17 for one year and of the municipality in which he offers
18 to vote for sixty days next preceding such election, shall
19 be permitted to vote at such election while such dis-
20 ability continues. Subject to the qualifications otherwise
21 prescribed in this section, however, a minor shall be per-
22 mitted to vote in a primary election if he will have
23 reached the age of twenty-one years on the date of the
24 general election next to be held after such primary elec-
25 tion.

Sec. 18. Election to Fill Other Offices.—If the Legis-
2 lature shall hereafter create any elective office, or make
3 any office now filled by appointment an elective office,
4 in the state or in any subdivision thereof, the person to
5 fill the same shall be elected at the general election last
6 preceding the beginning of the term of such office.

7 The provisions of this section shall not apply to the
8 office of member or to the election of members of a con-
9 stitutional convention.

**Sec. 28. Election Commissioners and Clerks; Appoint-
2 ment and Notification; Vacancies; Authority to Adminis-
3 ter Oaths, etc.**—The county court of each county shall
4 hold a regular or special session at the courthouse of
5 the county on the first Tuesday of the month next pre-
6 ceding the date on which any election is to be held and
7 appoint three commissioners and two clerks to hold the
8 election in each precinct in the county. In primary and
9 general elections and in any special election in which
10 political party candidates are to be nominated or elected,
11 the election commissioners and clerks shall be selected
12 from the two political parties which at the last preceding
13 general election cast the highest and the second highest
14 number of votes in this state. For every precinct in
15 which there are three hundred, but not more than four
16 hundred, registered voters, there may be two boards of
17 election officers, and for all precincts in which there are
18 more than four hundred registered voters, there shall be
19 two boards of election officers, and where two boards are

20 used, each board shall consist of three election commis-
21 sioners and two poll clerks, one of which boards shall be
22 designated the "receiving board" and the other the "count-
23 ing board" and not more than two commissioners and
24 one poll clerk of each board shall be appointed from the
25 same political party: *Provided*, That for any special elec-
26 tion for the purpose of taking the sense of the voters
27 on the question of calling a constitutional convention,
28 and for any special election to elect members of a consti-
29 tutional convention, and for any special election to ratify
30 or reject the proposals, acts and ordinances of a consti-
31 tutional convention, there shall be but one board of elec-
32 tion officials in each precinct, consisting of three com-
33 missioners and two poll clerks. If, at any time before or
34 during the session of the county court, the county execu-
35 tive committee of either or both of the political parties,
36 from which commissioners and clerks of election are to
37 be selected, shall file with or present to the county court
38 a writing signed by them, or by the chairman or secretary
39 of such committee on their behalf, requesting the appoint-
40 ment of a member and of one clerk of each board of the
41 political party for which such committee, chairman or
42 secretary is acting, and designating persons who are quali-
43 fied under this article for such appointment for each elec-
44 tion precinct in the county, the county court shall ap-
45 point the persons so designated.

46 The county court shall by mail notify all commissioners
47 and poll clerks of their appointment, and include with
48 such notice an appropriate form for each person so ap-
49 pointed to return indicating whether or not he will serve
50 as such commissioner or poll clerk. It shall be the duty
51 of all persons so appointed to immediately return said
52 form to the county court. In the event any of the persons
53 so appointed refuse to serve as such commissioners or poll
54 clerks, the county court shall immediately notify the
55 chairman of the county executive committee of the politi-
56 cal party from which such commissioners and poll clerks
57 are to be selected. The chairman of the political com-
58 mittee so notified shall recommend the person or persons
59 to be appointed to replace those declining to serve and

60 it shall be the duty of the county court to appoint the
61 person or persons so recommended.

62 If any person appointed receiving commissioner or
63 clerk of election shall fail to appear at the voting place
64 at the hour for opening the polls, the remaining commis-
65 sioner or commissioners of election of the political party
66 to which the absentee belongs shall select another com-
67 missioner or clerk, as the case may be, of such political
68 party. But if the qualified voters of his party present at
69 the polls shall nominate a voter of his party qualified to
70 act under the provisions of this section, such nominee
71 shall be appointed. If none of the receiving commis-
72 sioners of the election or poll clerks shall appear at the
73 voting place at the hour appointed for opening the polls,
74 the qualified voters present, being at least ten in number,
75 of the political party which cast the highest number of
76 votes in the county at the last preceding election, shall
77 select two commissioners and one clerk and those of the
78 political party which cast the next highest number of
79 votes in the county at such election shall select one com-
80 missioner and one clerk of the receiving board of such
81 precinct, and the persons so selected shall constitute the
82 receiving board for the precinct. A vacancy or vacancies
83 on the counting board shall be filled in the manner herein
84 provided for filling a vacancy or vacancies on the receiv-
85 ing board, except that such vacancy or vacancies shall be
86 determined and filled as of the hour appointed in this
87 chapter for the counting board to attend at the polls.
88 Any commissioner of election acting at any election pre-
89 cinct is hereby empowered and authorized to administer
90 oaths and to take and certify affidavits in relation to any
91 matter or thing required or permitted to be done by any
92 of the provisions of this article in conducting and holding
93 the election.

Sec. 44. Compensation of Election Officials; Expenses.—

2 Each ballot commissioner shall be allowed and paid a
3 sum, to be fixed by the county court, not exceeding
4 twenty dollars for each day he shall serve as such, but
5 in no case shall a ballot commissioner receive allowance
6 for more than ten days' services for any one primary,

7 general or special election. Each commissioner of elec-
8 tion and poll clerk shall be allowed and paid a sum, to
9 be fixed by the county court, not exceeding ten dollars
10 for one day's services for attending the school of instruc-
11 tions for election officials and a sum not exceeding twenty
12 dollars for his services at any one election: *Provided,*
13 That each commissioner of election and poll clerk shall be
14 paid and allowed a sum not exceeding ten dollars for his
15 services at any of the three special elections hereinafter
16 specified and described. The commissioners of election
17 obtaining and delivering the election supplies, as pro-
18 vided in section twenty-four of this article, and returning
19 them as provided in articles five and six of this chapter,
20 shall be allowed and paid an additional sum, likewise
21 fixed by the county court, not exceeding ten dollars for
22 all such services at any one election and, in addition, shall
23 be allowed and paid mileage at the rate of seven cents
24 per mile necessarily traveled in the performance of such
25 services. The compensation of election officers, cost of
26 printing ballots, and all other expenses incurred in hold-
27 ing and making the return of elections, other than the
28 three special elections hereinafter specified and described,
29 shall be audited by the county court and paid out of the
30 county treasury. The compensation of election officers,
31 cost of printing ballots, and all other reasonable and
32 necessary expenses in holding and making the return of
33 a special election for the purpose of taking the sense of
34 the voters on the question of calling a constitutional con-
35 vention, of a special election to elect members of a con-
36 stitutional convention, and of a special election to ratify
37 or reject the proposals, acts and ordinances of a constitu-
38 tional convention shall be obligations of the state incurred
39 by the ballot commissioners, clerks of the circuit courts,
40 clerks of the county courts, and county courts of the
41 various counties as agents of the state, and all such
42 expenses shall be audited by the secretary of state. The
43 secretary of state shall prepare and transmit to the county
44 courts forms on which the county courts shall certify
45 all such expenses of such special elections to the secre-
46 tary of state. If satisfied that such expenses as certified
47 by the county courts are reasonable and were neces-

48 sarily incurred, the secretary of state shall requisition
 49 the necessary warrants from the auditor of the state to
 50 be drawn on the state treasurer, and shall mail such
 51 warrants directly to the vendors of such special election
 52 services, supplies and facilities.

CHAPTER 70

(House Bill No. 524—By Mr. Bailey and Mr. Black)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend and reenact section eight, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing parties other than the two major political parties in municipal corporations to hold primary elections.

Be it enacted by the Legislature of West Virginia:

That section eight, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. General Provisions and Definitions.

Section

8. Political party defined; parties or groups that may participate in municipal primary election.

Section 8. Political Party Defined; Parties or Groups that May Participate in Municipal Primary Election.—

2 that May Participate in Municipal Primary Election.—
 3 Any affiliation of voters representing any principle or
 4 organization which, at the last preceding general election,
 5 polled for its candidate for governor at least one per cent
 6 of the total number of votes cast for all candidates for that
 7 office in the state, shall be a political party, within the
 8 meaning and for the purpose of this chapter: *Provided,*
 9 That notwithstanding the foregoing provisions of this
 10 section, the governing body of any municipality may, by
 11 ordinance adopted by the affirmative vote of at least three
 12 fourths of the members of such governing body by re-

13 corded vote, provide that municipal political parties or
14 groups within such municipality that do not meet the re-
15 quirements of this section for classification as a political
16 party may participate in the primary elections of any such
17 municipality. Any such ordinance shall contain provisions
18 implementing the foregoing proviso, which implementing
19 provisions shall conform as nearly as practicable to any
20 general provisions of law relating to municipal primary
21 elections.

CHAPTER 71

(House Bill No. 699—By Mr. Seibert and Mr. Steptoe)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section eighteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eminent domain, certain procedures in eminent domain matters, payment into court, notice of such payment to the parties of record, accrual of interest upon failure to give such notice, the disposition of such payment and the determination of conflicting claims.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Procedure.

Section

18. Payment to clerk; disposition of money paid into court; determination of conflicting claims; notice to condemnee.

Section 18. Payment to Clerk; Disposition of Money

2 **Paid into Court; Determination of Conflicting Claims;**
3 **Notice to Condemnee.**—Payment of an award or judg-
4 ment, or any money, under any of the provisions of this
5 chapter may be made to the clerk of the court in which
6 such proceeding is had, and such payment shall be deemed

7 to be a payment into court. Within ten days after the
8 payment of an award, judgment or money into court pur-
9 suant to the provisions of this chapter, the condemnor
10 shall serve notice upon the parties of record except non-
11 residents and unknown parties whose interests the ap-
12 plicant seeks to condemn, or upon their counsel of record.
13 Service of notice by registered or certified mail to the
14 parties', last known address shall be deemed sufficient.
15 Notwithstanding any other provision of this chapter to
16 the contrary, failure to serve such notice shall result in
17 the accrual of interest at six per cent upon the award,
18 judgment or money paid into court until such notice is
19 served or until disbursement be made to the persons
20 entitled thereto. The clerk to whom payment is so made,
21 together with the surety on his official bond, shall be liable
22 therefor, as for other moneys collected by him by virtue
23 of his office.

24 Upon money being paid into court, pursuant to the pro-
25 visions of this chapter, and the court or judge being
26 satisfied that the persons entitled thereto are before the
27 court or judge, it or he shall make such distribution or
28 disposition of such money as is proper, having due regard
29 to the interest of all persons therein, and in what pro-
30 portions such money is properly payable.

31 If it shall appear that the petition states the persons or
32 classes of persons, who, in the opinion of the applicant,
33 are vested with the superior right or claim of title in the
34 property, or interest or right therein, condemned or
35 sought to be condemned or in the amount allowed or to
36 be allowed by the report of the condemnation commis-
37 sioners, or the verdict of a jury, if there be one, and it
38 does not appear from the record or otherwise that there
39 is any denial or dispute, by any person or party in in-
40 terest, of such statement in the petition, the court or judge
41 may direct that the money paid into court, after with-
42 holding therefrom any sum necessary for payment of any
43 taxes which are a lien upon the property, interest, or
44 right, be disbursed and distributed in accordance with
45 the statement in the petition, among the persons entitled
46 thereto, except that with respect to any persons appearing
47 to be infants, incompetents, incarcerated convicts, or

48 under any other legal disability, the court or judge shall
49 inquire into their rights or claims, independent of any
50 statement in the petition, and any order for disbursement
51 or distribution shall conserve and protect the rights or
52 claims of such persons in and to the money paid into
53 court.

54 If it shall appear to the court or judge, from the record
55 or otherwise, that there exists a controversy among claim-
56 ants to the money paid into court, or to the ownership
57 of the property, or interest or right therein, condemned
58 or sought to be condemned, the court or judge shall enter
59 an order setting a time for hearing the case and deter-
60 mining the rights and claims of all persons entitled to
61 the money paid into court or to any interest or share
62 therein. To aid in properly disposing of the money, the
63 court or judge may appoint a commissioner to take evi-
64 dence of the conflicting claims. The court or judge may
65 direct publication to be made requiring all who are in-
66 terested to appear at the time set for hearing the case
67 to present their respective claims. Such costs shall be
68 allowed to the prevailing persons as the court or judge
69 shall direct. Upon a determination by the court or judge
70 of the rights and claims of the persons entitled to the
71 money paid into court, with or without a report of such
72 commissioner, judgment shall be entered directing the
73 disbursement or distribution, after withholding for taxes
74 as provided in the next preceding paragraph, to the per-
75 sons entitled thereto, provided that the rights or claims
76 of persons under legal disability shall be protected as
77 provided in the next preceding paragraph.

○

CHAPTER 72

(Senate Bill No. 193—By Mr. Davis)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article two, chapter fifty-seven of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, to allow, in criminal prosecutions for false swearing, the use of statements made by the accused persons as witnesses upon legal examinations.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Writings and Statements of Private Persons.

Section

3. Statement by accused upon legal examination.

Section 3. Statement by Accused upon Legal Examination.—In a criminal prosecution other than for perjury or false swearing, evidence shall not be given against the accused of any statement made by him as a witness upon a legal examination.

CHAPTER 73

(Com. Sub. for House Bill No. 694—By Mr. Moyers and Mr. Casey)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article three, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the competency of practitioners of chiropractic to qualify as competent witnesses on chiropractic testimony and chiropractic facts.

Be it enacted by the Legislature of West Virginia:

That section eight, article three, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Competency of Witnesses.

Section

8. Cases in which chiropractors are competent witnesses.

Section 8. Cases in Which Chiropractors Are Competent Witnesses.—Practitioners of chiropractic shall be

- 3 permitted to qualify as competent witnesses, insofar as
 4 chiropractic testimony or chiropractic facts may be con-
 5 cerned in any civil action in any court in this state.

CHAPTER 74

(House Bill No. 680—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the fees to be charged by secretary of state.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Fees and Allowances.

Section

2. Fees to be charged by secretary of state.

Section 2. Fees to Be Charged by Secretary of State.—

- 2 The secretary of state shall charge for services rendered
 3 in his office the following fees to be paid by the person
 4 to whom the service is rendered at the time it is done:
 5 For each certificate of incorporation or copy thereof,
 6 including certificates issued on new agree-
 7 ments, and/or consolidations or mergers (in-
 8 cluding all consolidations or mergers effected
 9 under the provisions of sections sixty-three,
 10 sixty-three-a and sixty-three-a1, article one,
 11 chapter thirty-one of this code) or authorizing
 12 a foreign corporation to do business within this
 13 state \$10.00
 14 For each certified copy of certificate of incorpora-
 15 tion, not to exceed ten pages 10.00
 16 If such copy contains in excess of ten pages, for
 17 each additional page20

18	For filing and recording a trade-mark	5.00
19	For each certificate of change of name, of increase	
20	or decrease of authorized capital stock, of	
21	change of principal office, or of amendment to	
22	certificate of incorporation	5.00
23	For recording a power of attorney and certificate	
24	thereof	3.00
25	For any other certificate, whether required by law	
26	or made at the request of any person	5.00
27	The foregoing fees shall include the tax on the great	
28	seal or the less seal impressed on any such	
29	document, as well as the filing, recording and	
30	indexing of the same.	
31	For indorsing and filing reports of corporations, and	
32	all other papers, which shall include the index-	
33	ing of the same, for each report or paper filed .	1.00
34	For any search, not less than.....	1.00
35	For searches of more than one hour, for each hour	
36	or fraction thereof consumed in making such	
37	search	1.00
38	The cost of the search shall be in addition to the	
39	cost of any certificate issued pursuant thereto	
40	or based thereon.	
41	For entering statement of satisfaction of condi-	
42	tional sale contract	1.00
43	For filing each financing, continuation or termina-	
44	tion statement or other statement or writing	
45	permitted to be filed under chapter forty-six	
46	of the code	1.00
47	For filing, preserving and indexing a security	
48	agreement filed under chapter forty-six of the	
49	code	2.00
50	For recording any paper for which no specific fee	
51	is prescribed	1.00
52	Or at the rate, for each one hundred words re-	
53	corded, of .....	.20
54	For issuing commission to a notary public, or to	
55	• a commissioner of deeds, which shall include	

56	the tax on the state seal thereon and other	
57	charges	5.00
58	For a testimonial	1.50
59	For a copy of any paper, if one sheet	1.00
60	For each sheet of copy after the first .....	.75
61	For issuing a commission to a commissioner in any	
62	other state	5.00
63	For making out a requisition for a fugitive from	
64	justice demanded of the executive authority	
65	of another state	2.00
66	For issuing a warrant for the arrest of a fugitive	
67	from justice demanded by the executive au-	
68	thority of another state	2.00
69	For any other work or service not herein enumerated,	
70	such fee as may be elsewhere prescribed.	

CHAPTER 75

(Senate Bill No. 54—By Mr. Moreland and Mr. Brotherton)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section ten, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fees to be charged by the clerks of the county courts.

Be it enacted by the Legislature of West Virginia:

That section ten, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Fees and Allowances.

Section

10. Fees to be charged by Clerk of County Court.

Section 10. Fees to Be Charged by Clerk of County Court.—For the purpose of this section, the word "page"

3	is defined as being a paper writing of not more than legal	
4	size, 8½" x 13".	
5	The clerk of the county court shall charge and collect	
6	the following fees:	
7	When a writing is admitted to record, for receiving	
8	proof of acknowledgment thereof, entering an	
9	order in connection therewith, endorsing clerk's	
10	certificate of recordation thereon and indexing in	
11	a proper index, where the writing is a deed of	
12	conveyance, trust deed, lease, or power of attor-	
13	ney concerning real estate	\$1.25
14	If such writing contains more than two pages, for	
15	each additional page, in counties where recording	
16	is done by photograph, fifty cents; and in counties	
17	where recording is done by typewriter, and such	
18	writing contains more than one thousand words,	
19	three cents for each additional twenty words.	
20	For recording a plat accompanying a deed or other	
21	writing	1.00
22	If such plat contains more than one hundred twenty	
23	square inches, for each additional square inch.....	.007
24	For recording and indexing a map to be placed in	
25	map book	2.00
26	If such map contains more than one hundred twenty	
27	square inches, for each additional square inch.....	.007
28	For recording and indexing assignment	1.25
29	If such assignment contains more than one reference	
30	to the record of property assigned, for each refer-	
31	ence .....	.50
32	If such assignment does not give the reference to the	
33	record of property assigned, for search of record	
34	to determine such book and page .....	.25
35	If such assignment contains more than two pages,	
36	for each additional page .....	.50
37	For recording and indexing and noting release of lien	1.00
38	If such release contains more than one reference to	
39	lien released, for each lien released thereby.....	1.00
40	If book and page reference to lien released is omitted,	

41	for search of record to determine such book and	
42	page .....	.25
43	For filing or refileing and entering conditional sales	
44	contract	1.00
45	For recording and indexing a satisfaction of a con-	
46	ditional sales contract	1.00
47	For filing each financing, continuation or termination	
48	statement or other statement or writing per-	
49	mitted to be filed under chapter forty-six of the	
50	code	1.00
51	For filing, preserving and indexing a security agree-	
52	ment filed under chapter forty-six of the code	2.00
53	For recording and indexing a certificate of incorpora-	
54	tion	1.25
55	If such certificate contains more than two pages, for	
56	each additional page .....	.50
57	For filing and indexing a certificate showing the name	
58	or names of a person or persons conducting busi-	
59	ness under an assumed name	1.00
60	For certifying to the assessor a transfer of real estate	
61	under section eight, article four, chapter eleven	
62	of the code .....	.50
63	For swearing the witnesses and entering in the order	
64	or minute book, all orders in relation to the proof	
65	of a will which is admitted to record without con-	
66	test, and copying such order on the will or on a	
67	paper annexed thereto, when fully proved and	
68	but one order	2.00
69	If the will be but partially proved on one day, for the	
70	order and entering the same on the will or paper	
71	annexed thereto .....	.50
72	For each subsequent order and entering the same on	
73	the will or paper annexed thereto .....	.50
74	For the same services where there is a contest	5.00
75	For preparing notices in connection with contest, or	
76	any hearing, each notice .....	.50
77	For recording a will and the matter recorded there-	
78	with in the will book	1.00

79	If will and matter recorded therewith contains more	
80	than two pages, for each additional page .....	.50
81	For entering orders and transmitting papers in case	
82	of appeal	2.50
83	If such order and transmittal contains more than five	
84	pages, for each additional page .....	.50
85	If any personal representative or guardian qualify for	
86	administering necessary oaths, notating the bond,	
87	entering and copying on the will, order granting	
88	probate or administration, making out copy of	
89	such order for personal representative or guard-	
90	ian, entering and copying orders of appraisement	1.50
91	For each additional copy of qualification order.....	.50
92	If several personal representatives qualify on the	
93	same estate at the same time or term the same	
94	fee shall be charged as if one had qualified, to-wit	1.50
95	For entering and copying an order granting a license	
96	under provisions of article twelve, chapter eleven	
97	of the code .....	.50
98	For certificate for a license or endorsing assignment	
99	thereof .....	.50
100	For issuance of marriage license, for preparing the	
101	application and administering the oath, for regis-	
102	tering and recording the license, for mailing	
103	acknowledgment of minister's return to one of	
104	licensees, for notifying one of licensees after sixty	
105	days of the nonreceipt of the minister's return.....	5.00
106	One dollar of the latter fee shall be paid by the	
107	county clerk into the state treasury as a state	
108	registration fee, in the same manner that license	
109	taxes are paid into the treasury under article	
110	twelve, chapter eleven of the code.	
111	For search of anything in his office of over a year's	
112	standing, unless otherwise required by statute....	.25
113	For recording certificates and posting a copy thereof	
114	under the provisions of section two, article one,	
115	chapter thirty-four of the code	1.25
116	For docketing or redocketing under article three,	

117	chapter thirty-eight of the code, a judgment, de-	
118	creed, bond or recognizance .....	.50
119	If such writing contains more than one page, for each	
120	additional page .....	.50
121	For recording and indexing an execution and noting	
122	the date of issuance and the date of filing of same	
123	upon the judgment record	1.00
124	For making out a transcript of the record and pro-	
125	ceedings in any case in due form so that the same	
126	may be used in appellate court, such fee shall be	
127	the same as specified herein for recording.	
128	For making out, in any other manner than copying,	
129	any paper to go out of the office which is not	
130	otherwise provided for	1.00
131	If such paper contains more than two pages, for each	
132	additional page .....	.50
133	For any copy, if it be not otherwise provided for.....	1.00
134	If such copy contains more than two pages, for each	
135	additional page .....	.50
136	For annexing the seal of the court to any paper, writ-	
137	ing certificates of clerk accompanying it .....	.50
138	For writing a certificate of the president of the court	
139	or judge, when the clerk be required to do so....	.50
140	For recording and indexing an inventory or sale bill..	1.00
141	If such writing contains more than two pages, for	
142	each additional page .....	.50
143	For entering an order confirming the report of a	
144	fiduciary .....	.50
145	For recording and indexing such report and matter	
146	recorded therewith	2.00
147	If such report contains more than four pages, for each	
148	additional page .....	.50
149	For recording and indexing any bond required by law	
150	to be recorded, including the certificate or other	
151	evidence of its execution	1.00
152	If such bond and certificate contains more than two	
153	pages, for each additional page .....	.50

154	For recording and indexing a notice of mechanic's	
155	lien	1.00
156	If such notice contains more than two pages, for each	
157	additional page .....	.50
158	For recording contract limiting liability of owner and	
159	bond of contractor to be filed therewith, as pre-	
160	scribed in article two, chapter thirty-eight of the	
161	code	1.25
162	If such contract and bond contains more than two	
163	pages, for each additional page .....	.50
164	For recording and indexing a notice of lis pendens ..	1.25
165	If such notice contains more than two pages, for	
166	each additional page .....	.50
167	For recording a certificate of real estate claimed as	
168	a homestead .....	.50
169	For administering an oath not herein provided for,	
170	and writing a certificate thereof where the case	
171	requires one .....	.50
172	For recording a writing containing pages in excess	
173	of legal size, 8½" x 13", additional fee for each	
174	page, where recording is by photograph .....	.25
175	For recording and indexing instruments not speci-	
176	fically provided for herein	1.25
177	If such instrument contains more than two pages,	
178	for each additional page .....	.50
179	For recording anew any will, deed or other paper, the	
180	same fees herein provided for the original re-	
181	ording.	
182	For any service other than recording and indexing	
183	not specifically provided for, the same fee as a	
184	clerk of the circuit court for similar services.	
185	All acts or parts of acts in conflict herewith are hereby	
186	repealed.	

CHAPTER 76

(House Bill No. 915—Originating in the House Committee
on Finance)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two-a, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the termination of term, appointment, removal and salaries of certain appointive state officials.

Be it enacted by the Legislature of West Virginia:

That section two-a, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Appointment, Removal, and Compensation and Allowances.

Section

2-a. Termination of term of certain appointive state officers; appointment; terms; qualifications; powers and salaries of such officers.

Section 2-a. Termination of Term of Certain Appointive State Officers; Appointment; Terms; Qualifications; Powers and Salaries of Such Officers.—Notwithstanding any other provision of this code to the contrary, on and after the effective date of this section, each of the terms of the following named appointive state officers shall be terminated and thereafter each of such appointive state officers shall be appointed by the governor, by and with the advice and consent of the senate. Each of such appointive state officers shall serve at the will and pleasure of the governor for the term for which the governor was elected and until the respective state officer's successors have been appointed and qualified. Each of such appointive state officers shall hereafter be subject to the existing qualifications for holding each such respective office and each shall have and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respect-

19 ing each such office. The annual salary of each such
20 named appointive state officer shall be as follows:

21 The state road commissioner, twenty-two thousand dol-
22 lars; director of mental health, twenty thousand dollars;
23 commissioner of commerce, fourteen thousand dollars;
24 commissioner of finance and administration, fifteen thou-
25 sand dollars; tax commissioner, sixteen thousand dollars;
26 director of department of natural resources, fifteen thou-
27 sand dollars; commissioner of department of welfare,
28 fifteen thousand dollars; liquor control commissioner,
29 fourteen thousand dollars; director of department of
30 mines, fourteen thousand dollars; commissioner of public
31 institutions, thirteen thousand dollars; commissioner of
32 employment security, fourteen thousand dollars; commis-
33 sioner of labor, twelve thousand dollars; director of per-
34 sonnel civil service commission, twelve thousand dollars;
35 superintendent of department of public safety, thirteen
36 thousand dollars; insurance commissioner, twelve thou-
37 sand dollars; commissioner of motor vehicles, twelve
38 thousand dollars; commissioner of banking, twelve thou-
39 sand dollars; members of the board of probation and
40 parole, nine thousand dollars; nonintoxicating beer com-
41 missioner, ten thousand dollars; state historian and archi-
42 vist, nine thousand dollars; adjutant general, eight thou-
43 sand dollars; director of civil and defense mobilization,
44 ten thousand dollars; director of veterans affairs, ten
45 thousand dollars; members of board of review of employ-
46 ment security, eight thousand two hundred dollars; mem-
47 bers of workmen's compensation appeal board, four thou-
48 sand eight hundred dollars.

CHAPTER 77

(House Bill No. 773—By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section four, article seven, chap-
ter six of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, relating to the salaries of judges of the circuit courts.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Appointment, Removal, and Compensation and Allowances.

Section

4. Salaries of judges of circuit courts; additional compensation from counties.

Section 4. Salaries of Judges of Circuit Courts; Additional Compensation from Counties.—The salaries of the judges of the circuit courts shall be paid out of the state treasury and shall, unless otherwise provided by law, be in the following annual amounts:

(1) In circuits having more than sixty thousand population, fifteen thousand five hundred dollars;

(2) In circuits having less than sixty thousand population, fourteen thousand dollars.

Any county court or the board of commissioners of Ohio county may pay the judge of the circuit court additional compensation, but the salary and additional compensation or combined contribution of the several county courts and board of commissioners shall not exceed twenty-one thousand five hundred dollars.

The population shall be according to the United States census, or the estimate of the United States bureau of census, as certified to the state auditor by the United States director of the census last preceding the beginning of the calendar year in which salary is payable.

CHAPTER 78

(House Bill No. 578—By Mr. Speaker, Mr. White, and Mr. Cann)

[Passed March 13, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by

adding thereto a new article, designated article fourteen, relating to a uniform facsimile signatures of public officials act, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fourteen, to read as follows:

Article 14. Uniform Facsimile Signatures of Public Officials Act.

Section

1. Definitions.
2. Facsimile signature; use; legal effect.
3. Facsimile seal; use; legal effect.
4. Use with intent to defraud; penalty.
5. Construction.
6. Citation.
7. Severability provisions.
8. Inconsistent articles repealed.

Section 1. Definitions.—As used in this article:

- 2 (a) "Public security" means a bond, note, certificate
- 3 of indebtedness or other obligation for the payment of
- 4 money issued by this state or by any of its departments,
- 5 agencies, boards, commissions or other instrumentalities
- 6 or by any of its public corporations, political subdivisions,
- 7 municipal corporations or other governmental units.
- 8 (b) "Instrument of payment" means a check, draft,
- 9 warrant or order for the payment, delivery or transfer
- 10 of funds.
- 11 (c) "Authorized officer" means any official of this
- 12 state or of any of its departments, agencies, boards, com-
- 13 missions or other instrumentalities or of any of its public
- 14 corporations, political subdivisions, municipal corpora-
- 15 tions or other governmental units whose signature to a
- 16 public security or instrument of payment is required or
- 17 permitted.
- 18 (d) "Facsimile signature" means a reproduction by
- 19 engraving, imprinting, stamping or other means of the
- 20 manual signature of an authorized officer.

- Sec. 2. Facsimile Signature; Use; Legal Effect.—**Any
- 2 authorized officer, after filing with the secretary of state

3 his manual signature certified by him under oath, may
4 execute or cause to be executed with a facsimile signature
5 in lieu of his manual signature:

6 (a) Any public security, provided that at least one
7 signature required or permitted to be placed thereon shall
8 be manually subscribed; and

9 (b) Any instrument of payment.

10 Upon compliance with this article by the authorized
11 officer, his facsimile signature shall have the same legal
12 effect as his manual signature.

Sec. 3. Facsimile Seal; Use; Legal Effect.—When the
2 seal of this state or of any of its departments, agencies,
3 boards, commissions or other instrumentalities or of any
4 of its public corporations, political subdivisions, municipal
5 corporations or other governmental units is required in
6 the execution of a public security or instrument of pay-
7 ment, the authorized officer may cause the seal to be
8 printed, engraved, stamped or otherwise placed in fac-
9 simile thereon. The facsimile seal shall have the same
10 legal effect as the impression of the seal.

Sec. 4. Use with Intent to Defraud; Penalty.—Any
2 person who with intent to defraud uses on a public
3 security or an instrument of payment:

4 (a) A facsimile signature of any authorized officer or
5 any reproduction of such facsimile signature, or

6 (b) Any facsimile seal of this state or of any of its
7 departments, agencies, boards, commissions or other in-
8 strumentalities or of any of its public corporations, politi-
9 cal subdivisions, municipal corporations or other govern-
10 mental units, or any reproduction of such facsimile seal
11 is guilty of a felony and shall be imprisoned in the pen-
12 itentiary not less than one nor more than ten years.

Sec. 5. Construction.—This article shall be so con-
2 strued as to effectuate its general purpose to make uni-
3 form the law of those states which enact it.

Sec. 6. Citation.—This article may be known and cited
2 as the "Uniform Facsimile Signatures of Public Officials
3 Act."

Sec. 7. Severability Provision.—If any provision of
 2 this article or the application thereof to any person or
 3 circumstance is held invalid, the invalidity shall not affect
 4 other provisions or applications of this article which can
 5 be given effect without the invalid provision or applica-
 6 tion and to that end the provisions of this article are
 7 severable.

Sec. 8. Inconsistent Articles Repealed.—All articles
 2 and parts of articles inconsistent with the provisions of
 3 this article are, to the extent of such inconsistency only,
 4 hereby repealed.

CHAPTER 79

(Senate Bill No. 3—By Mr. McCourt)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section two, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the qualifications and compensation of members of the West Virginia racing commission and the employment and qualifications of employees of the commission.

Be it enacted by the Legislature of West Virginia:

That section two, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 23. Horse Racing.

Section

2. Qualifications and compensation of members, secretary, steward and employees.

Section 2. Qualifications and Compensation of Members, Secretary, Steward and Employees.—Each member of the
 2 commission shall receive a salary of five thousand dollars
 3 per annum to be paid in monthly installments and shall
 4 be reimbursed for all actual and necessary expenses in-
 5 curred in the performance of his duties as a member of
 6 the commission. The commission shall, under the re-
 7

8 strictions and within the qualifications hereinafter set
9 forth, appoint a secretary and steward, to represent the
10 commission, and such additional help as shall be rea-
11 sonably necessary to administer the provisions of this
12 article, and shall, within the limits prescribed by the
13 Legislature, fix their compensation and actual expenses.
14 The compensation and actual expenses of the members
15 and employees of the commission shall be paid from the
16 funds in the hands of the state treasurer collected from
17 the license tax on pari-mutuel wagering and shall be
18 itemized in the budget in the same manner as all other
19 departments of the state government, but no such ex-
20 penses shall be paid unless an itemized account thereof,
21 under oath, be first filed with the state auditor.

22 (a) No person who directly or indirectly has an interest
23 in any manner whatsoever, including an interest as owner,
24 lessor, lessee, stockholder or employee, in any race track,
25 where horse race meetings may be held, shall be eligible
26 for appointment to the commission.

27 (b) No person while serving as a member of the Leg-
28 islature, or as an elective officer of this state, shall be eli-
29 gible for appointment to the commission.

30 (c) No person convicted of an offense, which, under the
31 laws of this state or any other state or of the United States
32 of America, constitutes a felony or a violation of chapter
33 sixty-one, article four of this code, shall be eligible for
34 appointment to the commission.

35 (d) No person shall knowingly be employed by the
36 commission in any capacity whatsoever who shall:

37 1. Directly or indirectly, or in any capacity, own or
38 have an interest in any race track where horse race meet-
39 ings may be held, including an interest as owner, lessor,
40 lessee, stockholder or employee.

41 2. At the time of his employment as a racing official
42 be or have been within one year prior thereto, a member
43 of the Legislature or an elective officer of this state, unless
44 he is experienced and qualified as a racing official.

45 3. Have been prior to the time of his employment, or
46 shall be during the time of his employment, convicted
47 of an offense, which, under the laws of this state or any

48 other state or of the United States of America, consti-
49 tutes a felony or a violation of chapter sixty-one, article
50 four of this code.

51 4. In any manner have delegated to him the duties
52 and powers of the members of the commission, as direc-
53 tor or supervisor of racing, or in any other manner or
54 capacity whatsoever, except such authority as shall be
55 necessary in order to carry out fully and effectively the
56 reasonable regulations adopted and promulgated by the
57 commission, may be delegated to employees and/or rep-
58 resentatives of the commission.

59 Any steward employed by the commission or by a
60 licensee thereof, shall be a person of integrity, and experi-
61 enced and qualified for such position by the generally
62 accepted practices and customs of horse racing in the
63 United States.

64 Any person violating any provision of this section shall
65 be guilty of a misdemeanor, and, upon conviction, shall
66 be confined in jail not less than six months nor more
67 than one year or be fined not less than five hundred nor
68 more than one thousand dollars, or, in the discretion of
69 the court, may be punished by both such fine and impris-
70 onment. Venue of such offense shall be in the county,
71 or any one of the counties, wherein the person violating
72 this section carries out any duties of, or performs any
73 work for, the commission, which constitutes the basis of
74 the charge or complaint against him.

CHAPTER 80

(Senate Bill No. 120—By Mr. Jackson and Mr. McKown)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section three, article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to increase the compensation of each member of the state board of insurance of West Virginia from twenty-five dollars to

forty dollars per day for each day's services actually performed for such board.

Be it enacted by the Legislature of West Virginia:

That section three, article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 12. State Insurance.

Section

3. State board of insurance; creation, composition, qualifications and compensation.

Section 3. State Board of Insurance; Creation, Composition, Qualifications and Compensation.—(a) There is hereby created the "state board of insurance of West Virginia" which shall be composed of three members appointed by the governor with the advice and consent of the senate. Each of the members shall be a resident of West Virginia possessed of not less than five years' experience in the business of insurance and no more than two of such members shall belong to any one political party. The three original members of such board shall be appointed for terms of one, two and three years, respectively, and each subsequent appointment shall be for a term of four years. In the event a vacancy occurs it shall be filled by appointment for the unexpired term. No member of the board may be removed from office by the governor except for official misconduct, incompetency, neglect of duty, or gross immorality.

(b) The insurance commissioner of West Virginia shall serve as secretary of the board without vote and shall make available to the board the information, facilities and services of the office of the state insurance commissioner.

(c) Each member of the board shall receive the sum of forty dollars per day for each day's services actually performed for such board as well as all necessary expenses incurred in the performance of their duties, not exceeding one hundred days in any one calendar year. The auditor shall pay such compensation and expenses upon requisition certified by the chairman from appropriations provided for such purposes.

CHAPTER 81

(Senate Bill No. 185—By Mr. Holden and Mr. Jackson)

[Passed March 5, 1965: in effect from passage. Approved by the Governor]

AN ACT to amend and reenact section five, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to capital or surplus required of insurance companies.

Be it enacted by the Legislature of West Virginia:

That section five, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Licensing, Fees and Taxation of Insurers.

Section

5. Capital or surplus required.

Section 5. Capital or Surplus Required.—To qualify for

2 a license to transact insurance, unless otherwise provided
3 in this chapter, an insurer shall possess paid-in capital
4 stock (if a stock insurer) or surplus (if a mutual insurer)
5 in the amount set forth below opposite the kinds of in-
6 surance for which license is requested:

7	(a) Life	\$200,000.00
8	(b) Accident and Sickness	\$200,000.00
9	(c) Life and Accident and Sickness	\$300,000.00
10	(d) Fire and Marine	\$100,000.00
11	(e) Casualty	\$100,000.00
12	(f) Surety	\$600,000.00
13	(g) Accident and Sickness together with	
14	any one or more of the following:	
15	Fire and Marine, Casualty	\$300,000.00
16	(h) Fire and Marine and Casualty	\$200,000.00
17	(i) Surety together with any one or more	
18	of the following: Accident and Sick-	
19	ness, Fire and Marine, Casualty	\$600,000.00

20 In addition, every insurer shall maintain additional sur-
21 plus funds in an amount equal to one half such minimum

22 capital or surplus listed above for the kinds of insurance
23 for which license is requested: *Provided*, That domestic
24 insurers duly licensed to transact insurance in West Vir-
25 ginia shall have until March thirty-first, one thousand
26 nine hundred sixty-eight, to meet the requirements of the
27 additional surplus funds in the amount herein specified.

CHAPTER 82

(Senate Bill No. 22—By Mr. Porter)

[Passed March 8, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section fourteen-b, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to credit against insurance premium taxes.

Be it enacted by the Legislature of West Virginia:

That section fourteen-b, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Licensing, Fees and Taxation of Insurers.

Section

14-b. Credits against premium tax for investment in West Virginia securities.

Section 14-b. Credits against Premium Tax for Investment in West Virginia Securities.—If the annual statement of any insurance company covering a calendar year shows it to have investments at the close of said year in West Virginia securities, as hereinafter defined, of as much as twenty-five per centum of its admitted assets, it shall be entitled to a credit against the premium tax levied by section fourteen-a of this article in an amount equal to one hundred per centum of such tax for such calendar year.

West Virginia securities, as used in this section, shall mean real estate situate in this state; bonds or interest-

13 bearing notes or obligations of this state; bonds or interest-
14 bearing notes or obligations of any county, district, school
15 district or independent school district, municipality or
16 any other political subdivision of this state; revenue
17 bonds issued by any West Virginia state agency, board,
18 department, or commission authorized to issue such bonds
19 by the laws of this state; bonds or notes secured by mort-
20 gages or deeds of trust on real estate situate in this state;
21 securities of corporations organized and existing under
22 the laws of this state including, but not by way of limi-
23 tation, bonds, debentures, notes, equipment trust obliga-
24 tions or other evidences of indebtedness, and shares of
25 common and preferred stock of such corporations; cash
26 balances in regularly established national and state banks
27 in this state reflected as an asset in such annual statement;
28 and investment shares and investment share accounts in
29 federally insured savings and loan associations in this
30 state.

CHAPTER 83

(House Bill No. 612—By Mr. Marsteller and Mr. Poindexter)

[Passed February 26, 1955; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section seventeen, article four,
chapter thirty-three of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
prohibited interests of officers and directors in certain
transactions.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article four, chapter thirty-three of
the code of West Virginia, one thousand nine hundred thirty-
one, as amended, be amended and reenacted to read as fol-
lows:

Article 4. General Provisions.**Section**

17. Prohibited interests of officers and directors in certain transactions.

Section 17. Prohibited Interests of Officers and Directors in Certain Transactions.—(a) No director or officer of an insurer shall accept, except for and on behalf of the insurer, or be the beneficiary of any fee, commission, brokerage, gift or other emolument or thing of value in addition to his fixed salary or compensation, because of any investment, loan, deposit, purchase, sale, exchange, or other similar transaction made by or for the insurer, or be pecuniarily interested in any capacity except on behalf of the insurer.

(b) No insurer shall guarantee the financial obligation of any of its officers or directors.

(c) This section shall not prohibit such a director or officer from becoming a policyholder of the insurer and enjoying thereunder the rights customarily provided therein for holders of such policies, nor shall this section prohibit a director or officer of an insurer from serving as an agent or general agent of such insurer and receiving regular established agency commissions therefor: *Provided*, That the contract between the insurer and its officer and/or director has been approved by the board of directors of the insurer and a true copy thereof, certified to by the secretary of the board of directors of such insurer, has been filed with the commissioner of insurance; nor shall this section prohibit such a director or officer of an insurer from receiving his share of the commission earnings of a stock exchange firm of which he is a partner, or a percentage of underwriting profits under a management contract: *Provided*, That such contract is subject to review and termination by the board of directors, nor shall this section prohibit the payment to a director or officer of a fee for legal services actually rendered to any such insurer provided such compensation is not in excess of the amounts customarily charged for the same type of service.

CHAPTER 84

(Senate Bill No. 136—By Mr. Taylor, of Kanawha)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty, relating to insider trading.

Be it enacted by the Legislature of West Virginia:

That article five, chapter thirty-three of the code of West Virginia, as amended, be amended by adding thereto a new section, designated section thirty, to read as follows:

Article 5. Organization and Procedures of Domestic Stock and Mutual Insurers.

Section

30. Insider trading.

Section 30. Insider Trading.—(a) Every person who is
2 directly or indirectly the beneficial owner of more than
3 ten per cent of any class of any equity security of a do-
4 mestic stock insurance company, or who is a director or
5 an officer of such company, shall file in the office of the
6 commissioner on or before the thirty-first day of January,
7 one thousand nine hundred sixty-six, or within ten days
8 after he becomes such beneficial owner, director or officer
9 a statement, in such form as the commissioner may pre-
10 scribe, of the amount of all equity securities of such com-
11 pany of which he is the beneficial owner, and within ten
12 days after the close of each calendar month thereafter, if
13 there has been a change in such ownership during such
14 month, shall file in the office of the commissioner a state-
15 ment, in such form as the commissioner may prescribe,
16 indicating his ownership at the close of the calendar
17 month and such changes in his ownership as have oc-
18 curred during such calendar month.

19 (b) For the purpose of preventing the unfair use of
20 information which may have been obtained by such bene-

21 ficial owner, director or officer by reason of his relation-
22 ship to such company, any profit realized by him from any
23 purchase and sale, or any sale and purchase, of any equity
24 security of such company within any period of less than
25 six months, unless such security was acquired in good
26 faith in connection with a debt previously contracted,
27 shall inure to and be recoverable by the company, irre-
28 spective of any intention on the part of such beneficial
29 owner, director or officer in entering into such transaction
30 of holding the security purchased or of not repurchasing
31 the security sold for a period exceeding six months. An
32 action to recover such profit may be instituted in any
33 court of competent jurisdiction by the company, or by the
34 owner of any security of the company in the name and in
35 behalf of the company if the company shall fail or refuse
36 to bring such action within sixty days after request or
37 shall fail diligently to prosecute the same thereafter; but
38 no such action shall be brought more than two years after
39 the date such profit was realized. This section shall not
40 be construed to cover any transaction where such bene-
41 ficial owner was not such, both at the time of the purchase
42 and sale, or the sale and purchase, of the security in-
43 volved, or any transaction or transactions which the com-
44 missioner by rules and regulations may exempt as not
45 comprehended within the purpose of this section.

46 (c) It shall be unlawful for any such beneficial owner,
47 director or officer, directly or indirectly, to sell any equity
48 security of such company if the person selling the security
49 or his principal (i) does not own the security sold, or
50 (ii) if owning the security, does not deliver it against such
51 sale within twenty days thereafter, or does not within
52 five days after such sale deposit it in the mails or other
53 usual channels of transportation; but no person shall be
54 deemed to have violated this section if he proves that
55 notwithstanding the exercise of good faith he was unable
56 to make such delivery or deposit within such time, or that
57 to do so would cause undue inconvenience or expense.

58 (d) The provisions of subsection (b) of this section
59 shall not apply to any purchase and sale, or sale and
60 purchase, and the provisions of subsection (c) of this sec-
61 tion shall not apply to any sale of an equity security of a

62 domestic stock insurance company not then or theretofore
63 held by him in an investment account, by a dealer in the
64 ordinary course of his business and incident to the estab-
65 lishment or maintenance by him of a primary or second-
66 ary market (otherwise than on an exchange as defined
67 in the Securities Exchange Act of 1934) for such security.
68 The commissioner may, by such rules and regulations
69 as he deems necessary or appropriate in the public in-
70 terest, define and prescribe terms and conditions with re-
71 spect to securities held in an investment account and
72 transactions made in the ordinary course of business and
73 incident to the establishment or maintenance of a primary
74 or secondary market.

75 (e) The provisions of subsections (a), (b) and (c) of
76 this section shall not apply to foreign or domestic arbi-
77 trage transactions unless made in contravention of such
78 rules and regulations as the commissioner may adopt in
79 order to carry out the purposes of this section.

80 (f) The term "equity security" when used in this sec-
81 tion means any stock or similar security; or any security
82 convertible, with or without consideration, into such a se-
83 curity, or carrying any warrant or right to subscribe to or
84 purchase such a security; or any such warrant or right;
85 or any other security which the commissioner shall deem
86 to be of similar nature and consider necessary or appro-
87 priate, by such rules and regulations as he may prescribe
88 in the public interest or for the protection of investors,
89 to treat as an equity security.

90 (g) The provisions of subsections (a), (b) and (c) of
91 this section shall not apply to equity securities of a do-
92 mestic stock insurance company if (i) such securities
93 shall be registered, or shall be required to be registered,
94 pursuant to section twelve of the Securities Exchange
95 Act of 1934, as amended, or if (ii) such domestic stock
96 insurance company shall not have any class of its equity
97 securities held of record by one hundred or more persons
98 on the last business day of the year next preceding the
99 year in which equity securities of the company would
100 be subject to the provisions of subsections (a), (b) and
101 (c) of this section except for the provisions of this sub-
102 section (ii).

103 (h) The commissioner shall have the power to make
104 such rules and regulations as may be necessary for the
105 execution of the functions vested in him by subsections
106 (a) through (g) of this section, and may for such purpose
107 classify domestic stock insurance companies, securities,
108 and other persons or matters within his jurisdiction. No
109 provision of subsections (a), (b) and (c) of this section im-
110 posing any liability shall apply to any act done or omitted
111 in good faith in conformity with any rule or regulation of
112 the commissioner, notwithstanding that such rule or regu-
113 lation may, after such act or omission, be amended or
114 rescinded or determined by judicial or other authority to
115 be invalid for any reason.

116 (i) This section shall take effect January first, one
117 thousand nine hundred sixty-six.

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CHAPTER 85

(Senate Bill No. 183—By Mr. Taylor, of Kanawha)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-one, relating to authority of the insurance commissioner to promulgate regulations governing the solicitation of proxies.

Be it enacted by the Legislature of West Virginia:

That article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-one, to read as follows:

Article 5. Organization and Procedures of Domestic Stock and Mutual Insurers.

Section

31. Proxies, consents and authorizations in respect of any voting security issued by a domestic insurer.

Section 31. Proxies, Consents and Authorizations in Respect of Any Voting Security Issued by a Domestic Insurer.—(a) The commissioner may, by regulation, prescribe the form, content and manner of solicitation of any proxy, consent or authorization in respect of any voting security issued by a domestic insurer as necessary or appropriate in the public interest or for the proper protection of investors in the voting securities issued by such insurer, or to insure the fair dealing in such voting securities.

(b) No person and no domestic insurer or any director, officer or employee of such insurer shall solicit or permit the use of his name to solicit, by mail or otherwise, any person to give any proxy, consent or authorization in respect of any voting security issued by such insurer in contravention of any rule or regulation the commissioner may prescribe pursuant to this section.

(c) Failure to comply with any rule or regulation of the commissioner made pursuant to this section shall be unlawful and any proxy or consent obtained in violation of this section or in contravention of any rule or regulation issued pursuant thereto shall be void. Any domestic insurer or any person (who is legally entitled to vote, consent or authorize by virtue of being the holder of record of such a voting security) or the commissioner, if any of the foregoing parties shall fail to act within fifteen days after the date on which such vote was cast or counted, may enforce compliance with the rules and regulations made pursuant to this section, by appropriate action in law or equity: *Provided*, That no suit shall be brought more than thirty days after the date on which such vote, consent or authorization was to have been effected.

(d) None of the provisions of this section shall apply to voting securities of a domestic insurer if such voting

36 securities shall be registered pursuant to section twelve
37 of the Securities Exchange Act of 1934, as amended.

38 (e) The term "voting security" as used in this section
39 shall mean any instrument which, in law or by contract,
40 gives the holder the right to vote, consent or authorize
41 any corporate action of an insurer.

CHAPTER 86

(House Bill No. 858—By Mr. Poindexter and Mr. Hill)

[Passed March 12, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the construction of insurance policies.

Be it enacted by the Legislature of West Virginia:

That section thirty, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 6. The Insurance Policy.

Section

30. Construction of policies.

Section 30. Construction of Policies.—Every insurance
2 contract shall be construed according to the entirety of
3 its terms and conditions as set forth in the policy and as
4 amplified, extended, or modified by any rider, endorse-
5 ment, or application attached to and made a part of the
6 policy: *Provided, however,* That the word "physician"
7 when used in any accident and sickness policy or other
8 contract providing for the payment of surgical procedures
9 performed while the insured is hospitalized, shall be con-
10 strued to include a dentist performing such surgical pro-
11 cedure within the scope of his professional license.

CHAPTER 87

(House Bill No. 753—By Mr. Hill)

[Passed March 2, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the standard nonforfeiture law for life policies.

Be it enacted by the Legislature of West Virginia:

That section thirty, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 13. Life Insurance.

Section

30. Standard nonforfeiture law.

Section 30. Standard Nonforfeiture Law.—(1) In the case of policies issued on or after the original operative date of this provision, no policy of life insurance, except as stated in subsection six, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified;

(b) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years, the insurer will pay, in lieu of any paid-up

20 nonforfeiture benefit, a cash surrender value of such
21 amount as may be hereinafter specified;

22 (c) That a specified paid-up nonforfeiture benefit shall
23 become effective as specified in the policy unless the per-
24 son entitled to make such election elects another avail-
25 able option not later than sixty days after the due date of
26 the premium in default;

27 (d) That, if the policy shall have become paid up by
28 completion of all premium payments or if it is continued
29 under any paid-up nonforfeiture benefit which became
30 effective on or after the third policy anniversary the in-
31 surer will pay, upon surrender of the policy within
32 thirty days after any policy anniversary, a cash surrender
33 value of such amount as may be hereinafter specified;

34 (e) A statement of the mortality table and interest
35 rate used in calculating the cash surrender values and
36 the paid-up nonforfeiture benefits available under the
37 policy, together with a table showing the cash surrender
38 value, if any, and paid-up nonforfeiture benefits, if any,
39 available under the policy on each policy anniversary
40 either during the first twenty policy years or during the
41 term of the policy, whichever is shorter, such values and
42 benefits to be calculated upon the assumption that there
43 are no dividends or paid-up additions credited to the
44 policy and that there is no indebtedness to the insurer
45 on the policy;

46 (f) A statement that the cash surrender values and
47 the paid-up nonforfeiture benefits available under the
48 policy are not less than the minimum values and bene-
49 fits required by or pursuant to the insurance law of the
50 state in which the policy is delivered; an explanation of
51 the manner in which the cash surrender values and the
52 paid-up nonforfeiture benefits are altered by the exist-
53 ence of any paid-up additions credited to the policy or
54 any indebtedness to the company on the policy; if a de-
55 tailed statement of the method of computation of the
56 values and benefits shown in the policy is not stated
57 therein a statement that such method of computation has
58 been filed with the insurance supervisory official of the
59 state in which the policy is delivered; and a statement
60 of the method to be used in calculating the cash surren-

61 der value and paid-up nonforfeiture benefit available
62 under the policy on any policy anniversary beyond the
63 last anniversary for which such values and benefits are
64 consecutively shown in the policy.

65 Any of the foregoing provisions or portions thereof,
66 not applicable by reason of the plan of insurance may,
67 to the extent inapplicable, be omitted from the policy.

68 The insurer shall reserve the right to defer the payment
69 of any cash surrender value for a period of six months after
70 demand therefor with surrender of the policy.

71 (2) Any cash surrender value available under the
72 policy in the event of default in a premium payment due
73 on any policy anniversary, whether or not required by
74 subsection one, shall be an amount not less than the
75 excess, if any, of the present value, on such anniversary,
76 of the future guaranteed benefits which would have been
77 provided for by the policy, including any existing paid-up
78 additions, if there had been no default, over the sum of

79 (i) the then present value of the adjusted premiums as
80 defined in subsections four, four-a and four-b, correspond-
81 ing to premiums which would have fallen due on and
82 after such anniversary, and (ii) the amount of any in-
83 debtedness to the insurer on the policy. Any cash sur-
84 render value available within thirty days after any policy
85 anniversary under any policy paid up by completion of all
86 premium payments or any policy continued under any
87 paid-up nonforfeiture benefit, whether or not required by
88 subsection one, shall be an amount not less than the pres-
89 ent value, on such anniversary, of the future guaranteed
90 benefits provided for by the policy, including any exist-
91 ing paid-up additions decreased by any indebtedness to
92 the insurer on the policy.

93 (3) Any paid-up nonforfeiture benefit available un-
94 der the policy in the event of default in a premium pay-
95 ment due on any policy anniversary shall be such that its
96 present value as of such anniversary shall be at least
97 equal to the cash surrender value then provided for by
98 the policy or, if none is provided for that cash surrender
99 value which would have been required by this section
100 in the absence of the condition that premiums shall have
101 been paid for at least a specific period.

102 (4) Except as provided in the third paragraph of this
103 subsection, the adjusted premiums for any policy shall be
104 calculated on an annual basis and shall be such uniform
105 percentage of the respective premiums specified in the
106 policy for each policy year, excluding extra premiums on a
107 substandard policy, that the present value, at the date of
108 issue of the policy, of all such adjusted premiums shall be
109 equal to the sum of (i) the then present value of the future
110 guaranteed benefits provided for by the policy; (ii) two
111 per cent of the amount of insurance, if the insurance
112 be uniform in amount, or of the equivalent uniform
113 amount, as hereinafter defined, if the amount of insur-
114 ance varies with duration of the policy; (iii) forty per
115 cent of the adjusted premium for the first policy year;
116 (iv) twenty-five per cent of either the adjusted premium
117 for the first policy year or the adjusted premium for a
118 whole life policy of the same uniform or equivalent uni-
119 form amount with uniform premiums for the whole of
120 life issued at the same age for the same amount of in-
121 surance, whichever is less: *Provided, however,* That in
122 applying the percentages specified in (iii) and (iv) above,
123 no adjusted premium shall be deemed to exceed four
124 per cent of the amount of insurance or uniform amount
125 equivalent thereto. The date of issue of a policy for
126 the purpose of this subsection shall be the date as of
127 which the rated age of the insured is determined.

128 In the case of a policy providing an amount of in-
129 surance varying with duration of the policy, the equiva-
130 lent uniform amount thereof for the purpose of this
131 subsection shall be deemed to be the uniform amount
132 of insurance provided by an otherwise similar policy,
133 containing the same endowment benefit or benefits, if
134 any, issued at the same age and for the same term, the
135 amount of which does not vary with duration and the
136 benefits under which have the same present value at the
137 date of issue as the benefits under the policy: *Provided,*
138 *however,* That in the case of a policy providing a varying
139 amount of insurance issued on the life of a child under
140 age ten, the equivalent uniform amount may be com-
141 puted as though the amount of insurance provided by

142 the policy prior to the attainment of age ten were the
143 amount provided by such policy at age ten.

144 The adjusted premiums for any policy providing term
145 insurance benefits by rider or supplemental policy pro-
146 vision shall be equal to (a) the adjusted premiums for
147 an otherwise similar policy issued at the same age with-
148 out such term insurance benefits, increased, during the
149 period for which premiums for such term insurance
150 benefits are payable, by (b) the adjusted premiums for
151 such term insurance, the foregoing items (a) and (b)
152 being calculated separately and as specified in the first
153 two paragraphs of this subsection except that, for the
154 purposes of (ii), (iii) and (iv) of the first such para-
155 graph, the amount of insurance or equivalent uniform
156 amount of insurance used in the calculation of the ad-
157 justed premiums referred to in (b) shall be equal to
158 the excess of the corresponding amount determined for
159 the entire policy over the amount used in the calculation
160 of the adjusted premiums in (a).

161 Except as otherwise provided in subsections four-a
162 and four-b, all adjusted premiums and present values
163 referred to in this section shall for all policies of ordinary
164 insurance be calculated on the basis of the Commissioners
165 1941 Standard Ordinary Mortality Table: *Provided*, That
166 for any category of ordinary insurance issued on female
167 risks, adjusted premiums and present values may be
168 calculated according to an age not more than three years
169 younger than the actual age of the insured, and such cal-
170 culations for all policies of industrial insurance shall be
171 made on the basis of the 1941 Standard Industrial Mor-
172 tality Table. All calculations shall be made on the basis
173 of the rate of interest, not exceeding three and one-half
174 per cent per annum, specified in the policy for calculating
175 cash surrender values and paid-up nonforfeiture benefits:
176 *Provided*, That in calculating the present value of any
177 paid-up term insurance with accompanying pure endow-
178 ment, if any, offered as a nonforfeiture benefit, the rate of
179 mortality assumed may be not more than one hundred
180 and thirty per cent of the rates of mortality according
181 to such applicable table: *Provided further*, That for in-
182 surance issued on a substandard basis, the calculation of

183 any such adjusted premiums and present values may be
184 based on such other table of mortality as may be speci-
185 fied by the insurer and approved by the commissioner.

186 (4a) In the case of ordinary policies issued on or
187 after the operative date of this subsection four-a as de-
188 fined herein, all adjusted premiums and present values
189 referred to in this section shall be calculated on the basis
190 of the Commissioners 1958 Standard Ordinary Mortality
191 Table and the rate of interest, not exceeding three and
192 one-half per cent per annum, specified in the policy for
193 calculating cash surrender values and paid-up nonfor-
194 feiture benefits: *Provided*, That for any category of
195 ordinary insurance issued on female risks, adjusted premi-
196 ums and present values may be calculated according to an
197 age not more than three years younger than the actual
198 age of the insured: *Provided, however*, That in calcu-
199 lating the present value of any paid-up term insurance
200 with accompanying pure endowment, if any, offered as
201 a nonforfeiture benefit, the rates of mortality assumed may
202 be not more than those shown in the Commissioners 1958
203 Extended Term Insurance Table: *Provided further*, That
204 for insurance issued on a substandard basis, the calcula-
205 tion of any such adjusted premiums and present values
206 may be based on such other table of mortality as may be
207 specified by the company and approved by the commissioner.

208 After June third, one thousand nine hundred fifty-nine,
209 any company may file with the commissioner a written
210 notice of its election to comply with the provisions of this
211 subsection after a specified date before January first, one
212 thousand nine hundred sixty-six. After the filing of such
213 notice, then upon such specified date (which shall be
214 the operative date of this subsection for such company),
215 this subsection shall become operative with respect to the
216 ordinary policies thereafter issued by such company. If
217 a company makes no such election, the operative date
218 of this subsection for such company shall be January first,
219 one thousand nine hundred sixty-six.

220 (4b) In the case of industrial policies issued on or
221 after the operative date of this subsection four-b as de-
222 fined herein, all adjusted premiums and present values
223 referred to in this section shall be calculated on the basis

224 of the Commissioners 1961 Standard Industrial Mortality
225 Table and the rate of interest, not exceeding three and
226 one-half per cent per annum, specified in the policy for
227 calculating cash surrender values and paid-up nonfor-
228 feiture benefits: *Provided, however,* That in calculating
229 the present value of any paid-up term insurance with
230 accompanying pure endowment, if any, offered as a non-
231 forfeiture benefit, the rates of mortality assumed may
232 be not more than those shown in the Commissioners 1961
233 Industrial Extended Term Insurance Table: *Provided*
234 *further,* That for insurance issued on a substantial basis,
235 the calculation of any such adjusted premiums and
236 present values may be based on such other table of mor-
237 tality as may be specified by the company and approved
238 by the commissioner.

239 After the effective date of this amendatory act, any
240 company may file with the commissioner a written no-
241 tice of its election to comply with the provisions of this
242 subsection after a specified date before January first,
243 one thousand nine hundred sixty-eight. After the filing of
244 such notice, then upon such specified date (which shall
245 be the operative date of this subsection for such com-
246 pany), this subsection shall become operative with re-
247 spect to the industrial policies thereafter issued by such
248 company. If a company makes no such election, the
249 operative date of this subsection for such company shall
250 be January first, one thousand nine hundred sixty-eight.

251 (5) Any cash surrender value and any paid-up non-
252 forfeiture benefit, available under the policy in the event
253 of default in a premium payment due at any time other
254 than on the policy anniversary, shall be calculated with
255 allowance for the lapse of time and the payment of
256 fractional premiums beyond the last preceding policy
257 anniversary. All values referred to in subsections two,
258 three, four, four-a, and four-b may be calculated upon
259 the assumption that any death benefit is payable at the
260 end of the policy year of death. The net value of any
261 paid-up additions, other than paid-up term additions, shall
262 be not less than the dividends paid to provide such addi-
263 tions. Notwithstanding the provisions of subsection two,
264 additional benefits payable (a) in the event of death or

265 dismemberment by accident or accidental means, (b) in
266 the event of total and permanent disability, (c) as re-
267 versionary or deferred reversionary annuity benefits,
268 (d) as term insurance benefits provided by a rider or
269 supplemental policy provision to which, if issued as a
270 separate policy, this subsection would not apply, (e) as
271 term insurance on the life of a child or on the lives of
272 children provided in a policy on the life of a parent of
273 the child, if such term insurance expires before the child's
274 age is twenty-six, is uniform in amount after the child's
275 age is one, and has not become paid up by reason of the
276 death of a parent of the child, and (f) as other policy
277 benefits additional to life insurance and endowment
278 benefits, and premiums for all such additional benefits,
279 shall be disregarded in ascertaining cash surrender values
280 and nonforfeiture benefits required by this section, and
281 no such additional benefits shall be required to be in-
282 cluded in any paid-up nonforfeiture benefits.

283 (6) This section shall not apply to any reinsurance,
284 group insurance, pure endowment, annuity or reversion-
285 ary annuity contract, nor to any term policy of uniform
286 amount, or renewal thereof, of fifteen years or less ex-
287 piring before age sixty-six, for which uniform premiums
288 are payable during the entire term of the policy, nor to
289 any term policy of decreasing amount on which each
290 adjusted premium, calculated as specified in subsections
291 four, four-a and four-b, is less than the adjusted premium
292 so calculated on a policy issued at the same age and for
293 the same initial amount of insurance for a term defined
294 as follows—for ages at issue fifty and under, the term
295 shall be fifteen years, thereafter, the terms shall decrease
296 one year for each year of age beyond fifty, nor to any
297 policy for which shall be delivered outside this state
298 through an agent or other representative of the insurer
299 issuing the policy.

CHAPTER 88

(Senate Bill No. 114—By Mr. Holden, by request)

[Passed February 24, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article seventeen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve, relating to the payment of the proceeds of a fire insurance policy by an insurer.

Be it enacted by the Legislature of West Virginia:

That article seventeen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twelve, to read as follows:

Article 17. Fire and Marine Insurance.

Section

12. Payment discharges insurer.

Section 12. Payment Discharges Insurer.—Whenever
2 the proceeds of or payment under a policy of fire insur-
3 ance covering property located in West Virginia hereto-
4 fore or hereafter issued becomes payable, and the in-
5 surer makes payment thereof to the person or persons
6 designated in the policy or contract or if the proceeds
7 have been assigned and written notice of such assignment
8 given to the insurer, to the person or persons being en-
9 titled thereto by virtue of such assignment, such payment
10 shall fully discharge the insurer from all claims under the
11 policy or contract. This section is declared to be appli-
12 cable to all insurers, including farmers' mutual fire insur-
13 ance companies.

CHAPTER 89

(Senate Bill No. 154—By Mr. McCourt)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment, qualification and compensation of jury commissioners.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Petit Juries.

Section

3. Jury commissioners; appointment and qualification; term; removal; vacancies; compensation; oath; powers and duties generally.

Section 3. Jury Commissioners; Appointment and Qualification; Term; Removal; Vacancies; Compensation; Oath; Powers and Duties Generally.—There shall be two jury commissioners of the circuit court of each county. They shall be of opposite politics, citizens of good standing, residents in the county for which they are appointed, and well-known members of the principal political parties thereof; but the chairman of any political party shall be ineligible to appointment, and no jury commissioner shall be eligible to reappointment after he shall have served four consecutive years. They shall be appointed by the circuit court, or the judge thereof in vacation, of their respective counties. Their term of office shall be four years, and shall commence on the first day of June next after their appointment. The jury commissioners appointed by the circuit court or the judge thereof, in office when this code takes effect, shall continue in office, unless removed, until the expiration of their respective terms of office, and their successors shall be appointed, as aforesaid, alternate-

20 ly, so that a period of two years shall intervene between
 21 the dates when the terms of office of the two commission-
 22 ers shall begin and expire. They may be removed from
 23 office by the court or judge having the power of appoint-
 24 ment, for official misconduct, incompetency, habitual
 25 drunkenness, neglect of duty or gross immorality. Vacan-
 26 cies caused by death, resignation or otherwise, shall be
 27 filled for the unexpired term in the same manner as the
 28 original appointments. They shall receive as compensation
 29 for their services, while necessarily employed as such jury
 30 commissioners, an amount to be fixed by the judge of the
 31 circuit court, which amount for each jury commissioner
 32 shall not exceed one hundred fifty dollars per year and be
 33 payable out of the county treasury upon the order of the
 34 circuit court. Before entering upon the discharge of his
 35 duties, a jury commissioner shall take and subscribe, be-
 36 fore the clerk of the circuit court, who is hereby author-
 37 ized to administer the same, an oath, to be filed and pre-
 38 served by him in his office, to the following effect:

39 State of West Virginia,

40 County of _____, to-wit:

41 I, A _____ B _____, do solemnly
 42 swear that I will support the Constitution of the United
 43 States and the Constitution of this State and will faith-
 44 fully discharge the duties of jury commissioner to the
 45 best of my skill and judgment, and that I will not place
 46 any person upon the jury list in violation of law, or out
 47 of fear, favor or affection.

48 There shall be two jury commissioners for every court
 49 of limited jurisdiction, who shall be appointed by such
 50 courts, or the judges thereof in vacation, respectively,
 51 and whose terms of office and compensation shall be the
 52 same as jury commissioners of the circuit courts. The
 53 same powers conferred and duties imposed by this article
 54 upon the circuit courts, or the judges thereof in vacation,
 55 and upon the clerks and jury commissioners of the circuit
 56 courts, are hereby conferred and imposed upon every
 57 court of limited jurisdiction and the judges thereof re-
 58 spectively, and upon the clerks and jury commissioners
 59 of such courts of limited jurisdiction.

CHAPTER 90

(House Bill No. 658—By Mr. Speaker, Mr. White)

[Passed March 4, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-a, relating to authority of the commissioner of labor to investigate and mediate labor disputes if requested by both parties to the dispute, or if he offers to do so and both parties agree thereto.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-a, to read as follows:

Article 1-a. Labor-Management Relations.

Section

1. Declaration of policy.
2. Investigation and mediation by commissioner of certain labor disputes.

Section 1. Declaration of Policy.—It is hereby declared
2 as the public policy of this state that the best interests
3 of the people of the state are served by the prevention
4 or prompt settlement of labor disputes and that the vol-
5 untary mediation of such disputes under the guidance
6 and supervision of a governmental agency will tend to
7 promote permanent industrial peace and the health, wel-
8 fare, comfort and safety of the people of the state.

**Sec. 2. Investigation and Mediation by Commissioner
2 of Certain Labor Disputes.**—The commissioner or his
3 designated representative may investigate and mediate
4 labor disputes between an employer and an employee
5 group or union whether or not a collective bargaining
6 agreement exists between such parties providing both
7 parties to such dispute request in writing such interven-
8 tion or provided the commissioner offers such service to

9 both parties and both parties to the dispute agree in
 10 writing to the investigation or mediation. The commis-
 11 sioner may arbitrate such disputes or arrange for the
 12 selection of boards of arbitration on such terms as all of
 13 the parties to such dispute may agree upon. Records
 14 of the department relating to labor disputes shall be
 15 confidential.

— c —

CHAPTER 91

(House Bill No. 677—By Mr. Cann)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a, relating to using minimum standards of national electrical code for installation of electrical wiring, apparatus and equipment for electrical light, heat and power in factories, mercantile establishments, mills or workshops.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-a, to read as follows:

Article 3. Safety and Welfare of Employees.

Section

3-a. National electrical code minimum standards.

Section 3-a. National Electrical Code Minimum Stand-
 2 **ards.**—In every factory, mercantile establishment, mill
 3 or workshop, the installation, alteration, repair, moving,
 4 removal, maintenance and conversion of all electrical
 5 wiring and apparatus and equipment shall be done in
 6 accordance with the minimum standards of safety and
 7 construction as set by the copyrighted national electrical

8 code, as promulgated, from time to time, by the national
9 fire protection association.

CHAPTER 92

(House Bill No. 659—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-b, relating to the abolishment of discriminatory wage rates based on sex, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-b, to read as follows:

Article 5-b. Equal Pay for Equal Work.

Section

1. Definitions.
2. State commissioner of labor to enforce article.
3. Payment of wages for work of comparable character; exceptions.
4. Employee's right of action against his employer.
5. Offenses; penalties.
6. Severability.

Section 1. Definitions.—(1) "Employer" means any
2 person, partnership, firm or corporation employing one
3 or more employees, but does not include the state, or any
4 municipal corporation or political subdivision of the state
5 having in force a civil service system based on merit:
6 *Provided*, That the term employer shall not include any
7 individual, corporation, business trust, or similar unit
8 whose operations are subject to any federal act relating
9 to equal wages for equal work, regardless of sex.

10 (2) "Employee" means any individual who, otherwise
11 than as a co-partner of the employer or as an independent

12 contractor, renders personal services wholly or partly in
13 this state to an employer who pays or agrees to pay such
14 individual at a fixed rate: *Provided, however,* That where
15 services are rendered only partly in this state, an individ-
16 ual is not an employee unless his contract of employment
17 has been entered into, or payments thereunder are ordi-
18 narily made or are to be made, within this state.

19 (3) "Wages" means all compensation for performance
20 of service by an employee for an employer whether paid
21 by the employer or another person, including cash value
22 of all compensation paid in any medium other than cash.

23 (4) "Rate" with reference to wages means the basis
24 of compensation for services by an employee for an em-
25 ployer and includes compensation based on the time spent
26 in the performance of such services, or on the number
27 of operations accomplished, or on the quantity produced
28 or handled.

29 (5) "Unpaid wages" means the difference between
30 the wages actually paid to an employee and the wages
31 required under section three of this article, to be paid to
32 such employee.

Sec. 2. State Commissioner of Labor to Enforce Article.

2 —The state commissioner of labor shall have the power
3 and it shall be his duty to carry out and enforce the pro-
4 visions of this article.

**Sec. 3. Payment of Wages for Work of Comparable
2 Character; Exceptions.—**(1) No employer shall: (a) In
3 any manner discriminate between the sexes in the pay-
4 ment of wages for work of comparable character, the
5 performance of which requires comparable skills; (b)
6 pay wages to any employee at a rate less than that at
7 which he pays wages to his employees of the opposite
8 sex for work of comparable character, the performance
9 of which requires comparable skills.

10 (2) Subsection (1) of this section does not apply
11 where: (a) Payment is made pursuant to a seniority or
12 merit system which does not discriminate on the basis of
13 sex. (b) A differential in wages between employees is
14 based in good faith on factors other than sex. No

15 employee shall be reduced in wages in order to eliminate
16 an existing, past or future wage discrimination or to
17 effectuate wage equalization.

18 (3) No employer shall in any manner discriminate
19 in the payment of wages against any employee because
20 the employee has filed a complaint in a proceeding under
21 this article, or has testified, or is about to testify, or be-
22 cause the employer believes that the employee may
23 testify, in any investigation or proceedings pursuant to
24 this article or in a criminal action pursuant to this article.

**Sec. 4. Employee's Right of Action against His Em-
2 ployer.—**(1) Any employee whose compensation is at a
3 rate that is in violation of section three of this article
4 shall have a right of action against his employer for
5 the recovery of (a) the amount of the unpaid wages
6 to which the employee is entitled for the one-year period
7 preceding the commencement of the action, and (b) an
8 additional amount as liquidated damages equal to the
9 amount referred to in paragraph (a) of this subsection.

10 (2) In addition to any judgment awarded to the
11 plaintiff, the court shall allow reasonable attorney's fees
12 to be taxed as costs in any judgment recovered.

13 (3) The action for the unpaid wages and liquidated
14 damages may be maintained by one or more employees
15 on behalf of themselves or other employees similarly
16 situated.

17 (4) No agreement for compensation at a rate of less
18 than the rate to which such employee is entitled under
19 this article is a defense to any action under this article.

Sec. 5. Offenses; Penalties.—In addition to the civil
2 damages recoverable under section four of this article,
3 any employer who violates any of the provisions of this
4 article shall, upon conviction thereof, be guilty of a mis-
5 demeanor and shall be fined not less than twenty-five
6 dollars nor more than one hundred dollars.

Sec. 6. Severability.—If any provision of this article
2 or the application thereof to any person or circum-
3 stances shall be held invalid, such invalidity shall not
4 affect the provisions or application of this article which

5 can be given effect without the invalid provisions or
 6 application, and to this end the provisions of this article
 7 are declared to be severable.

CHAPTER 93

(Senate Bill No. 156—By Mr. McCourt)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five, to encourage landowners to make available to the public land and water areas and other property for recreational purposes by limiting their liability toward users.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-five, to read as follows:

Article 25. Limiting Liability of Landowners.

Section

1. Purpose.
2. Limiting duty of landowner generally.
3. Limiting duty of landowner who leases land to state, counties, municipalities or agencies.
4. Application of article.
5. Definitions.
6. Severability.

Section 1. Purpose.—The purpose of this article is to
 2 encourage owners of land to make available to the public
 3 land and water areas for recreational purposes by limiting
 4 their liability toward persons entering thereon and toward
 5 persons who may be injured or otherwise damaged by the
 6 acts or omissions of persons entering thereon.

Sec. 2. Limiting Duty of Landowner Generally.—Sub-
 2 ject to the provisions of section four of this article, an

3 owner of land owes no duty of care to keep the premises
4 safe for entry or use by others for recreational purposes,
5 or to give any warning of a dangerous or hazardous condi-
6 tion, use, structure, or activity on such premises to persons
7 entering for such purposes.

8 Subject to the provisions of section four of this article,
9 an owner of land who either directly or indirectly invites
10 or permits without charge any person to use such property
11 for recreational purposes does not thereby (a) extend
12 any assurance that the premises are safe for any purpose,
13 or (b) confer upon such persons the legal status of an
14 invitee or licensee to whom a duty of care is owed, or
15 (c) assume responsibility for or incur liability for any in-
16 jury to person or property caused by an act or omission
17 of such persons.

Sec. 3. Limiting Duty of Landowner Who Leases Land to State, Counties, Municipalities or Agencies.—Unless
2 otherwise agreed in writing, an owner of land leased to
3 the state or any agency thereof, or any county or munic-
4 ipality or agency thereof, for recreational purposes owes
5 no duty of care to keep that land safe for entry or use by
6 others or to give warning to persons entering or going
7 upon such land of any dangerous or hazardous conditions,
8 uses, structures or activities thereon. An owner who leases
9 land to the state or any agency thereof, or any county or
10 municipality or agency thereof, for recreational purposes
11 shall not by giving such lease (a) extend any assurance
12 to any person using the land that the premises are safe
13 for any purpose, or (b) confer upon such persons the legal
14 status of an invitee or licensee to whom a duty of care is
15 owed, or (c) assume responsibility for or incur liability
16 for any injury to person or property caused by an act or
17 omission of a person who enters upon the leased land.
18 The provisions of this section apply whether the person
19 entering upon the leased land is an invitee, licensee, tres-
20 passer or otherwise.

Sec. 4. Application of Article.—Nothing herein limits
2 in any-way any liability which otherwise exists (a) for
3 wilful or malicious failure to guard or warn against a
4 dangerous or hazardous condition, use, structure, or activ-

5 ity, or (b) for injury suffered in any case where the
6 owner of land charges the person or persons who enter or
7 go on the land other than the amount, if any, paid to the
8 owner of the land by the state or any agency thereof, or
9 any county or municipality or agency thereof.

10 Nothing herein creates a duty of care or ground of lia-
11 bility for injury to person or property.

12 Nothing herein limits in any way the obligation of a
13 person entering upon or using the land of another for
14 recreational purposes to exercise due care in his use of
15 such land and in his activities thereon.

Sec. 5. Definitions.—For purposes of this article: (a)

2 The term “land” shall include, but not be limited to, roads,
3 water, watercourses, private ways and buildings, struc-
4 tures and machinery or equipment thereon when attached
5 to the realty, (b) the term “owner” shall include, but not
6 be limited to, tenant, lessee, occupant or person in control
7 of the premises, (c) the term “recreational purposes”
8 shall include, but not be limited to, any one or any combi-
9 nation of the following: Hunting, fishing, swimming, boat-
10 ing, camping, picnicking, hiking, pleasure driving, nature
11 study, water skiing, winter sports and visiting, viewing
12 or enjoying historical, archaeological, scenic or scientific
13 sites, or otherwise using land for purposes of the user, and
14 (d) the term “charge” shall mean the amount of money
15 asked in return for an invitation to enter or go upon the
16 land.

Sec. 6. Severability.—The provisions of this article are
2 severable. If any section, subsection, sentence, clause or
3 provision of this article is held invalid, the remainder of
4 the article shall not be affected.

CHAPTER 94

(House Bill No. 926—By Mr. Scibert)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section twelve, article two,
chapter two of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, relating to headings of acts of the Legislature and explanatory notes attached to bills introduced in the Legislature.

Be it enacted by the Legislature of West Virginia:

That section twelve, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Legal Holidays; Construction of Statutes; Definitions.
Section

12. Headlines, et cetera, not part of act; notes, et cetera, attached to bills not to be construed as expressing legislative intent.

Section 12. Headlines, Et Cetera, Not Part of Act; Notes, Et Cetera, Attached to Bills Not to Be Construed as Expressing Legislative Intent.—Chapter, article or section headings, headlines or headnotes of any act of the Legislature, whether in the act at the time of passage or inserted by the clerk of the house of delegates in editing, compiling and publishing the acts of the Legislature, are hereby declared to be mere catchwords and shall not be deemed or construed to be titles of such chapters, articles or sections, or as any part thereof, or as indicating or expressing legislative intent or purpose.

Abstracts of bills or of changes proposed in existing statutes, explanatory notes and declarations of purpose accompanying bills at the time of introduction in the Legislature or appended or attached thereto after introduction, and included with copies of such bills printed or otherwise reproduced by the Legislature or either house thereof, are hereby declared not to be a part of such bills or of reports of committees thereon, and shall not be construed or interpreted as indicating or expressing legislative intent.

CHAPTER 95

(Com. Sub. for Senate Bill No. 232—By Mr. Carson,
Mr. President)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by

adding thereto a new article, designated article three, relating to making the joint committee on government and finance a statutory body, and its powers and duties.

Be it enacted by the Legislature of West Virginia:

That chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three, to read as follows:

Article 3. Joint Committee on Government and Finance.

Section

1. Continued as statutory body; composition; appointment and terms of members.
2. Expenses of committee; compensation of members.
3. Powers and duties generally; report to Legislature; office.
4. Access to records of state agency or department; public hearings to make investigations and surveys; administering oaths to persons testifying; compelling attendance of witnesses; production of evidence.

Section 1. Continued as Statutory Body; Composition;

2 **Appointment and Terms of Members.**—The joint committee on government and finance, heretofore existing under
3 a joint rule of the senate and house of delegates, is hereby
4 continued as a statutory body. This committee shall be
5 composed of seven members of the senate, six of whom
6 shall be appointed by the president of the senate, and
7 seven members of the house of delegates, six of whom
8 shall be appointed by the speaker of the house of dele-
9 gates. The six members appointed by the president of the
10 senate shall include the majority leader of the senate, the
11 minority leader of the senate, the chairman of the senate
12 committee on the judiciary and the chairman of the senate
13 committee on finance. The six members appointed by the
14 speaker of the house of delegates shall include the major-
15 ity leader of the house of delegates, the minority leader
16 of the house of delegates, the chairman of the house com-
17 mittee on the judiciary and the chairman of the house
18 committee on finance. The president of the senate and the
19 speaker of the house of delegates shall be members of the
20 committee and cochairmen thereof. Not more than five of
21 the members of the committee from each house shall be
22 members of the same political party. The members shall
23

24 serve until their successors shall have been appointed as
25 heretofore provided.

Sec. 2. Expenses of Committee; Compensation of Mem-
2 **bers.**—The expenses of the committee shall be paid from
3 the contingent fund of the senate and contingent fund of
4 the house of delegates in equal amounts. The members
5 of the committee shall receive no remuneration for their
6 services, other than actual expenses incurred in the dis-
7 charge of their duties hereunder as approved by the
8 committee.

Sec. 3. Powers and Duties Generally; Report to Legisla-
2 **ture; Office.**—It shall be the duty of the committee to con-
3 sider matters referred to it by legislative resolution, and
4 to study and survey matters of government, finance, and
5 claims against the state and to make a report of its studies,
6 findings and such recommendations as it may deem proper
7 and as well all expenditures of said committee to regular
8 annual sessions of the Legislature. The committee is
9 hereby vested with power and authority to employ and
10 supervise the legislative auditor, as provided in article
11 two of this chapter; and to employ other technical and
12 clerical personnel as may from time to time be necessary;
13 and to establish a legislative reference library. The com-
14 mittee shall be vested with and authorized to exercise all
15 powers granted such committee by legislative resolution,
16 and the statutes and constitution of the state of West Vir-
17 ginia. The committee may function and exercise any
18 power granted it either during the interim periods be-
19 tween sessions of the Legislature or while the Legislature
20 is in session. The office of said committee shall be main-
21 tained at the state capitol.

Sec. 4. Access to Records of State Agency or Depart-
2 **ment; Public Hearings to Make Investigations and Sur-**
3 **veys; Administering Oaths to Persons Testifying; Com-**
4 **PELLING ATTENDANCE OF WITNESSES; PRODUCTION OF EVIDENCE.**
5 —For the purpose of obtaining information in conjunction
6 with the formulation of new laws or the revision of exist-
7 ing laws, the committee, or an employee duly authorized
8 by the committee, shall have access to records of every
9 agency or department of the state.

10 In addition, the committee, or any employee duly au-
11 thorized by the committee, is empowered to hold public
12 hearings at such times and places within the state as may
13 be desirable to make investigations and surveys, and
14 either cochairman or any member of the committee shall
15 have the power to administer oaths to persons testifying
16 at such hearings. By subpoena, issued over the signature
17 of either chairman of the committee and served in the
18 manner provided by law, the committee may summon and
19 compel the attendance of witnesses and their examination
20 under oath and the production of all books, papers, docu-
21 ments and records necessary or convenient to be exam-
22 ined and used by the committee in the performance of its
23 duties. If any witness subpoenaed to appear at such hear-
24 ing shall refuse to appear or to answer inquiries there
25 propounded, or shall fail or refuse to produce books,
26 papers, documents or records within his or her control
27 when the same are demanded, the committee shall report
28 the facts to the circuit court of Kanawha county or any
29 other court of competent jurisdiction and such court may
30 compel obedience to the subpoena as though such sub-
31 poena had been issued by such court in the first instance.
32 Witnesses subpoenaed to attend such hearings shall be
33 allowed the same mileage and per diem as is allowed
34 witnesses before any petit jury in this state.

CHAPTER 96

(Senate Bill No. 177—By Mr. Martin)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section one-a, article one, chap-
ter thirty-eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to deeds of
trust conveying real property and/or personal property

and certain limitations on the application of said article one.

Be it enacted by the Legislature of West Virginia:

That section one-a, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Vendor's and Trust Deed Liens.

Section

- 1-a. Deeds of trust conveying real and/or personal property; limitations on application of this article.

Section 1-a. Deeds of Trust Conveying Real and/or Personal Property; Limitations on Application of This Article.
2 **sonal Property; Limitations on Application of This Article.**
3 —A deed of trust may convey both real property or some
4 interest therein and personal property or only real prop-
5 erty or some interest therein or only personal property
6 in order to secure a debt. This article shall apply to
7 deeds of trust that convey real property or some interest
8 therein or both real property or some interest therein
9 and personal property. Deeds of trust conveying only
10 personal property are governed by article nine of chap-
11 ter forty-six of this code. If the deed of trust conveys
12 both real and personal property, a financing statement as
13 to the personal property shall be required as specified in
14 article nine, chapter forty-six of this code, and the trustee
15 may proceed as to the sale or other disposition of the
16 personal property involved under said article nine of chap-
17 ter forty-six and of the real property involved under this
18 article or he may proceed as to the sale or other disposi-
19 tion of both the real and personal property involved
20 under this article. In all other respects this article is
21 applicable to the conveyance of real property by deed
22 of trust, and article nine of chapter forty-six is applicable
23 to the conveyance of personal property by deed of trust.
24 For purposes of this section, personal property is any
25 property right or interest in which a security interest
26 under article nine of chapter forty-six of this code may
27 be obtained or created.

CHAPTER 97

(Senate Bill No. 129—By Mr. Carson, Mr. President)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article five-a, and section seven, article five-b, all of chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the renewal of a suggestee execution directed against the salary and wages of persons engaged in private employment and the renewal of a suggestee execution directed against the salary and wages of persons employed by the state, a state agency or political subdivision.

Be it enacted by the Legislature of West Virginia:

That section seven, article five-a, and section seven, article five-b, all of chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article

5-a. Suggestions of Salary and Wages of Persons Engaged in Private Employment.

5-b. Suggestion of the State and Political Subdivisions; Garnishment and Suggestion of Public Officers.

Article 5-a. Suggestions of Salary and Wages of Persons Engaged in Private Employment.

Section

7. Renewal of suggestee executions.

Section 7. Renewal of Suggestee Executions.—A suggestee execution which shall expire wholly or partly unsatisfied may be renewed from time to time in the manner in which it was originally issued and for a like period. The renewal execution shall conform to the original save that it shall state in addition the fact that it is a renewal and shall be issued only for the balance due on the judgment. A renewal execution shall retain the same priority of lien as the original if, and only if, served within a thirty-day period ending on the date of the expiration of

- 11 the life of the original or the last previous renewal, as
12 the case may be.

**Article 5-b. Suggestion of the State and Political Subdivisions;
Garnishment and Suggestion of Public Officers.**

Section

7. Renewal of suggestee executions.

Section 7. Renewal of Suggestee Executions.—A sug-
2 gestee execution which shall expire wholly or partly un-
3 satisfied may be renewed from time to time in the manner
4 in which it was originally issued and for a like period.
5 The renewal execution shall conform to the original save
6 that it shall state in addition the fact that it is a renewal
7 and shall be issued only for the balance due on the judg-
8 ment. A renewal execution shall retain the same priority
9 of lien as the original if, and only if, served within a
10 thirty-day period ending on the date of the expiration of
11 the life of the original or the last previous renewal, as
12 the case may be.

— c —

CHAPTER 98

(Com. Sub. for House Bill No. 586—By Mr. Speaker, Mr. White,
and Mr. Poindexter)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to repeal article ten, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal articles one, four, five and six of said chapter twenty-seven and to enact in lieu thereof new articles one, four, five and six; and to amend and reenact sections one, two, four, five, six, seven, eight, nine and ten, article one-a; sections one, two, three, four and five, article two; section two, article three; sections one, three, four and five, article seven; article eight; section one, article nine; sections one, two, three and five, article eleven; article twelve, and section two, article thirteen, all of said chapter twenty-seven, relating to mentally ill

and mentally retarded persons and inebriates; defining certain words and phrases; relating to the department of mental health; changing the name of the West Virginia training school to Colin Anderson center; relating to the state hospitals as therein defined; changing certain terminology; providing for the voluntary hospitalization of the mentally ill and mentally retarded; providing for the involuntary hospitalization of the mentally ill and mentally retarded on medical certification; providing an emergency procedure for the involuntary hospitalization of the mentally ill on medical certification; providing an emergency procedure for the involuntary hospitalization of the mentally ill without medical certification; providing a legal procedure for the involuntary hospitalization of the mentally ill and mentally retarded; providing for judicial review of an order of commitment to a state hospital entered by a mental hygiene commission; providing for an examination of newly admitted patients; providing for hospitalization by an agency of the United States; providing for the commitment of inebriates by mental hygiene commissions; providing for the commitment and admission of criminally mentally ill persons and of the return of criminally mentally ill persons upon discharge from a state hospital; providing for the release, discharge and readmission of patients and of escapees; providing for the maintenance of mentally ill and mentally retarded patients; providing for the licensing of hospitals for the mentally ill and mentally retarded by the director of mental health; providing for the appointment of a committee for the mentally ill and mentally retarded; providing the duties of such committee; providing for certain offenses and penalties; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that articles one, four, five and six of said chapter twenty-seven be repealed, and new articles one, four, five and six be enacted in lieu thereof; that sections one, two, four, five, six, seven, eight, nine and ten, article one-a; sections one, two, three, four and five, article two; section two, article

three; sections one, three, four and five, article seven; article eight; section one, article nine; sections one, two, three and five, article eleven; article twelve, and section two, article thirteen, all of said chapter twenty-seven, be amended and reenacted, all to read as follows:

Article

1. Words and Phrases Defined.
- 1-a. Department of Mental Health.
2. State Hospitals and Colin Anderson Center.
3. Mental Hygiene Commission.
4. Voluntary Hospitalization.
5. Involuntary Hospitalization.
6. Commitment of Inebriates and Criminally Mentally Ill.
7. Release, Discharge and Readmission of Patients; Escapees.
8. Maintenance of Mentally Ill or Mentally Retarded Patients.
9. Licensing of Hospitals.
11. Commitment; Disposition of Property.
12. Offenses.
13. Laws Repealed; Severability.

Article 1. Words and Phrases Defined.

Section

1. Definitions for purposes of chapter.
2. Mentally ill.
3. Mentally retarded.
4. Inebriate.
5. Physician.
6. State hospital.
7. Superintendent.
8. Resident of state and county.

Section 1. Definitions for Purposes of Chapter.—The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this article, unless the context clearly requires a different meaning.

Sec. 2. Mentally Ill.—A “mentally ill” person is one having a psychiatric or other disease which substantially impairs his mental health.

Sec. 3. Mentally Retarded.—A “mentally retarded” person is one having an inadequately developed or impaired intellect, and who because thereof is significantly disabled in his ability to learn and to adapt to the demands of society.

Sec. 4. Inebriate.—An “inebriate” person is anyone over the age of eighteen years who is incapable or unfit to properly conduct himself or herself, or his or her affairs, or is dangerous to himself or herself or others,

5 by reason of periodical, frequent or constant drunken-
 6 ness, induced either by the use of alcoholic or other
 7 liquors, or of opium, morphine, or other narcotic or in-
 8 toxicating or stupefying substance.

Sec. 5. Physician.—A “physician” is a person licensed
 2 under the laws of this state to practice medicine or a
 3 medical officer of the government of the United States
 4 while in this state in the performance of his official
 5 duties.

Sec. 6. State Hospital.—A “state hospital” refers to
 2 Spencer state hospital, Lakin state hospital, Huntington
 3 state hospital, Barboursville state hospital, Weston state
 4 hospital, Colin Anderson center, and any other hospital,
 5 center, or institution, or part thereof, established, main-
 6 tained, and operated by the state or by the state in con-
 7 junction with a political subdivision of the state to pro-
 8 vide in-patient care and treatment for the mentally ill,
 9 or mentally retarded, or both.

Sec. 7. Superintendent.—A “superintendent” is the
 2 physician having the administrative responsibility for
 3 the state hospital.

Sec. 8. Resident of State and County.—A “resident of
 2 the state” is any person who has had an established resi-
 3 dency in this state for at least one year, and a “resident
 4 of the county” is any person who has had an established
 5 residency in a county for at least sixty days.

Article 1-a. Department of Mental Health.

Section

1. Statement of policy.
2. Creation; composition; control of state hospitals.
4. Powers and duties of director.
5. Division of administration; powers and duties of supervisor.
6. Division of professional services; powers and duties of supervisor;
liaison with other state agencies.
7. Division of community services; powers and duties of supervisors.
8. Superintendents to pay money to state treasury through department
of mental health; appropriations; deficiency; how met.
9. Transfer of control, records and property from the board of control
to the department of mental health.
10. Transfer of records and personnel from department of health to divi-
sion of community services.

Section 1. Statement of Policy.—The purpose of this
 2 article is to improve the administration of the state hos-

3 pits, raise the standards of treatment of the mentally
4 ill and mentally retarded in the state hospitals, encourage
5 the further development of out-patient and diagnostic
6 clinics, establish better research and training programs,
7 and promote the development of mental health.

Sec. 2. Creation; Composition; Control of State Hos-
2 **pitals.**—There shall be a state department of mental
3 health, to be known as the department of mental health.
4 It shall be a corporation and, as such, shall have a seal
5 and may contract and be contracted with. The depart-
6 ment shall consist of a director of mental health, super-
7 visors of divisions of the department, and such other
8 employees as are needed to carry out its functions. The
9 department shall supervise and control the state hos-
10 pitals.

Sec. 4. Powers and Duties of Director.—The director
2 shall appoint the superintendents of the state hospitals,
3 shall supervise and coordinate their medical and fiscal
4 administration, and may establish uniform policies for
5 state hospitals. He may transfer a patient from any state
6 hospital to any other state hospital or clinic under his
7 control. By agreement between the director of mental
8 health and the state commissioner of public institutions,
9 a patient at a state hospital may be transferred to an
10 institution, other than correctional, under the super-
11 vision of the state commissioner of public institutions.
12 The director of mental health shall have all the au-
13 thority vested in the divisions of the department, as here-
14 inafter provided, and shall appoint the supervisors of those
15 divisions. He may prescribe rules and regulations to
16 carry out his authority. The director shall make periodic
17 reports to the governor and to the Legislature on the con-
18 dition of the state hospitals and on other matters within
19 his authority, and shall include recommendations for im-
20 provement of the state hospitals and any other matters
21 affecting the mental health of the people of the state.

22 The director is hereby authorized and empowered to
23 accept and use for the benefit of a state hospital or hos-
24 pitals, or for any other mental health purpose specified in
25 this chapter, any gift or devise of any property or thing

26 which lawfully may be given. If such a gift or devise
27 is for a specific purpose or for a particular state hospital
28 or hospitals, it shall be used as specified, and the director
29 is hereby vested with the title to the property which
30 is or may be the subject of such gift or devise. Any gift
31 or devise of any property or thing which lawfully may
32 be given and whatever profit may arise from its use or
33 investment shall be deposited in a special revenue fund
34 with the state treasurer, and shall be used only as speci-
35 fied by the donor or donors.

36 Whenever it shall become necessary, the department of
37 mental health may condemn any interest, right or privi-
38 lege, land or improvement which in its opinion may be
39 necessary, in the manner provided by law for the acquisi-
40 tion by this state of property for public purposes. The
41 state shall be under no obligation to accept and pay for
42 any property condemned, and shall in no event pay for
43 the same except from the funds provided; and in any
44 proceeding to condemn, such orders shall be made by
45 the court having jurisdiction of the suit, action or pro-
46 ceedings as may be just to the state and to the owners
47 of property to be condemned, and a bond or other se-
48 curity may be required by the court securing such owners
49 against any loss or damage to be sustained by reason of
50 the failure of the state to accept and pay for the property,
51 but such bond or security shall impose no liability
52 or debt on or of the state as contemplated by the pro-
53 visions of the constitution of the state in relation to
54 state debt.

Sec. 5. Division of Administration; Powers and Duties
2 **of Supervisor.**—There shall be a division of administra-
3 tion in the department of mental health. The supervisor
4 of this division shall assist the director of the depart-
5 ment in performing his general administrative duties,
6 and shall also have the following powers and duties:

- 7 (1) To keep the records of the department, including
8 records transferred from the board of control.
- 9 (2) To receive and disburse funds for the department.
- 10 (3) To assemble and analyze departmental budget esti-

11 mates, review requests for transfer of funds, and main-
12 tain departmental appropriation and fiscal records.

13 (4) To make rules and regulations governing the ad-
14 ministration and business management of the state hos-
15 pitals, formulate standard fiscal procedures, and make
16 recommendations for improvement; to make regulations
17 concerning any superintendent's trustee fund hereto-
18 fore established by authority of section three-a, article
19 one, chapter twenty-five of the official code of West Vir-
20 ginia, one thousand nine hundred thirty-one, as amended.

21 (5) To have the responsibility for the maintenance of
22 the land and buildings of state hospitals.

23 (6) To review requisitions for supplies and equip-
24 ment, and cooperate with the division of purchases in de-
25 velopment and drafting of specifications.

26 (7) To handle the personnel records of the department
27 and to process payrolls.

28 (8) To enter into contracts for the department.

29 (9) To develop a civil service system, based on merit
30 and including job classification and standardization, for
31 the professional employees of the department and of the
32 institutions and for any other employees thereof who
33 are not made subject to such a system by other provi-
34 sions of law.

35 (10) To perform any other duties assigned to the divi-
36 sion by the director of the department.

**Sec. 6. Division of Professional Services; Powers and
2 Duties of Supervisor; Liaison with Other State Agencies.**

3 —There shall be a division of professional services in the
4 department of mental health. The supervisor of this divi-
5 sion shall act primarily in a consultant capacity and shall
6 make recommendations as to professional aspects of
7 state hospital management, but shall not exercise direct
8 supervision of the state hospitals. The supervisor shall
9 have the following powers and duties:

10 (1) To carry on or stimulate research activities re-
11 lated to medical and psychiatric facilities of the depart-
12 ment, and render specialized assistance to hospital su-
13 perintendents.

- 14 (2) To develop professional standards, analyze hos-
15 pital programs, and inspect individual hospitals.
- 16 (3) To assist in recruiting professional staff.
- 17 (4) To take primary responsibility for the education
18 and training of professional and subprofessional person-
19 nel.
- 20 (5) To establish liaison with appropriate state agencies
21 and with private groups interested in mental health, such
22 as the state department of health, the board of proba-
23 tion and parole, the department of education, the board
24 of governors of West Virginia University, and the West
25 Virginia Association for Mental Health, Inc.
- 26 (6) To license, supervise and inspect any hospital,
27 center or institution, or part thereof, maintained and
28 operated by any political subdivision or by any person,
29 persons, association or corporation to provide in-patient
30 care and treatment for the mentally ill, or mentally re-
31 tardated, or both.
- 32 (7) To perform any other duties assigned to the divi-
33 sion by the director of the department.

**Sec. 7. Division of Community Services; Powers and
2 Duties of Supervisors.**—There shall be a division of
3 community services in the department of mental health.
4 This division shall administer funds made available to
5 the state of West Virginia and any political subdivision
6 thereof under the national mental health act. The super-
7 visor of this division shall also have the following powers
8 and duties:

- 9 (1) To supervise the operation of out-patient psychi-
10 atric clinics for adults and children and to develop new
11 clinics. Traveling clinics may be established for rural
12 areas to be operated directly by the division or under
13 its supervision.
- 14 (2) To develop a comprehensive and practical pro-
15 gram of mental health education of the public, especially
16 at the local level.
- 17 (3) To work with county mental hygiene commis-
18 sions and circuit courts.

19 (4) To perform any other duties assigned to the divi-
20 sion by the director of the department.

Sec. 8. Superintendents to Pay Money to State Treasury through Department of Mental Health; Appropriations; Deficiency; How Met.—All moneys and funds belonging to the state which shall come into the possession or under the control of the superintendent or other officer of a state hospital under the control of the department of mental health shall be paid to the director of mental health monthly, on or before the tenth day of the month following the month in which such moneys or funds were received, under such rules and regulations as the director shall prescribe. The director shall pay such moneys and funds into the state treasury immediately in the manner provided in article two, chapter twelve of this code.

15 All moneys appropriated for the department of mental
16 health and state hospitals may be expended on proper
17 requisitions issued by the director of mental health or
18 his duly authorized agent. Whenever the appropriations
19 by the Legislature for state hospitals are insufficient to
20 pay the expenses of conducting such institutions, the
21 director of mental health shall certify the deficiency to
22 the governor. The certificate shall state the name of the
23 state hospital and the items and amount in detail needed,
24 and the governor may direct payment of the same or any
25 part thereof out of any appropriation available for that
26 purpose.

Sec. 9. Transfer of Control, Records and Property from the Board of Control to the Department of Mental Health.
3 —The control of the financial, business and all other
4 affairs of state hospitals is hereby transferred from the
5 state board of control to the department of mental health,
6 and, as its chief executive officer, the director shall, in
7 respect to the control, management and property of such
8 state hospitals, have the same rights and powers and shall
9 perform the same duties and functions as were heretofore
10 exercised or performed by the state board of control.
11 The title to all property of such state hospitals is hereby

12 transferred to and vested in the department of mental
13 health.

Sec. 10. Transfer of Records and Personnel from Department of Health to Division of Community Services.—
2
3 The state department of health shall transfer to the divi-
4 sion of community services of the department of mental
5 health all of the records of the bureau of mental health
6 and all records pertaining to the state hospitals. Persons
7 employed by the state department of health in that bu-
8 reau may also be transferred to this division. All per-
9 sons now employed by the various guidance clinics in
10 the state shall be under the supervision of this division.

Article 2. State Hospitals and Colin Anderson Center.

Section

1. Locations; continuation; management; reference to "West Virginia Training School" construed to mean "Colin Anderson Center."
2. Superintendents.
3. Rules as to patients.
4. Forms for committing patients; other records.
5. Reports by superintendents; records of director of mental health.

Section 1. Locations; Continuation; Management; Ref-
2 **erences to "West Virginia Training School" Construed to**
3 **Mean "Colin Anderson Center."**—The state hospitals here-
4 tofore established at Weston, Spencer, Huntington, Bar-
5 boursville, Lakin and St. Marys shall be continued and
6 known respectively as the Weston state hospital, Spencer
7 state hospital, Huntington state hospital, Barboursville
8 state hospital, Lakin state hospital and the Colin Anderson
9 center. Said state hospitals shall be managed, directed and
10 controlled by the department of mental health as provided
11 in article one-a of this chapter.

12 All references in this code or elsewhere in law to the
13 "West Virginia training school" shall be taken and con-
14 strued to mean and to refer to the "Colin Anderson
15 center."

Sec. 2. Superintendents.—The superintendent of a state
2 hospital shall be appointed for an indefinite period. The
3 superintendent of a state hospital, other than a state hos-
4 pital or center maintained and operated exclusively for
5 the care and treatment of the mentally retarded, shall
6 be a qualified psychiatrist with some experience in a

7 psychiatric facility. Preference shall be given to diplo-
8 mates of the American board of psychiatry and neurology
9 and to persons who are certified by the committee on
10 the certification of mental hospital administrators. The
11 superintendent of the Colin Anderson center, or of any
12 other state hospital or center maintained and operated
13 exclusively for the care and treatment of the mentally
14 retarded, shall be a person qualified to supervise a hos-
15 pital for mentally retarded.

16 The superintendent, subject to civil service regula-
17 tions, shall have the power to appoint all assistants and
18 employees required for the management of his institu-
19 tion; but the number of such assistants and employees,
20 and their compensation, shall first be fixed by the director
21 of mental health.

22 The superintendent shall be furnished living quarters,
23 household furniture, board, fuel and lights for himself
24 and his family. The director of mental health may desig-
25 nate other officers to receive these emoluments, as de-
26 termined by the character of their duties.

Sec. 3. Rules as to Patients.—The director of mental
2 health shall have authority to make rules, not contrary
3 to law, regulating the admission of patients to the state
4 hospitals, the care, maintenance and treatment of pa-
5 tients therein, and the release, trial visit and discharge of
6 patients therefrom.

Sec. 4. Forms for Committing Patients; Other Records.
2 —The director of mental health shall have authority to
3 prepare, prescribe and have printed forms to be used for
4 commitment to and discharge from the state hospitals.

**Sec. 5. Reports by Superintendents; Records of Direc-
tor of Mental Health.**—The superintendent of each state
3 hospital shall furnish to the director of mental health
4 such information as he may require concerning admis-
5 sions, discharges, deaths and other matters. From this
6 and other information available to the director of mental
7 health, he shall keep such records as are necessary to
8 enable him to have current information concerning the
9 extent of mental illness in the state. The names of in-

10 individuals shall not be accessible to anyone except by
11 permission of the director of mental health, or by order
12 of the judge of a court of record.

Article 3. Mental Hygiene Commissions.

Section

2. Meetings.

Section 2. Meetings.—All meetings of the commission
2 shall be held at the county seat, unless it shall be thought
3 best by the commission to meet at some other place, as in
4 the case of a person whose condition makes it advisable
5 to meet at or near his residence. The time of such meet-
6 ings shall be established by the commission.

Article 4. Voluntary Hospitalization.

Section

1. Authority to receive voluntary patients.
2. Release of voluntary patients.
3. Right to release on application.

Section 1. Authority to Receive Voluntary Patients.—
2 The superintendent of a state hospital, subject to the
3 availability of suitable accommodations, and subject fur-
4 ther to the rules and regulations promulgated by the di-
5 rector of mental health, shall admit for diagnosis, care
6 and treatment any individual:
7 (1) Over twenty-one years of age who is mentally
8 ill, mentally retarded or who has symptoms of mental
9 illness or mental retardation and makes application for
10 hospitalization; or
11 (2) Under twenty-one years of age who is mentally
12 ill or mentally retarded or who has symptoms of mental
13 illness or mental retardation and there is application
14 therefor in his behalf (a) by the parents of such person,
15 or (b) if only one parent is living, then by the such par-
16 ent, or (c) if the parents be living separate and apart,
17 by the one to whom was awarded the custody of such
18 person, or (d) if there is a guardian entitled to the cus-
19 tody of such person, then by such guardian.

Sec. 2. Release of Voluntary Patients.—The superin-
2 tendent of a state hospital shall release any voluntary
3 patient who, in his opinion, has recovered, or whose hos-
4 pitalization he determines to be no longer advisable.

Sec. 3. Right to Release on Application.—A voluntary patient who requests his release or whose release is requested in writing, by his parents, parent, guardian, spouse, or adult next of kin shall be released forthwith except that:

(1) If the patient was admitted on his own application and the request for release is made by a person other than the patient, release shall be conditioned upon the agreement of the patient thereto;

(2) If the patient is under twenty-one years of age, his release prior to becoming twenty-one years of age may be conditioned upon the consent of the person or persons who applied for his admission;

(3) If, within ninety-six hours of the receipt of the request, the superintendent of the state hospital in which the patient is confined files with the clerk of the county court of the county in which the patient is a resident, or the clerk of the county court of the county where the hospital is situated, an application for involuntary hospitalization as provided in section four, article five of this chapter, release may be postponed pending a decision on the application by the mental hygiene commission.

Notwithstanding any other provision of this chapter, legal proceedings for hospitalization shall not be commenced with respect to a voluntary patient unless release of the patient has been requested by him or the individual or individuals who applied for his admission.

Article 5. Involuntary Hospitalization.

Section

1. Hospitalization on medical certification.
2. Hospitalization on medical certification; emergency procedure.
3. Hospitalization without medical certification; emergency procedure.
4. Hospitalization upon county court order; legal procedure; legal capacities.
5. Judicial review.
6. Examination of newly admitted patients; failure to examine; disposition of patients after examination; demands for release.
7. Hospitalization by an agency of the United States.

Section 1. Hospitalization on Medical Certification.—

Any individual may be admitted to a state hospital upon:

(a) Written application to the state hospital by his parents or parent, guardian, spouse, adult next of kin or

6 friend, a health officer or public welfare caseworker
7 familiar with the case of the individual, or the head of
8 any institution where such individual may be, and

9 (b) Certification by two physicians that they have
10 examined the individual, and that they are of the opinion
11 that he is mentally ill or mentally retarded and:

12 (1) Because of his mental illness or mental retardation
13 may injure himself or others if allowed to remain
14 at liberty, or

15 (2) Is in need of care or treatment in a hospital, and
16 because of his mental illness or mental retardation, lacks
17 sufficient insight or capacity to make responsible application
18 therefor.

19 The certifications by the licensed physicians may be
20 made jointly or separately as the regulations of the director
21 of mental health may prescribe. In the case of a
22 licensed physician who examines the individual to determine
23 whether or not he is mentally ill or mentally retarded,
24 the physician's fee shall be paid by the patient or responsible
25 relative. If, in the opinion of the county court, the patient
26 or responsible relative is unable to pay such fee, the county
27 court shall make such payment as such county court shall
28 prescribe. An individual with respect to whom such
29 certifications have been issued may not be admitted on the
30 basis thereof at any time after the expiration of fifteen
31 days from the last examination. The superintendent of the
32 state hospital admitting the individual shall forthwith make
33 a report thereof to the director of mental health.

35 If the certification by one of the examining physicians
36 states the opinion that the individual because of his mental
37 illness or mental retardation may injure himself or others
38 if allowed to remain at liberty, the clerk of any county
39 court of the county in which the individual is a resident
40 or present may, upon application of the examining physician
41 or of the person or persons seeking the admission of the
42 individual, direct any health or police officer to take the
43 individual into custody and transport him to the appropriate
44 state hospital.

Sec. 2. Hospitalization on Medical Certification; Emer-

2 **gency Procedure.**—Any individual may be admitted to a
3 state hospital upon:

4 (a) Written application to the state hospital by any
5 health officer or police officer stating his belief that the
6 individual, because of symptoms of mental illness, may
7 cause injury to himself or others if not immediately re-
8 strained, and the grounds for such belief, and

9 (b) A certification by at least one physician, that he
10 has examined the individual and is of the opinion that
11 the individual is mentally ill, and because of his illness,
12 may injure himself or others if not immediately re-
13 strained.

14 Any individual with respect to whom such certification
15 has been issued may not be admitted on the basis thereof
16 at any time after the expiration of three days from the
17 date of such examination. The superintendent of the
18 state hospital admitting the individual shall forthwith
19 make a report thereof to the director of mental health.

Sec. 3. Hospitalization without Medical Certification;
2 **Emergency Procedure.**—When any health officer or police
3 officer has reason to believe that an individual is mentally
4 ill and because of his illness may injure himself or others
5 if allowed to remain at liberty while awaiting an exam-
6 ination and certification by a physician, such health or
7 police officer may take the individual into custody, apply
8 to a state hospital for his admission and transport him
9 thereto. The application for admission shall state the
10 circumstances under which the individual was taken
11 into custody and the reasons for the officer's belief. The
12 superintendent of the state hospital admitting the individ-
13 ual shall forthwith make a report thereof to the director
14 of mental health.

Sec. 4. Hospitalization upon County Court Order;
2 **Legal Procedure; Legal Capacities.**—Proceedings for the
3 involuntary hospitalization of an individual may be com-
4 menced by the filing of a written application and the cer-
5 tificate or statement hereinafter provided with the clerk
6 of the county court of the county of which the individual
7 is a resident or where he may be found, by his parents or
8 parent, guardian, spouse, adult next of kin or friend, or by

9 a physician, a health officer or public welfare caseworker
10 familiar with the case of the individual, or the head of
11 any institution in which such individual may be. Such
12 applicant shall file with his application the certificate
13 of a physician stating that in his opinion the individual
14 is mentally ill or mentally retarded and should be hos-
15 pitalized or a statement by the applicant that the in-
16 dividual has refused to submit to examination by a phy-
17 sician.

18 Upon receipt of an application, the clerk shall give
19 notice thereof to the individual and to the individual's
20 spouse, parents or parent or guardian, or if the individ-
21 ual does not have a spouse, parents or parent or guardian.
22 to the individual's adult next of kin. Such notice shall
23 be given within fifteen days after receipt of the applica-
24 tion by the clerk and shall be transmitted to such person
25 or persons at his or their last known address by regis-
26 tered or certified mail, return receipt requested.

27 As soon as practicable after notice of the commence-
28 ment of proceedings is given, the mental hygiene com-
29 mission shall appoint two physicians to examine the in-
30 dividual and report to the mental hygiene commission
31 their findings as to the mental condition of the individual
32 and his need for custody, care or treatment in a hos-
33 pital.

34 If the designated physicians report to the mental hy-
35 giene commission that the individual has refused to
36 submit to an examination, the mental hygiene commission
37 shall order him to submit to such examination. Such
38 an order may be enforced by the issuance of a warrant
39 ordering the individual to be taken into custody pending
40 examination by the designated physicians. All such war-
41 rants shall be signed by the clerk on order of the mental
42 hygiene commission and directed to the sheriff of the
43 county or to any constable of any district thereof, or
44 to a special constable appointed for the purpose and
45 named therein.

46 If the report of one or both of the designated physicians
47 is to the effect that the individual is mentally ill or men-
48 tally retarded, the mental hygiene commission shall forth-

49 with fix a date for and have the clerk of the county court
50 give notice of the hearing to the individual, the applicant
51 or applicants, and to the individual's spouse, parents or
52 parent or guardian, or if the individual does not have
53 a spouse, parents or parent or guardian, to the individual's
54 adult next of kin. Such notice shall be transmitted to
55 such person or persons at his or their last known address
56 by registered or certified mail, return receipt requested,
57 and shall be received by such person or persons not less
58 than five days prior to the date of the hearing.

59 The individual, the applicant, and all persons entitled
60 to notice of such hearing, shall be afforded an opportunity
61 to appear at the hearing, to testify, and to present and
62 cross-examine witnesses, and the mental hygiene com-
63 mission may in its discretion receive the testimony of
64 any other person. The individual shall not be required
65 to be present, and all persons not necessary for the con-
66 duct of the proceedings shall be excluded, except that
67 the mental hygiene commission shall admit and hear
68 persons having a legitimate interest in the proceedings.
69 The hearings shall be conducted in as informal a manner
70 as may be consistent with orderly procedure. The mental
71 hygiene commission shall receive all relevant and mater-
72 ial evidence which may be offered and shall not be bound
73 by the rules of evidence. The mental hygiene commis-
74 sion shall appoint a guardian ad litem who shall be a
75 competent attorney, for the individual, and said guardian
76 shall be present at the hearing and protect the interests
77 of the individual. The mental hygiene commission may
78 allow such guardian ad litem a reasonable fee for his
79 services which shall be paid by the county court to the
80 extent that funds are made available in the county
81 budget.

82 If, upon completion of the hearing and consideration
83 of the record, the mental hygiene commission finds that
84 the individual is mentally ill or mentally retarded, and:

85 (1) Because of his illness or retardation is likely to
86 injure himself or others if allowed to remain at liberty,
87 or

88 (2) Is in need of custody, care or treatment in a hos-
89 pital and, because of his illness or retardation lacks suffi-

90 cient insight or capacity to make responsible decisions
91 with respect to his hospitalization, and

92 (3) Is a resident of the county in which the hearing
93 is held, the mental hygiene commission may order his
94 hospitalization for an indeterminate period or for a tem-
95 porary observation period not exceeding six months.

96 If the order is for a temporary period the mental hy-
97 giene commission may at any time prior to the expira-
98 tion of such period, on the basis of report by the super-
99 intendent of the state hospital in which the patient is
100 confined and such further inquiry as may seem appro-
101 priate, order indeterminate hospitalization of the patient
102 or dismissal of the proceeding.

103 If the mental hygiene commission finds that the in-
104 dividual is not mentally ill or mentally retarded, the
105 proceeding shall be dismissed. If the commission finds
106 that the individual is mentally ill or mentally retarded
107 but because of such illness or retardation is not likely
108 to injure himself or others if allowed to remain at liberty,
109 the proceeding shall be dismissed. If the commission
110 finds that the individual is mentally ill or mentally re-
111 tardated and that because of such illness or retardation
112 is not likely to injure himself or others if allowed to
113 remain at liberty and that such individual has sufficient
114 insight or capacity to make responsible decisions with
115 respect to his hospitalization, the proceeding shall be
116 dismissed.

117 If the mental hygiene commission is satisfied that hos-
118 pitalization should be ordered but finds that the individual
119 is not a resident of the county in which the hearing is
120 held, a transcript of the evidence adduced at the hearing
121 of such person, properly certified by the clerk of the
122 county court, shall forthwith be forwarded to the clerk
123 of the county court of the county of which such person
124 is a resident, who shall immediately present such tran-
125 script to the mental hygiene commission of said county.
126 If the mental hygiene commission of the county of the
127 residence of the individual is satisfied from the evidence
128 contained in such transcript that such individual should
129 be hospitalized as determined by the standards set forth
130 above, the mental hygiene commission shall order the

131 appropriate hospitalization as though the person had been
132 brought before the mental hygiene commission in the
133 first instance. This order shall be transmitted forthwith
134 to the clerk of the county court of the county in which
135 the hearing was held, who shall execute said order
136 promptly.

137 In lieu of ordering the patient to a state hospital, the
138 mental hygiene commission may order him delivered
139 to some responsible person who will agree to take care
140 of him, and take from such responsible person a bond
141 in the penalty of at least five hundred dollars, with suffi-
142 cient security to be approved by the mental hygiene
143 commission, payable to the state of West Virginia, with
144 condition to restrain and take proper care of such person
145 until the further order of the court or judge. But if the
146 person found to be a mentally ill or mentally retarded
147 person is not dangerous to himself or to others, or is
148 found harmless, he may be delivered to any responsible
149 person who will agree to take proper care of him without
150 such bond, if in the judgment of the commission the
151 same may be proper.

152 If the person found to be mentally ill or mentally re-
153 tarded by the mental hygiene commission is a resident
154 of another state, this information shall be forthwith given
155 to the director of mental health, who shall make appro-
156 priate arrangements for his transfer to the state of his
157 residence, except as qualified by the interstate compact
158 on mental health.

159 The superintendent of the state hospital admitting a
160 patient pursuant to proceedings under this section shall
161 forthwith make a report of such admission to the director
162 of mental health.

163 All expenses incurred in this proceeding, including the
164 fees of the designated physicians, shall be borne by the
165 county of which the patient is a resident.

166 The entry of an order ordering hospitalization for an
167 indeterminate period shall relieve the patient of legal
168 capacity.

169 The clerk of the county court in which an order direct-
170 ing hospitalization is entered shall immediately upon

171 entry thereof forward a certified copy of same to the clerk
172 of the county court of the county of which the patient
173 is a resident.

Sec. 5. Judicial Review.—Any person adversely affected
2 by any order of commitment entered by the mental
3 hygiene commission under this article may seek review
4 thereof by appeal to the appropriate circuit court, and
5 jurisdiction is hereby conferred upon such court to hear
6 and entertain such appeals upon application made there-
7 for in the manner and within the time provided by law
8 for civil appeals generally.

9 Any person hospitalized pursuant to section four of
10 this article shall be entitled to have his case reviewed
11 by the mental hygiene commission which committed him.
12 Such review shall be obtained by a petition filed therein
13 by such person or by that of his spouse, relative, guardian
14 or friend. Upon receipt of any such petition, the com-
15 mission shall conduct or cause to be conducted proceed-
16 ings as specified in said section four: *Provided*, That no
17 such re-examination shall be had if the petition is filed
18 sooner than six months after entry of the order of hos-
19 pitalization or sooner than one year after the filing of a
20 previous petition of re-examination in accordance with
21 the provisions of this section.

**Sec. 6. Examination of Newly Admitted Patients; Fail-
2 ure to Examine; Disposition of Patients after Examina-
3 tion; Demands for Release.**—The superintendent of the
4 state hospital shall arrange for preliminary psychiatric
5 examination of every patient hospitalized pursuant to the
6 provisions of sections one, two or three of this article. If
7 such examination is not completed within five days after
8 the date of admission, or if the physician designated by the
9 superintendent cannot certify that in his opinion the pa-
10 tient is mentally ill or mentally retarded and is likely to
11 injure himself or others if allowed to be at liberty or be-
12 cause of his mental illness or mental retardation lacks
13 sufficient capacity to continue hospitalization of his own
14 volition, the patient shall be immediately discharged or
15 permitted to change his status to that of voluntary hos-

16 pitalization and thereafter treated according to the provisions of article four of this chapter.

18 If, in the opinion of the designated examining physician, the patient is mentally ill or mentally retarded and is likely to injure himself or others if allowed to be at liberty or because of his mental illness or mental retardation lacks sufficient capacity to continue hospitalization of his own volition, the superintendent shall, within thirty days from the date of such determination by the designated examining physician, institute legal proceedings as provided in section four of this article. If such proceedings are not instituted within such thirty-day period, the patient shall be immediately released or permitted to change his status to that of voluntary hospitalization and thereafter treated according to the provisions of article four of this chapter.

32 Notwithstanding any other provisions of this article, when any person is hospitalized pursuant to the provisions of sections one, two or three of this article, such person or his spouse, relative, guardian or friend may demand in writing that such person be released from the state hospital. Upon receipt of such demand by the superintendent, the superintendent shall either release such person or forthwith institute legal proceedings as specified in section four of this article. The superintendent of the state hospital shall make arrangements for informing each person hospitalized therein under the provisions of sections one, two or three of this article of his rights under this section. The superintendent shall also assist any such person in making such written demand.

Sec. 7. Hospitalization by an Agency of the United States.—If an individual ordered to be hospitalized pursuant to section four of this article is eligible for hospital care or treatment by any agency of the United States, then, upon receipt of a certificate from such agency showing that facilities are available and that the individual is eligible for care or treatment therein, the mental hygiene commission may order him to be placed in the custody of such agency for hospitalization. When any

10 such individual is admitted pursuant to the order of such
11 mental hygiene commission to any hospital or institution
12 established, maintained or operated by any agency of
13 the United States within or without the state, he shall
14 be subject to the rules and regulations of such agency.
15 The chief officer of any hospital or institution operated
16 by such agency and in which the individual is so hospi-
17 talized, shall with respect to such individual be vested
18 with the same powers as the superintendents of state
19 hospitals or the director of mental health within this
20 state with respect to detention, custody, transfer, condi-
21 tional release, or discharge of patients. Jurisdiction is
22 retained in the appropriate mental hygiene commission
23 of this state at any time to inquire into the mental condi-
24 tion of an individual so hospitalized, and to determine
25 the necessity for continuance of his hospitalization, and
26 every order of hospitalization issued pursuant to this
27 section is so conditioned.

Article 6. Commitment of Inebriates and Criminally Mentally Ill.

Section

1. Commitment of inebriates.
2. Guardian ad litem to be appointed.
3. Witnesses.
4. Disposition of inebriates.
5. Transportation; temporary detention.
6. Release of inebriates; no forfeiture of legal capacity.
7. Commitment and admission of criminally mentally ill persons.
8. Return of criminally mentally ill person upon discharge from hospital.

Section 1. Commitment of Inebriates.—If any indi-
2 vidual in a county reasonably suspects any person
3 therein to be an inebriate, he may make complaint under
4 oath to the clerk of the county court, giving such infor-
5 mation and stating such facts therein as may be required,
6 and he shall further furnish to said clerk the certificate
7 of a physician showing the condition of such person. The
8 complaint and certificate shall be delivered to the clerk
9 of the county court, whose duty it shall be to issue a
10 warrant ordering the person named in such complaint
11 and certificate to be brought before the county mental
12 hygiene commission at a time and place named therein
13 so that his condition may be inquired into. All such
14 warrants shall be signed by the clerk of the county court

15 and have impressed thereon the seal thereof; and may be
16 addressed to the sheriff of the county or to any constable
17 of any district thereof, or to a special constable appointed
18 for the purpose and named therein; but if any relative
19 or friend of the person so suspected will serve such
20 warrant and cause such person to be brought before the
21 commission, he may be allowed to do so. The officer or
22 person to whom the warrant is addressed shall take such
23 person into custody and bring him or her before the com-
24 mission at the time and place named therein.

25 Whenever a person apparently an inebriate is so violent
26 as to endanger his or her own safety, or the safety of oth-
27 ers, any law enforcement officer may, with or without a
28 warrant, take such person into protective custody.

29 When such person is brought before the county mental
30 hygiene commission, the commission shall follow the
31 procedures set forth in sections two, three, four and five
32 of this article.

Sec. 2. Guardian Ad Litem to Be Appointed.—Before
2 proceeding with the hearing of the matter, the commis-
3 sion shall appoint a guardian ad litem, who shall be a
4 competent attorney, for such person, and such guardian
5 shall be present at the hearing and manage the case on
6 behalf of the person suspected. Such attorney shall be
7 paid by the county court. Such person and his counsel
8 shall have the right to cross-examine any witnesses.

Sec. 3. Witnesses.—The person suspected, the com-
2 plainant and all other persons having a legitimate and
3 proper interest therein shall be afforded an opportunity
4 to appear at the hearing, to testify and present and cross-
5 examine witnesses, and the commission may in its dis-
6 cretion receive the testimony of any other person. Among
7 the witnesses there shall be included two physicians who
8 shall separately or together make an examination of such
9 person, preferably before the hearing, and each physician
10 shall make out a certificate of the result of the examina-
11 tion, which certificate shall be signed and sworn to by
12 each physician and shall be considered as evidence by the
13 commission.

14 Such person shall not be required to be present at this
15 hearing unless it be deemed advisable by the commission
16 to better protect his interests. All persons not necessary
17 for the conduct of the hearing shall be excluded, but the
18 commission shall admit and hear persons having a legit-
19 imate and proper interest in the hearing. The hearing
20 shall be conducted in as informal a manner as may be
21 consistent with orderly procedure in a physical setting
22 not likely to have a harmful effect on the mental condi-
23 tion of the person suspected. The commission shall re-
24 ceive all legitimate and material evidence which shall be
25 offered and shall not be bound by the rules of evidence.

Sec. 4. Disposition of Inebriates.—(a) If, upon com-
2 pletion of the hearing and consideration of the record,
3 the commission finds that the person suspected is an in-
4 ebriate and:

5 (1) Is in need of custody, care or treatment in a hos-
6 pital and, because of his illness, lacks sufficient insight or
7 capacity to make responsible decisions with respect to
8 his hospitalization, and

9 (2) Is a resident of the county in which the hearing
10 is held, the commission may order such person to be com-
11 mitted to a state hospital, or any institution hereafter
12 established for inebriates, for a minimum period of thirty
13 days. If the commission finds that the person suspected
14 is not an inebriate or that subparagraph (1) is not ap-
15 plicable, then the proceeding shall be dismissed. If the
16 commission is satisfied that such person should be com-
17 mitted but finds that the person is not a resident of the
18 county in which the hearing is held, the commission shall
19 proceed as set forth in subsection (b) hereof.

20 (b) If the person found to be an inebriate and to be
21 in need of custody, care or treatment as aforesaid is a
22 resident of another county of this state, a transcript of the
23 evidence adduced at the hearing of such person, properly
24 certified by the clerk of the county court, shall forthwith
25 be forwarded to the clerk of the county court of the
26 county of which such person is a resident, who shall
27 immediately present such transcript to the mental
28 hygiene commission of said county. Such commis-

29 sion shall give full faith and credit to the evidence
30 contained in such transcript, and, if satisfied that such
31 person is an inebriate and is in need of such custody, care
32 or treatment, shall order the person to be committed to a
33 state hospital, or other institution hereafter established
34 for inebriates, for a minimum period of thirty days, as
35 though the person had been brought before it in the first
36 instance. This order shall be transmitted forthwith to
37 the county clerk of the county court of the county in
38 which the hearing was held, who shall execute said order
39 promptly. All expenses incurred in this proceeding, as
40 well as for the hospitalization of such inebriate, shall be
41 borne by the county of which he is a resident.

Sec. 5. Transportation; Temporary Detention.—When
2 ever a person has been ordered to be hospitalized under
3 the provisions of section four of this article, the commis-
4 sion shall, upon the request of a person having a proper
5 interest in the individual's hospitalization, permit such
6 person to arrange for the individual's transportation to the
7 state hospital by such means as may be suitable for his
8 mental and physical condition. In lieu of such request, the
9 commission may deliver the inebriate to the state hospital
10 in any manner which it may deem proper.

11 Pending his removal to a state hospital, an inebriate
12 taken into custody or ordered to be hospitalized may be
13 detained in his home, or any other suitable facility pro-
14 vided by the county court; but he shall not, except be-
15 cause of a lack of such facility or because of an extreme
16 emergency, be detained in a nonmedical facility used for
17 the detention for individuals charged with or convicted
18 of penal offenses.

**Sec. 6. Release of Inebriates; No Forfeiture of Legal
2 Capacity.**—After expiration of said minimum thirty-day
3 period, the inebriate shall not be released until, in the
4 opinion of the superintendent of the state hospital, he has
5 received the maximum benefit from such hospitalization.
6 In all cases dealing with the commitment of inebriates, the
7 provisions of article seven of this chapter relating to the
8 release, discharge and readmission of mentally ill and
9 mentally retarded persons shall apply. An inebriate shall

10 not forfeit his legal capacity by virtue of being committed
11 as an inebriate.

Sec. 7. Commitment and Admission of Criminally Mentally Ill Persons.—If any person charged with or convicted of crime be found, in the court before which he is charged or was convicted, to be mentally ill, and if such court shall order him to be confined in one of the state hospitals, he shall be received and confined in it. The sheriff or other officer of the court by which the order is made shall immediately proceed to ascertain whether a vacancy exists in a state hospital; and until it is ascertained that there is a vacancy, such person shall be kept in the jail of the county of such court.

Sec. 8. Return of Criminally Mentally Ill Person upon Discharge from Hospital.—When any person charged with crime confined in a state hospital has recovered from his mental illness, the superintendent shall give notice thereof to the clerk of the court by whose order he was confined and deliver him to the proper officer upon order of the court.

8 When any person convicted of a crime and sentenced
9 to the penitentiary confined in a state hospital shall have
10 recovered from such mental illness, he shall be forthwith
11 returned to prison. Any time spent in such state hospital
12 shall be computed as part of the term for which he
13 was sentenced. If the sentence of such convict expires
14 while such convict is in the state hospital, then upon his
15 recovery he shall be discharged from said state hospital.

Article 7. Release, Discharge and Readmission of Patients; Escapees.

Section

1. Discharge.
3. Released as unimproved.
4. Readmission of patients.
5. Return of escapees; veterans.

Section 1. Discharge.—The superintendent of a state hospital shall continually review the case of each individual confined in such hospital and shall as frequently as practicable cause a complete staff examination of every patient, and whenever it is determined that the con-

6 dition justifying involuntary hospitalization no longer
7 obtains, the superintendent shall discharge the patient
8 and immediately make a report thereof to the mental
9 hygiene commission, or the clerk of the county court of
10 the county in which the involuntary hospitalization was
11 ordered, and to the county clerk of the county wherein
12 the patient is a resident. This discharge restores said
13 patient to legal capacity.

Sec. 3. Released as Unimproved.—The superintendent
2 of a state hospital may release a patient as unimproved
3 when any responsible person requests the patient's re-
4 lease and is willing and able to take proper care of the
5 patient outside the state hospital, taking from such re-
6 sponsible person a bond in the penalty of at least five hun-
7 dred dollars, with sufficient security to be approved by
8 the superintendent, payable to the state of West Virginia,
9 conditioned to restrain and take proper care of such pa-
10 tient until the further order of the superintendent. Re-
11 ports shall be made by those in charge of said patient at
12 least once every six months to the superintendent of the
13 state hospital. No discharge shall be given to said patient
14 until he has returned to the state hospital for exam-
15 ination by the superintendent and staff thereof and it has
16 been determined that he is no longer in need of hospital-
17 ization.

18 Where such discharges or releases are granted as pro-
19 vided in sections one, two and three of this article, the
20 superintendent of the state hospital shall report the same
21 to the director of mental health and to the mental hygiene
22 commission, or the clerk of the county court, which or-
23 dered the involuntary hospitalization, as the case may
24 be, and to the county clerk of the county of which the
25 patient is a resident.

Sec. 4. Readmission of Patients.—While any patient is
2 out of the state hospital under the provisions of section
3 two of this article, he may be at any time readmitted to
4 the hospital on the basis of the original commitment. If
5 there is reason to believe that it is to the best interest of
6 the patient to be hospitalized, the superintendent of the
7 state hospital may issue an order for the immediate rehos-

8 pitalization of the patient. This order shall be sent to the
9 mental hygiene commission or to the clerk of the court
10 which ordered his admission, as the case may be. A copy
11 of such order shall also be sent to the clerk of the county
12 court of the county of the patient's residence. If the or-
13 iginal hospitalization was ordered by the commission, any
14 member of such commission may endorse the superin-
15 tendent's order and authorize any health officer or police
16 officer to take the patient into custody and transport him
17 to the state hospital where the order originated.

Sec. 5. Return of Escapees; Veterans.—If any person
2 confined in a state hospital escapes therefrom, the super-
3 intendent thereof shall issue a notice, giving the name
4 and description of the person escaping, and requesting
5 his apprehension and return to the state hospital, and
6 may offer such reward for the return of such person as
7 the director of mental health may authorize. The superin-
8 tendent may issue a warrant directed to the sheriff of the
9 county in which the patient is a resident, commanding
10 him to arrest and transport such escaped person back
11 to the state hospital, which warrant the sheriff may exe-
12 cute in any part of the state. If such person goes to an-
13 other state, the superintendent shall notify the director
14 of mental health, and he shall take such action as he may
15 deem proper for the return of such person to the state
16 hospital.

17 If any veteran duly committed to a veterans' hospital
18 or other veterans' institution, either within or without
19 the state, escape or elope therefrom and any person make
20 complaint, under oath, to the clerk of the county court
21 of the county from which such veteran was so committed
22 upon the order of the mental hygiene commission, or to
23 the clerk of the circuit court by which such veteran was
24 so committed, giving such information and stating such
25 facts therein as may be required, or if any veteran duly
26 committed to a veterans' hospital or other veterans' in-
27 stitution, either within or without the state, escape or
28 elope therefrom and the superintendent or chief officer
29 of such hospital or institution issues notice to the clerk
30 of the county court of the county from which such vet-

31 eran was so committed upon the order of the mental hy-
32 giene commission, or to the clerk of the circuit court by
33 which such veteran was so committed, giving the name
34 and description of such veteran and requesting his ap-
35 prehension and return to such hospital or institution, the
36 clerk of the county court or circuit court, as the case may
37 be, upon receipt of such complaint or of such notice, may
38 issue a warrant directed to the sheriff of the county from
39 which the veteran was so committed commanding him to
40 arrest and transport such veteran back to such hospital
41 or institution, which warrant the sheriff may execute in
42 any part of the state.

43 The sheriff or other person making any arrest under
44 this section shall be paid such compensation as is pro-
45 vided for like services in other cases, and such additional
46 compensation in any case as the director of mental health
47 may think reasonable and just.

48 The foregoing provisions shall likewise apply to any
49 veteran released from a veterans' hospital or other vet-
50 erans' institution, either within or without the state, on
51 trial visit or on parole whose conduct becomes such as to
52 warrant his return to such hospital or institution.

Article 8. Maintenance of Mentally Ill or Mentally Retarded Patients.

Section

1. Maintenance of patients; reimbursement.
2. When and how counties to pay.
3. Care of patients in boarding homes.

Section 1. Maintenance of Patients; Reimbursement.—

2 The cost of the maintenance of patients admitted to the
3 state hospitals shall be paid out of funds appropriated
4 for the respective state hospitals, but the state hospitals,
5 through the director of mental health, shall have a right
6 of reimbursement for all or any part of such maintenance,
7 in no case to exceed five dollars per day, from each pa-
8 tient or from the committee or guardian of the estate of
9 the patient, or if that be insufficient, then from the pa-
10 tient's husband, wife, children, father and mother, or any
11 of them. If a relative so liable does not reside in this
12 state and has no estate or debts due him within the state
13 by means of which the liability can be enforced against

14 him, the other relatives shall be liable as provided by this
15 section. In exercising this right of reimbursement, the
16 director of mental health may, whenever it is deemed
17 just and expedient to do so, exonerate any person charge-
18 able with such maintenance from the payment thereof
19 in whole or in part, if the director finds that such person
20 is unable to pay or that payment would work an undue
21 hardship on him or on those dependent upon him.

22 There shall be no discrimination on the part of the state
23 hospital as to food, care, protection, treatment or reha-
24 bilitation, between patients who pay for their mainte-
25 nance and those who are unable to do so.

26 It shall be the responsibility of the director of mental
27 health to determine the ability of the patient or of his
28 relatives to pay for his maintenance.

***Sec. 2. When and How Counties to Pay.**—If the state
2 hospital is unable to collect a minimum of one hundred
3 fifty dollars per annum toward the maintenance of a
4 patient, whether on a voluntary or involuntary status,
5 the county of which the patient is a resident shall annu-
6 ally pay into the state treasury for credit to the appro-
7 priate state hospital the difference between the amount,
8 if any, collected by the institution and the sum of one
9 hundred fifty dollars. [subject, however, to the provisions
10 of section two-a].

11 At every levy term of each county court it shall esti-
12 mate for and levy a sufficient amount to meet all such
13 expenses. The superintendent of such state hospital, on
14 or before the tenth day of January of each year, shall
15 certify to the auditor a list of all the patients in the state
16 hospital during the whole or any part of the preceding
17 year for which the counties are to pay, showing on such

***Effect of 1965 Amendments:** This section was twice amended by the 1965 regular session of the Legislature. Chapter 98, passed March 13, 1965, and made effective ninety days from passage, made several substitutions of state hospitals in lieu of former reference to mental institutions and deleted a former third paragraph which restricted application of the section to "the state mental hospitals proper, and not to the clinics attached thereto." Chapter 99, also passed March 13, 1965, and made effective July 1, 1965, amended this section by adding at the end of the first paragraph thereof "subject, however, to the provisions of section two-a," the words inserted in brackets at the end of the section. In the section as set out above, effect has been given to both of the 1965 acts.

18 list under the name of the county, the number from each
19 county and length of time they were in the state hospital
20 during the year, and showing the amount due from each
21 county for each patient, and the total amount due from
22 each county for the year. As soon as such list is received
23 by the auditor he shall charge to each county the amount
24 appearing to be due from the certificates of the superin-
25 tendents. Within ten days after the receipt of such cer-
26 tificates the auditor shall make out a copy thereof for
27 each county and certify the same to the county court
28 thereof, which list shall show the name of each patient in
29 such state hospital from the county during the year, the
30 length of time he was in such state hospital during the
31 year, the amount charged for each patient, and the total
32 amount charged on account of all such patients from the
33 county; and such total amount shall constitute a debt
34 against the county due the state. Whenever there is in
35 the state treasury a sum of money due any county from
36 any source, the same shall be at once applied on the debt
37 aforesaid against the county, and the fact of such appli-
38 cation of such fund shall be reported by the auditor to the
39 county court of the county, which report shall be a re-
40 ceipt for the amount therein named.

Sec. 3. Care of Patients in Boarding Homes.—The di-
2 rector of mental health may, upon the recommendation
3 of the superintendent of the state hospital, provide care
4 in a suitable boarding home for any patient in a state
5 hospital, if the condition of the patient is such that his
6 and the public welfare will not be prejudiced thereby.
7 A patient in a boarding home shall be deemed to be a
8 patient of the state hospital from which he was removed
9 and shall, on the approval of the superintendent, be placed
10 under the supervision of a psychiatric social worker em-
11 ployed by the state hospital. All patients in such homes
12 shall be visited at least once every three months, and if
13 upon the visitation they are found to be abused, neglected
14 or improperly cared for, they shall be returned to the
15 state hospital or placed in a better boarding home. The
16 cost of the boarding home care shall be paid by the state
17 hospital from which he was removed.

Article 9. Licensing of Hospitals.**Section.**

1. License from director of mental health; regulations.

Section 1. License from Director of Mental Health; Regulations.—No hospital, center or institution, or part thereof, to provide in-patient care and treatment for the mentally ill, or mentally retarded, or both, shall be established, maintained or operated by any political subdivision or by any person, persons, association or corporation unless a license therefor shall be first obtained from the director of mental health. The application for such license shall be accompanied by a plan of the premises to be occupied, and such other data and facts that the director may require. He may make such terms and regulations in regard to the conduct of such hospital, center or institution, or part thereof, as he may think proper and necessary. He, or any person authorized by him, shall have authority to investigate and inspect such hospital, center or institution, or part thereof; and the director of mental health may revoke the license of any such hospital, center or institution, or part thereof, for good cause after reasonable notice to the superintendent or other person in charge thereof.

Article 11. Committee; Disposition of Property.**Section**

1. To be appointed by county court.
2. Bond; refusal to act or failure to qualify; appointment of another; committal to sheriff.
3. Appraisement of estate.
5. Mortgage, lease or sale of realty.

Section 1. To Be Appointed by County Court.—When a person is found to be mentally ill or mentally retarded by the county mental hygiene commission the county court shall appoint a committee for him.

Sec. 2. Bond; Refusal to Act or Failure to Qualify; Appointment of Another; Committal to Sheriff.—The county court, when making the appointment of such committee, shall take from him a bond in such penalty and with such surety as it shall deem sufficient, with condition that the person so appointed will well and truly account for and pay over to the person entitled thereto all

8 property and moneys which may come into his hands by
9 virtue of such appointment, and with such other condi-
10 tions as the court may require. If any person so ap-
11 pointed as committee refuses the trust or shall fail for ten
12 days succeeding his appointment to give bond as afore-
13 said, the court, on the motion of any party interested, or
14 at its own instance, may appoint some other person as
15 committee, taking from him bond as above provided, or
16 may commit the estate of such mentally ill or mentally
17 retarded person to the sheriff of the county, who shall act
18 as such committee without giving any bond as such, and
19 he and the sureties on his official bond shall be liable for
20 the faithful performance of the trust.

Sec. 3. Appraisement of Estate.—The county court,
2 whenever any committee is appointed for a mentally ill
3 or mentally retarded person, shall appoint appraisers and
4 cause to be made, returned and recorded an appraisement
5 of the property, both real and personal, of any such per-
6 son in the same manner, to the same extent, within the
7 same time, and subject to the same regulations and con-
8 ditions as required by law for the estate of a deceased
9 person.

Sec. 5. Mortgage, Lease or Sale of Realty.—If the per-
2 sonal estate of such mentally ill or mentally retarded
3 person be insufficient for the discharge of his debts, or
4 if such estate or the residue thereof after payment of the
5 debts, and the rents and profits of his real estate, be in-
6 sufficient for his maintenance and that of his family, if
7 any, the committee of such mentally ill or mentally re-
8 tarded person may proceed, as provided in article one,
9 chapter thirty-seven of this code, to obtain authority to
10 mortgage, lease or sell so much of the real estate of such
11 mentally ill or mentally retarded person as may be nec-
12 essary for the purposes aforesaid, or any of them; setting
13 forth in the bill or petition the particulars and the amount
14 of the estate, real and personal, the application which may
15 have been made of any personal estate, and an account of
16 the debts and demands existing against the estate.

Article 12. Offenses.**Section**

1. Malicious making of medical certificate or complaint as to mental condition.
2. Trespass on grounds of state hospitals.
3. Miscellaneous offenses.

Section 1. Malicious Making of Medical Certificate or Complaint as to Mental Condition.—Any physician who shall sign a certificate respecting the mental condition of any person without having made the examination as provided for by this chapter, or shall make any statement in any such certificate maliciously for the purpose of having such person declared mentally ill, mentally retarded or an inebriate, and any person who shall maliciously make application to any circuit court or mental hygiene commission for the purpose of having another person declared mentally ill, mentally retarded, or an inebriate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five hundred dollars, or imprisoned not exceeding one year, or both fined and imprisoned at the discretion of the court.

Sec. 2. Trespass on Grounds of State Hospitals.—The enclosed premises and the lands adjoining the same belonging to any one of the state hospitals are hereby declared private grounds; and if any person be found thereon without authority, permission or good excuse, he shall be deemed a trespasser, and, on conviction thereof, shall be fined not exceeding twenty-five dollars; and if it shall appear that he was thereon for any unlawful or immoral purpose, in addition to being fined, he shall be imprisoned not exceeding sixty days.

Sec. 3. Miscellaneous Offenses.—If any person shall entice any patient from any state hospital who has been legally committed thereto, or attempt to do so; or shall counsel, cause, influence or assist, or attempt to do so, any such patient to escape or attempt to escape therefrom, or harbor or conceal any such patient who has escaped therefrom; or shall, without the permission of the superintendent of any such hospital, give or sell to any such patient, whether on the premises thereof or elsewhere, any money, firearms, drugs, cigarettes, tobacco, or any

11 other article whatsoever; or shall receive from the hands
12 of any such patient anything of value, whether belonging
13 to the state or not; or shall cause or influence, or attempt
14 to cause or influence, any such patient to violate any rule
15 or to rebel against the government or discipline of such
16 hospital; or shall tease, pester, annoy, or molest any such
17 patient, he shall be guilty of a misdemeanor, and, on con-
18 viction thereof, shall be fined not less than ten nor more
19 than one hundred dollars, or imprisoned not exceeding
20 six months, or, in the discretion of the court, both fined
21 and imprisoned. If any person shall aid or abet the com-
22 mission of any of the foregoing offenses, or aid or abet
23 an attempt to commit the same, he shall be guilty of the
24 same as if he were the principal, and be punished as above
25 provided. In the trial of an indictment for committing
26 any of the above-named offenses, the accused may be
27 found guilty of an attempt to commit the same, or of aid-
28 ing or abetting another in committing or in an attempt to
29 commit the same. If any person, not her husband, shall
30 have sexual intercourse with any female patient who is
31 a patient of any of said state hospitals, he shall be guilty
32 of a felony, and, on conviction thereof, shall be confined
33 in the penitentiary not less than ten nor more than fifteen
34 years; and if such female patient be under sixteen years
35 of age, he shall be imprisoned not less than ten nor more
36 than twenty years.

Article 13. Laws Repealed; Severability.

Section

2. Severability.

Section 2. Severability.—If any provision of this chap-
2 ter or the application thereof to any person or circum-
3 stance is held invalid, such invalidity shall not affect other
4 provisions or applications of the chapter which can be
5 given effect without the invalid provision or its applica-
6 tion, and to this end the provisions of this chapter are
7 declared to be severable.

CHAPTER 99

(Senate Bill No. 176—By Mr. McCourt)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section two, article eight, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article eight by adding thereto a new section, designated section two-a, all relating to the establishment by county courts of local mental health programs and deducting the cost of such programs from the annual county debt to the state of West Virginia for the maintenance of resident patients at state mental institutions.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article eight be further amended by adding thereto a new section, designated section two-a, to read as follows:

Article 8. Maintenance of Mentally Ill Patients.

Section

2. When and how counties to pay.

2-a. Local mental health programs; approval; credits to amount due state under preceding section.

Section 2. When and How Counties to Pay.—If the state

2 mental institution is unable to collect a minimum of one
3 hundred fifty dollars per annum toward the maintenance
4 of a patient, whether on a voluntary or involuntary
5 status, the county of which the patient is a resident shall
6 annually pay into the state treasury for credit to the ap-
7 propriate institution the difference between the amount,
8 if any, collected by the institution and the sum of one
9 hundred fifty dollars, subject, however, to the provisions
10 of section two-a.

11 At every levy term of each county court it shall esti-
12 mate for and levy a sufficient amount to meet all such
13 expenses. The superintendent of such institution, on or
14 before the tenth day of January of each year, shall certify
15 to the auditor a list of all the patients in the institution

16 during the whole or any part of the preceding year for
17 which the counties are to pay, showing on such list un-
18 der the name of the county, the number from each county
19 and length of time they were in the institution during
20 the year, and showing the amount due from each county
21 for each patient, and the total amount due from each
22 county for the year. As soon as such list is received by
23 the auditor he shall charge to each county the amount
24 appearing to be due from the certificates of the super-
25 intendants. Within ten days after the receipt of such
26 certificates the auditor shall make out a copy thereof
27 for each county and certify the same to the county court
28 thereof, which list shall show the name of each patient
29 in such hospital from the county during the year, the
30 length of time he was in such institution during the year,
31 the amount charged for each patient, and the total amount
32 charged on account of all such patients from the county;
33 and such total amount shall constitute a debt against
34 the county due the state. Whenever there is in the state
35 treasury a sum of money due any county from any source,
36 the same shall be at once applied on the debt aforesaid
37 against the county, and the fact of such application of
38 such fund shall be reported by the auditor to the county
39 court of the county, which report shall be a receipt for
40 the amount therein named.

41 The provisions of this section shall apply only to the
42 state mental hospitals proper, and not to the clinics at-
43 tached thereto.

Sec. 2-a. Local Mental Health Programs; Approval;
2 **Credits to Amount Due State under Preceding Section.—**
3 Any county court which elects to establish a local mental
4 health program and has a completed comprehensive pro-
5 gram ready for implementation, and which program is ap-
6 proved in advance by the state director of mental health,
7 shall be allowed to deduct from its annual debt for the
8 maintenance of resident patients in state mental institu-
9 tions, as set forth in section two, an amount equal to the
10 moneys annually expended by said county court for the
11 establishment and maintenance of said approved local
12 mental health program.

13 Any county court which desires to establish a local
14 mental health program may make application for ap-
15 proval of such program to the director of mental health
16 on forms to be provided by the director and in accord-
17 ance with procedures and standards which have been
18 established by the director.

19 On or before the fifth day of January of each year, each
20 county court which has established an approved program
21 shall certify to the director a detailed statement of its
22 expenditures made for such program on a form to be pro-
23 vided by the director. The director shall have the author-
24 ity to delete or refuse to approve any expenditures made
25 by the county courts which were not made in accordance
26 with the approved comprehensive plan for that county.

27 On or before the fifteenth day of January of each year
28 the director of the department of mental health shall
29 certify to the auditor a statement of the approved expen-
30 ditures made by each county which has elected to estab-
31 lish a local mental health program. The auditor shall
32 deduct such certified sums from the amount determined
33 to be due the state of West Virginia, as provided in sec-
34 tion two: *Provided*, That any amount due which is not
35 used in the operation of such a local mental health pro-
36 gram in the fiscal year for which it was made available
37 to provide mental health services to its residents shall
38 continue to be paid into the state treasury: *Provided*
39 *further*, That any such approved comprehensive mental
40 health program must be fully implemented within one
41 year from the date of approval by the state director of
42 mental health.

CHAPTER 100

(Com. Sub. for Senate Bill No. 137—By Mr. Holden
and Mr. Jackson)

[Passed March 11, 1965: in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact chapter twenty-two of the
code of West Virginia, one thousand nine hundred thirty-

one, as amended, by amending and reenacting section eight, article one thereof, sections eight and nine, article two-a thereof; by adding thereto a new article, designated article two-b; and by amending and reenacting section one-d, article four thereof, all relating to the director of the department of mines and his salary; appointment and qualifications of mine inspectors, their salaries, expenses, and removal; surface mining maps, plans and locations; appointment and qualifications of surface mining supervisor and inspectors, and their compensation and expenses; underground clay mining, qualification and employment of clay mine foreman and assistants, and regulations in connection with underground clay mines; and qualification and appointment of oil and gas inspector and supervising inspector, and expenses and removal thereof.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section eight, article one thereof; sections eight and nine, article two-a thereof; by adding thereto a new article, designated article two-b; and by amending and reenacting section one-d, article four thereof, all to read as follows:

Article

1. Administration; Enforcement.
- 2-a. Surface Mining.
- 2-b. Underground Clay Mine.
4. Oil and Gas Wells.

Article 1. Administration; Enforcement.

Section

8. Same; eligibility for appointment; qualifications; salary and expenses; removal.

Section 8. Same; Eligibility for Appointment; Qualifications; Salary and Expenses; Removal.—(a) No person shall be eligible for appointment as a mine inspector after the effective date of this article unless, at the time of his probationary appointment he: (1) Is a citizen of West Virginia, in good health, not less than thirty nor more than fifty-five years of age, and of good character, reputation and temperate habits; (2) has had at least ten years' practical experience in coal mines, at least

10 five years of which, immediately preceding his original
11 appointment, shall have been in mines in this state: *Pro-*
12 *vided*, That graduation from the school of mines of West
13 Virginia University or any other accredited college of
14 mining engineering shall be considered the equivalent of
15 two years' practical experience; (3) has had practical ex-
16 perience with dangerous gases found in coal mines; and
17 (4) has a good theoretical and practical knowledge of
18 mines, mining methods, mine ventilation, sound safety
19 practices and applicable mining laws.

20 (b) In order to qualify for appointment as a mine
21 inspector an eligible applicant shall submit to a written
22 and oral examination by the mine inspectors' examining
23 board and furnish such evidence of good health, character
24 and other facts establishing eligibility as the board may
25 require. If the board finds after investigation and exami-
26 nation that an applicant: (1) Is eligible for appointment
27 and (2) has passed all written and oral examinations,
28 with a grade of at least ninety per cent, the board shall
29 add such applicant's name and grade to the register of
30 qualified eligible candidates and certify its action to the
31 director of the department of mines. No candidate's name
32 shall remain in the register for more than three years
33 without requalifying.

34 (c) Salaries of district inspectors shall not be less
35 than eighty-one hundred dollars nor more than ninety-
36 nine hundred dollars per annum; assistant inspectors-at-
37 large not less than eighty-four hundred dollars nor more
38 than ten thousand two hundred dollars per annum; in-
39 spectors-at-large not less than eighty-seven hundred dol-
40 lars nor more than ten thousand eight hundred dollars per
41 annum, and reasonable traveling expenses. Within the
42 limits provided by law, the salary of each inspector shall
43 be fixed by the director of the department of mines, sub-
44 ject to the approval of the mine inspectors' examining
45 board. In fixing salaries of mine inspectors, the director of
46 the department of mines shall consider ability, perform-
47 ance of duty and experience. No reimbursement for
48 traveling expenses shall be made except upon an itemized
49 account of such expenses submitted by the inspector, who

50 shall verify, upon oath, that such expenses were actually
51 incurred in the discharge of his official duties.

52 (d) A mine inspector, after having received a perma-
53 nent appointment shall be removed from office only for
54 physical or mental impairment, incompetency, neglect of
55 duty, drunkenness, malfeasance in office, or other good
56 cause.

57 Proceedings for the removal of a mine inspector may
58 be initiated by the director of the department of mines
59 whenever he has reasonable cause to believe and does
60 believe that adequate cause exists, warranting removal.
61 Such a proceeding shall be initiated by a verified petition,
62 filed with the board by the director of the department of
63 mines, setting forth with particularity the facts alleged.
64 Not less than twenty reputable citizens, who are operators
65 or employees in mines in the state, may petition the di-
66 rector of the department of mines for the removal of a
67 mine inspector. If such petition is verified by at least one
68 of the petitioners, based on actual knowledge of the
69 affiant, and alleges facts, which, if true, warrant the re-
70 moval of the inspector, the director of the department
71 of mines shall cause an investigation of the facts to be
72 made. If, after such investigation, the director finds that
73 there is substantial evidence which, if true, warrants re-
74 moval of the inspector, he shall file a petition with the
75 board requesting removal of the inspector.

76 On receipt of a petition by the director of the depart-
77 ment of mines seeking removal of a mine inspector the
78 board shall promptly notify the inspector to appear be-
79 fore it at a time and place designated in said notice, which
80 time shall be not less than fifteen days thereafter. There
81 shall be attached to the copy of the notice served upon
82 the inspector a copy of the petition filed with the board.

83 At the time and place designated in said notice, the board
84 shall hear all evidence offered in support of the petition
85 and on behalf of the inspector. Each witness shall be
86 sworn and a transcript shall be made of all evidence taken
87 and proceedings had at any such hearing. No continuance
88 shall be granted except for good cause shown.

89 The chairman of the board and the director of the de-

90 partment of mines shall have power to administer oaths
91 and subpoena witnesses.

92 Any mine inspector who shall wilfully refuse or fail to
93 appear before the board, or having appeared, shall refuse
94 to answer under oath any relevant question on the ground
95 that his testimony or answer might incriminate him, or
96 shall refuse to waive immunity from prosecution on ac-
97 count of any relevant matter about which he may be asked
98 to testify at any such hearing before the board, shall
99 forfeit his position.

100 If, after hearing, the board finds that the inspector
101 should be removed, it shall enter an order to that effect.
102 The decision of the board shall be final and shall not be
103 subject to judicial review.

Article 2-a. Surface Mining.

Section

8. Maps, plans and locations.
9. Surface mining supervisor and inspectors; appointment and qualifications; compensation and expenses.

Section 8. Maps, Plans and Locations.—Except as otherwise provided in the code of West Virginia, one thousand
2 nine hundred thirty-one, as amended, applications shall
3 be accompanied by a United States geological survey
4 topographic map on which the operator has indicated the
5 location of the operation. A monument as prescribed by
6 the department of mines shall be placed in an approved
7 location near the operation. If operations under a single
8 permit are not geographically continuous, the operator
9 shall locate additional monuments and submit additional
10 location maps before mining on other areas. On or prior
11 to the beginning of the ninth month after the date of the
12 issuance of any surface mining permit, five copies of a
13 six months' progress map shall be furnished the depart-
14 ment of mines. This map shall contain information identi-
15 cal to that required for both the anniversary and comple-
16 tion maps which are required by this article. Within sixty
17 days following the anniversary date of the permit, the
18 operator shall furnish the department of mines five copies
19 of a map, prepared by a registered professional civil engi-
20 neer, mining engineer or land surveyor, showing the area
21

22 disturbed by operations. Such map shall be furnished no
23 later than sixty days following the anniversary date of
24 the permit. Such map shall also show completed reclama-
25 tion work. Maps shall include a geologic survey sketch
26 showing the location of the operation and be properly
27 referenced to a permanent landmark, and all work shall
28 have an accuracy of not less than one in three hundred.
29 If no land has been disturbed by operations during the
30 preceding year, the operator shall notify the department
31 of mines of this fact. A final map shall be submitted with-
32 in three months after completion of mining operations.
33 Failure to submit maps or notices at specified times shall
34 cause the permit to be suspended.

**Sec. 9. Surface Mining Supervisor and Inspectors; Ap-
pointment and Qualifications; Compensation and Expenses.**

2 —Not more than six surface mining inspectors and a state
3 surface mining supervisor shall be appointed by the di-
4 rector of the department of mines. All such appointees
5 shall be citizens of West Virginia, in good health, not less
6 than thirty nor more than fifty-five years of age, of good
7 character and reputation, and temperate in habits. Each
8 of them shall have had at least five years' practical experi-
9 ence in surface mining in West Virginia. The surface min-
10 ing supervisor shall be paid not less than seven thousand
11 dollars and not more than eight thousand five hundred
12 dollars per annum, and the surface mining inspectors shall
13 be paid not less than six thousand seven hundred dollars
14 and not more than seven thousand five hundred dollars
15 per annum. Each shall be allowed reasonable traveling
16 expenses when itemized by the claimant who shall verify
17 upon oath that such expenses were actually incurred in
18 the discharge of his official duties for the department of
19 mines. Within the limits provided in this section, the
20 salary of the supervisor and of each inspector shall be
21 fixed by the director of the department of mines, and in
22 fixing such salaries the director shall consider ability,
23 performance of duty, responsibility and experience of
24 each. All such salaries and expenses shall be paid from
25 the department of mines funds.
26

Article 2-b. Underground Clay Mine.

Section

1. Definition.
2. Clay mine foreman; when to be employed; qualifications; assistants.
3. Regulations for the protection of the health and safety of employees.

Section 1. Definition.—In this article the term “mine” shall include the shafts, slopes, drifts or inclines connected with excavations penetrating clay seams or strata, which excavations are ventilated by one general air current or division thereof, and the surface structures or equipment connected therewith which contribute directly or indirectly to the underground mining of clay.

Sec. 2. Clay Mine Foreman; When to Be Employed; Qualifications; Assistants.—In every underground clay mine where five or more persons are employed in a period of twenty-four hours, the operator shall employ a mine foreman who shall be a competent and practical person holding a certificate of competence for said position issued to him by the department of mines after an examination by such department. In order to receive a certificate of competence qualifying a foreman in an underground clay mine, the applicant shall take an examination prescribed by the director of the department of mines, be a citizen of this state, of good moral character and temperate habits, having had at least three years' experience in the underground working of clay mines.

Sec. 3. Regulations for the Protection of the Health and Safety of Employees.—The director of the department of mines may from time to time promulgate reasonable rules and regulations for the protection of the health and safety of the persons working in or about underground clay mines, to the extent the same are not more onerous or restrictive than the laws of this state intended to safeguard the life and health of persons working in underground coal mines contained in article two of this chapter.

Article 4. Oil and Gas Wells.

Section

- 1-d. Same; eligibility for appointment; qualifications; salary; expenses; removal.

Section 1-d. Same; Eligibility for Appointment; Qualifications; Salary; Expenses; Removal.—(a) No person shall

3 be eligible for appointment as an oil and gas inspector or
4 supervising inspector unless, at the time of his proba-
5 tionary appointment he (1) is a citizen of West Virginia,
6 in good health, and of good character, reputation and
7 temperate habits; (2) has had at least ten years' practical
8 experience in the oil and gas industry, at least five years
9 of which, immediately preceding his original appointment
10 shall have been in the oil and gas industry in this state:
11 *Provided*, That a diploma in geology or in mining or
12 petroleum engineering from West Virginia University, or
13 any similarly accredited school shall be considered the
14 equivalent of two years' practical experience; and (3) has
15 good theoretical and practical knowledge of oil and gas
16 drilling and production methods, practices and techniques,
17 sound safety practices and applicable mining laws.

18 (b) In order to qualify for appointment as an oil and
19 gas inspector or supervising inspector, an eligible appli-
20 cant shall submit to a written and oral examination by
21 the oil and gas inspectors' examining board and shall
22 furnish such evidence of good health, character and other
23 facts establishing eligibility as such board may require. If
24 such board finds after investigation and examination that
25 an applicant (1) is eligible for appointment and (2) has
26 passed all written and oral examinations, the board shall
27 add such applicant's name and grade to the register of
28 qualified eligible candidates and certify its action to the
29 deputy director for oil and gas. No candidate's name shall
30 remain on the register for more than three years without
31 requalifying.

32 (c) The salary of the supervising inspector shall be
33 not less than five thousand six hundred dollars per annum,
34 nor more than eight thousand dollars per annum, and
35 reasonable traveling expenses. Salaries of inspectors shall
36 not be less than five thousand six hundred dollars per
37 annum, nor more than seven thousand four hundred dol-
38 lars per annum, and reasonable traveling expenses. With-
39 in the limits provided by law, the salary of each inspector
40 and of the supervising inspector shall be fixed by the
41 deputy director for oil and gas, subject to the approval of
42 the director of the department of mines and oil and gas
43 inspectors' examining board. In fixing salaries of the oil

44 and gas inspectors and of the supervising inspector, the
45 deputy director for oil and gas shall consider ability, per-
46 formance of duty, and experience. No reimbursement for
47 traveling expenses shall be made except upon an itemized
48 account of such expenses submitted by the inspector or
49 supervising inspector, as the case may be, who shall
50 verify, upon oath, that such expenses were actually in-
51 curred in the discharge of his official duties.

52 (d) An inspector or the supervising inspector, after
53 having received a permanent appointment, shall be re-
54 moved from office only for physical or mental impairment,
55 incompetency, neglect of duty, drunkenness, malfeasance
56 in office, or other good cause.

57 Proceedings for the removal of an oil and gas inspector
58 or the supervising inspector may be initiated by the
59 deputy director for oil and gas or the director of the de-
60 partment of mines whenever either has reasonable
61 grounds to believe and does believe that adequate cause
62 exists warranting removal. Such a proceeding shall be
63 initiated by a verified petition, filed with the oil and gas
64 inspectors' examining board by the deputy director for
65 oil and gas or the director, setting forth with particularity
66 the facts alleged. Not less than twenty reputable citizens
67 engaged in oil and/or gas drilling and production opera-
68 tions in the state may petition the deputy director for oil
69 and gas or the director of the department of mines for the
70 removal of an inspector or the supervising inspector. If
71 such petition is verified by at least one of the petitioners,
72 based on actual knowledge of the affiant, and alleges facts
73 which, if true, warrant the removal of the inspector or
74 supervising inspector, the deputy director for oil and gas
75 or the director of the department of mines shall cause an
76 investigation of the facts to be made. If, after such in-
77 vestigation, the deputy director for oil and gas or the di-
78 rector finds that there is substantial evidence which, if
79 true, warrants removal of the inspector or supervising
80 inspector, he shall file a petition with the oil and gas in-
81 spectors' examining board requesting removal of the in-
82 spector or supervising inspector.

83 On receipt of a petition by the deputy director for oil
84 and gas or by the director of the department of mines
85 seeking removal of an inspector or the supervising inspec-
86 tor, the oil and gas inspectors' examining board shall
87 promptly notify the inspector or supervising inspector, as
88 the case may be, to appear before it at a time and place
89 designated in said notice, which time shall be not less than
90 fifteen days nor more than thirty days thereafter. There
91 shall be attached to the copy of the notice served upon
92 the inspector or supervising inspector a copy of the peti-
93 tion filed with such board.

94 At the time and place designated in said notice, the oil
95 and gas inspectors' examining board shall hear all evi-
96 dence offered in support of the petition and on behalf of
97 the inspector or supervising inspector. Each witness shall
98 be sworn and a transcript shall be made of all evidence
99 taken and proceedings had at any such hearing. No con-
100 tinuance shall be granted except for good cause shown.

101 The chairman of the board, the deputy director for oil
102 and gas, and the director of the department of mines
103 shall have power to administer oaths and subpoena wit-
104 nesses.

105 Any inspector or supervising inspector who shall wil-
106 fully refuse or fail to appear before such board, or having
107 appeared, shall refuse to answer under oath any relevant
108 question on the ground that his testimony or answer
109 might incriminate him, or shall refuse to accept a grant of
110 immunity from prosecution on account of any relevant
111 matter about which he may be asked to testify at such
112 hearing before such board, shall forfeit his position.

113 If, after hearing, the oil and gas inspectors' examining
114 board finds that the inspector or supervising inspector
115 should be removed, it shall enter an order to that effect.
116 The decision of the board shall be final and shall not be
• 117 subject to judicial review.

CHAPTER 101

(House Bill No. 921—By Mr. Bailey)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article four-a, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to levy of execution, etc., upon a vehicle for which application for a certificate of title has been filed with the department of motor vehicles; requiring officer to take vehicle into actual custody in order to obtain a recorded lien with the effect of constructive notice; relating to report by levying officer and action of the department; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section nine, article four-a, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 4-a. Liens and Encumbrances on Vehicles to Be Shown on Certificate of Title; Notice to Creditors and Purchasers.

Section

9. Levy of execution, etc.

Section 9. Levy of Execution, etc.—A levy made by
2 virtue of an execution, fieri facias or other proper court
3 order, upon a vehicle for which application for a certifi-
4 cate of title has been filed with the department, shall
5 constitute a recorded lien, with the effect of constructive
6 notice thereof to all persons, subsequent to holders of
7 liens or encumbrances theretofore filed with the depart-
8 ment, only from and after the time when the officer mak-
9 ing such levy files a report to and with the department
10 of motor vehicles, on forms provided therefor by the
11 department, that such levy has been made and that the
12 vehicle thus levied upon has been seized by and is in the
13 actual custody of such officer; and the provisions of any
14 other article, chapter or section of this code to the con-
15 trary notwithstanding, the docketing or recording of any
16 such execution, fieri facias or other court order in the

17 office of the clerk of the county court of any county in this
18 state shall not constitute constructive notice thereof as to
19 any such vehicle.

20 Such report by such officer shall show among other
21 things the full names of the parties to the proceeding
22 upon which the execution, fieri facias or court order is
23 based; the identity of the court, judge or justice of the
24 peace or other judicial officer from which said execution,
25 fieri facias or other court order was issued; the amount
26 required for the satisfaction thereof; the date thereof;
27 the date and hour when received by the officer; the
28 date, hour and minute of the levy, attachment or other
29 execution of said process and the taking into actual
30 custody of said vehicle; the date returnable; the make,
31 year, body style of the vehicle to which the lien of
32 said execution, fieri facias or court order relates as well
33 as the name of the person or persons whose interest
34 or ownership therein is intended to be affected by the
35 lien of such execution, fieri facias or court order. Such
36 report shall also show, if known, the serial number of
37 such vehicle, the current West Virginia registration card
38 number and current West Virginia registered owner
39 thereof and current West Virginia license plate number,
40 and if any item in this sentence enumerated for listing
41 on such report is unknown to the reporting officer the
42 report shall state that such item is unknown to the officer.
43 Such report shall be dated, signed and certified by the
44 reporting officer and such certification shall constitute an
45 official act on his part. The department shall by endorse-
46 ment upon or attachment to its records note the officer's
47 report and the day and hour and the minute received
48 upon its record copy of the certificate of title thereby
49 affected; should such lien be thereafter satisfied or should
50 the vehicle thus levied upon and seized be thereafter re-
51 leased by such officer, he shall immediately report that
52 fact to the department of motor vehicles and the depart-
53 ment shall in a like manner note such fact. Any owner
54 who after such levy and seizure by an officer and before
55 the report thereof by the officer to the department shall
56 fraudulently assign or transfer his title to or interest in
57 such vehicle or cause the certificate of title thereto to be

58 assigned or transferred or cause a lien or encumbrance
59 to be shown upon such certificate of title shall be deemed
60 guilty of a misdemeanor, and, upon conviction thereof,
61 shall be fined not less than twenty-five nor more than five
62 hundred dollars, or imprisoned in jail for not less than
63 ten days nor more than twelve months.

64 The actual possession of the levying or attaching officer
65 of the law or the actual possession of some person, other
66 than the judgment or attachment debtor, holding such
67 property for the officer, shall constitute notice of the lien,
68 if any, of the execution, fieri facias, or other court order
69 under which he levies and seizes or otherwise takes pos-
70 session.

71 For any vehicle as to which an involuntary lien has
72 been reported and noted by the department and for which
73 there has been no report of release or satisfaction by the
74 levying or seizing officer, if application be made for the
75 transfer of title thereto or issuance of new certificate of
76 title therefor to the current registered owner or to some-
77 one claiming by assignment of title certificate from such
78 registered owner or if application be made pursuant to
79 the provisions of this article for the endorsement upon
80 the certificate of title to such vehicle of a lien or encum-
81 brance created by the voluntary act of the owner and the
82 issuance of a new certificate of title showing the same,
83 such involuntary lien, for which the department's records
84 show no report of satisfaction or release, and the informa-
85 tion furnished in the officer's report thereof together with
86 the date, hour and minute of receipt of such report shall
87 be endorsed upon such new certificate of title issued pur-
88 suant to any of such applications.

CHAPTER 102

(Com. Sub. for House Bill No. 519—By Mr. Watson)

[Passed March 2, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections two and three, article
two, chapter seventeen-b of the code of West Virginia,

one thousand nine hundred thirty-one, as amended, relating to persons who are exempt from being licensed by the department of motor vehicles as operators or chauffeurs; to persons who may not be licensed by the department of motor vehicles as operators or chauffeurs; raising the age for a regular operator's license from sixteen to eighteen years; providing for junior or probationary operator's licenses for persons between the ages of sixteen and eighteen years; specifying that such junior or probationary operator's licenses may be reasonably conditioned or restricted; requiring parental or guardian consent for the issuance of a junior or probationary operator's license; and providing for the revocation of junior or probationary operator's licenses for operating a motor vehicle in violation of the conditions or restrictions imposed upon such licenses or for convictions of moving violations against traffic regulations and laws of the road.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article two, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Issuance of License, Expiration and Renewal.

Section

2. What persons are exempt from license.
3. What persons shall not be licensed; exceptions.

Section 2. What Persons Are Exempt from License.—

- 2 The following persons are exempt from license here-
- 3 under:
- 4 (1) Any person while operating a motor vehicle in
- 5 the armed services of the United States while in the
- 6 performance of his official duties;
- 7 (2) A nonresident who is at least sixteen years of
- 8 age and who has in his immediate possession a valid
- 9 operator's license issued to him in his home state or
- 10 country may operate a motor vehicle in this state only
- 11 as an operator for a period not to exceed ninety days in
- 12 any one calendar year;
- 13 (3) A nonresident who is at least sixteen years of age, who
- 14 has in his immediate possession a valid operator's license

15 issued to him in his home state or country and who is
16 employed in this state, or owns, maintains or operates a
17 place or places of business in this state, or engages in
18 any trade, profession or occupation in this state, in addi-
19 tion to the driving privileges extended under subdivi-
20 sion (2) of this section, may operate a motor vehicle
21 in this state only as an operator in traveling to and from
22 his place or places of employment, place or places of
23 business or place or places at which he engages in such
24 trade, profession or occupation and in the discharge of
25 the duties of his employment, business, trade, profession
26 or occupation if such duties are such that if performed
27 by a resident of the state of West Virginia over the age
28 of eighteen years such resident would not be required un-
29 der the provisions of this chapter to be licensed as a
30 chauffeur;

31 (4) A nonresident who is at least eighteen years of
32 age and who has in his immediate possession a valid
33 chauffeur's license issued to him in his home state or
34 country may operate a motor vehicle in this state either
35 as a chauffeur subject to the age limits applicable to
36 chauffeurs in this state, or as an operator subject to the
37 limitations imposed on nonresident operators in subdivi-
38 sions (2) and (3) of this section;

39 (5) Any person who is a student, properly enrolled
40 and registered in an accredited school, college or univer-
41 sity in this state, who is at least sixteen years of age and
42 who has in his immediate possession a valid operator's
43 license issued to him in his home state, notwithstanding
44 the limitations of subdivisions (2) and (3) of this sec-
45 tion may operate a motor vehicle in this state only as an
46 operator: *Provided*, That the state of which he is a resi-
47 dent shall extend the same privileges to residents of this
48 state. This exemption shall be cancelled immediately
49 when such student is graduated from school, college or
50 university or is expelled or ceases to be a student.

Sec. 3. What Persons Shall Not Be Licensed; Excep-
2 **tions.**—The department shall not issue any license here-
3 under:

4 (1) To any person, as an operator, who is under the

5 age of eighteen years: *Provided*, That under rules and
6 regulations to be established by the commissioner and
7 in accordance with the provisions hereinafter set forth
8 in this subdivision (1), a junior or probationary oper-
9 ator's license may be issued to any person between the
10 ages of sixteen and eighteen years, who is not otherwise
11 disqualified by law, upon application therefor on a form
12 prescribed by the commissioner and successful comple-
13 tion of all examinations and driving tests required by
14 law for the issuance of an operator's license to a person
15 eighteen years of age or older. The commissioner may
16 impose reasonable conditions or restrictions on the oper-
17 ation of a motor vehicle by a person holding such junior
18 or probationary operator's license, which conditions or
19 restrictions shall be printed on each such license. In
20 addition to all other provisions of this chapter for which
21 a regular operator's or chauffeur's license may be revoked,
22 suspended or cancelled, whenever a person holding such
23 a junior or probationary operator's license operates a
24 motor vehicle in violation of the conditions or restric-
25 tions set forth on such license, or has a record of two
26 convictions for moving violations of the traffic regula-
27 tions and laws of the road, which convictions have be-
28 come final, the junior or probationary license of such
29 person shall be permanently revoked, with like effect
30 as if such person had never held a junior or probat-
31 ary operator's license: *Provided*, That such junior or
32 probationary operator's license shall be revoked upon
33 one final conviction for any offense specified in section
34 five, article three of this chapter. Under no circum-
35 stances shall such a license be revoked for convictions
36 of offenses in violation of any regulation or law govern-
37 ing the standing or parking of motor vehicles. A person
38 whose junior or probationary operator's license has been
39 revoked shall not thereafter receive a junior or prob-
40 ationary operator's license, but such person, upon at-
41 taining the age of eighteen, shall be eligible, unless
42 otherwise disqualified by law, for examination and driver
43 testing for a regular operator's license or chauffeur's
44 license. No person shall receive a junior or probationary
45 operator's license unless the application therefor is ac-

46 accompanied by a writing, duly acknowledged, consenting
47 to the issuance of such junior or probationary operator's
48 license and executed (a) by the parents of the applicant,
49 or (b) if only one parent is living, then by such parent,
50 or (c) if the parents be living separate and apart, by the
51 one to whom was awarded the custody of the applicant,
52 or (d) if there is a guardian entitled to the custody of
53 the applicant, then by such guardian. Upon attaining
54 the age of eighteen years, a person holding an unrevoked
55 junior or probationary operator's license shall, upon pay-
56 ment of the prescribed fee, be entitled to receive a regular
57 operator's license or chauffeur's license without further
58 examination or driver testing;

59 (2) To any person, as a chauffeur, who is under the
60 age of eighteen years;

61 (3) To any person, as an operator or chauffeur, whose
62 license has been suspended, during such suspension, nor
63 to any person whose license (other than a junior or pro-
64 bationary operator's license) has been revoked, except
65 as provided in section eight, article three of this chapter;

66 (4) To any person, as an operator or chauffeur, who
67 is an habitual drunkard, or is addicted to the use of nar-
68 cotic drugs;

69 (5) To any person, as an operator or chauffeur, who
70 has previously been adjudged to be afflicted with or suf-
71 fering from any mental disability or disease and who
72 has not at the time of application been restored to compe-
73 tency by judicial decree or released from a hospital for
74 the mentally incompetent, upon the certificate of the
75 superintendent of such institution that such person is
76 competent and not then unless the commissioner is satis-
77 fied that such person is competent to operate a motor
78 vehicle with safety to persons or property;

79 (6) To any person, as an operator or chauffeur, who
80 is required by this chapter to take an examination, un-
81 less such person shall have successfully passed such ex-
82 amination;

83 (7) To any person who is required under the pro-
84 visions of the motor vehicle safety responsibility laws of

85 this state to deposit proof of financial responsibility and
86 who has not deposited such proof;

87 (8) To any person when the commissioner has good
88 cause to believe that the operation of a motor vehicle
89 on the highways by such person would be inimical to
90 public safety or welfare.

CHAPTER 103

(Com. Sub. for House Bill No. 767—By Mr. Speaker, Mr. White)

[Passed March 2, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend article one, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto four new sections, designated sections fifty-six, fifty-seven, fifty-eight and fifty-nine; and to amend and reenact section four, article seventeen of said chapter; and to further amend said article seventeen by adding thereto a new section, designated section eleven-b, all relating to the height, length and loads of vehicles.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto four new sections, designated sections fifty-six, fifty-seven, fifty-eight and fifty-nine; that section four, article seventeen of said chapter be amended and reenacted; and that article seventeen be further amended by adding thereto a new section, designated section eleven-b, all to read as follows:

Article

1. Words and Phrases Defined.
17. Size, Weight and Load.

Article 1. Words and Phrases Defined.

Section

56. Axle group.
57. Tandem axle.

58. Tandem axle weight.
59. Connecting mechanism.

Section 56. Axle Group.—"Axle group" means an assemblage of two or more consecutive axles considered together in determining their combined load effect on a bridge or pavement structure. The determination of what constitutes an axle group may include any or all the axles on the vehicle or combination of vehicles.

Sec. 57. Tandem Axle.—"Tandem axle" means any two or more consecutive axles whose centers are more than forty inches but not more than ninety-six inches apart, and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles.

Sec. 58. Tandem Axle Weight.—"Tandem axle weight" means the total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse planes spaced more than forty inches and not more than ninety-six inches apart, extending the full width of the vehicle.

Sec. 59. Connecting Mechanism.—"Connecting mechanism" means an arrangement of parts interconnecting two or more consecutive axles to the frame of a vehicle in such a manner as to equalize the load between axles.

Article 17. Size, Weight and Load.

Section

4. Height and length of vehicles and loads.
11-b. Authority of state road commissioner to increase height and length limitations upon highways designated by him.

Section 4. Height and Length of Vehicles and Loads.—
(a) No vehicle including any load thereon shall exceed a height of twelve feet six inches, except as provided in section eleven-b of this article, and except that vehicles used as automobile transports including any load thereon shall not exceed a height of thirteen feet six inches, but the owners of such automobile transports shall be responsible to the state road commissioner for any damage to bridges or other road structures and to municipalities and utility companies for any damage to wires, traffic devices

11 or other structures, and to any person suffering property
12 damage when any such damage is proximately caused
13 by the height of such vehicle or vehicles and load being
14 in excess of twelve feet six inches.

15 (b) No motor vehicle including any load thereon shall
16 exceed a length of thirty-five feet extreme overall dimen-
17 sion, inclusive of front and rear bumpers, except that a
18 bus, truck or trackless trolley coach equipped with three
19 axles shall not exceed an overall length, inclusive of front
20 and rear bumpers, of forty feet.

21 (c) No combination of vehicles coupled together shall
22 consist of more than two units and no such combination
23 of vehicles including any load thereon shall have an over-
24 all length, inclusive of front and rear bumpers, in excess
25 of fifty feet, except as provided in section eleven-b of
26 this article, and except as otherwise provided in respect
27 to the use of a pole trailer as authorized in section five
28 of this article: *Provided, however*, That the limitation
29 that no combination of vehicles coupled together shall
30 consist of more than two units shall not apply to a com-
31 bination of vehicles coupled together by a saddle mount
32 device used to transport motor vehicles in a drive-away
33 service when no more than two saddle mounts are used:
34 *And provided further*, That equipment used in said com-
35 bination meets the requirements of the safety regulations
36 of the interstate commerce commission.

Sec. 11-b. Authority of State Road Commissioner to
2 **Increase Height and Length Limitations upon Highways**
3 **Designated by Him.**—If, in the opinion of the state road
4 commissioner, the design, construction and safety of any
5 highway, or portion thereof, are such that the maximum
6 height or length limitations prescribed in section four (a)
7 and (c) of this article can be increased without undue
8 risk of damage to other vehicles lawfully using such high-
9 way or portion thereof, to bridges or other road struc-
10 tures, and to municipal and utility company facilities,
11 wires, traffic devices or other structures, the commissioner
12 may, by order, increase the height or length limitations
13 or both the height and length limitations of vehicles
14 which may be operated upon any such highway, or portion
15 thereof, designated by him in such order and may estab-

16 lish therein the maximum height and/or length limita-
17 tions which shall thereafter be applicable to the highway
18 or portion thereof so designated by him: *Provided, how-*
19 *ever*, That the maximum height of any vehicle including
20 any load thereon shall not exceed thirteen feet six inches,
21 and the maximum length of any combination of vehicles
22 including any load thereon shall not exceed fifty-five feet,
23 except as otherwise provided in this article with respect
24 to the size of vehicles: *And provided further*, That no such
25 order of the commissioner shall establish any height or
26 length limitation in excess of or in conflict with any height
27 or length limitation prescribed by or pursuant to acts of
28 Congress with respect to federal-aid highway systems.

CHAPTER 104

(Senate Bill No. 150—By Mr. Carson, Mr. President,
and Mr. Barnett)

[Passed March 6, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections nineteen, twenty-six and thirty-one, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to lighting equipment and brakes on motor vehicles.

Be it enacted by the Legislature of West Virginia:

That sections nineteen, twenty-six and thirty-one, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 15. Equipment.

Section

- 19. Additional lighting equipment.
- 26. Special restrictions on lamps.
- 31. Brakes.

Section 19. Additional Lighting Equipment.—(a) Any
2 motor vehicle may be equipped with not more than two

3 side cowl or fender lamps which shall emit an amber or
4 white light without glare.

5 (b) Any motor vehicle may be equipped with not more
6 than one running-board courtesy lamp on each side there-
7 of which shall emit a white or amber light without glare.

8 (c) Any motor vehicle may be equipped with not more
9 than two back-up lamps either separately or in combina-
10 tion with other lamps, but any such back-up lamp shall
11 not be lighted when the motor vehicle is in forward
12 motion.

13 (d) Any vehicle may be equipped with lamps which
14 may be used for the purpose of warning the operators of
15 other vehicles of the presence of a vehicular traffic hazard
16 requiring the exercise of unusual care in approaching,
17 overtaking or passing, and when so equipped may display
18 such warning in addition to any other warning signals
19 required by this article. The lamps used to display such
20 warning to the front shall be mounted at the same level
21 and as widely spaced laterally as practicable and shall dis-
22 play simultaneously flashing white or amber lights, or
23 any shade of color between white and amber. The lamps
24 used to display such warning to the rear shall be mounted
25 at the same level and as widely spaced laterally as prac-
26 ticable, and shall show simultaneously flashing amber or
27 red lights, or any shade of color between amber and red.

Sec. 26. Special Restrictions on Lamps.—(a) Any
2 lighted lamp or illuminating device upon a motor vehicle
3 other than head lamps, spot lamps, auxiliary lamps, or
4 flashing front-direction signals which projects a beam of
5 light of an intensity greater than three hundred candle
6 power shall be so directed that no part of the beam will
7 strike the level of the roadway on which the vehicle
8 stands at a distance of more than seventy-five feet from
9 the vehicle.

10 (b) No person shall drive or move any vehicle or
11 equipment upon any highway with any lamp or device
12 thereon displaying a red light visible from directly in
13 front of the center thereof. This section shall not apply
14 to any vehicle upon which a red light visible from the
15 front is expressly authorized or required by this chapter.

16 (c) Except as authorized in section nineteen, flashing
17 lights are prohibited on motor vehicles, except on an
18 authorized emergency vehicle, school bus, snow removal
19 equipment, or on any vehicle as a means for indicating a
20 right or left turn.

Sec. 31. Brakes.—(a) Brake Equipment Required.—

2 (1) Every motor vehicle, other than a motorcycle or
3 motor-driven cycle, when operated upon a highway shall
4 be equipped with brakes adequate to control the move-
5 ment of and to stop and hold such vehicle, including two
6 separate means of applying the brakes, each of which
7 means shall be effective to apply the brakes to at least
8 two wheels. If these two separate means of applying the
9 brakes are connected in any way, they shall be so con-
10 structed that failure of any one part of the operating
11 mechanism shall not leave the motor vehicle without
12 brakes on at least two wheels.

13 (2) Every motorcycle and every motor-driven cycle,
14 when operated upon a highway, shall be equipped with
15 at least one brake which may be operated by hand or
16 foot.

17 (3) Every trailer or semitrailer of a gross weight of
18 three thousand pounds or more when operated upon a
19 highway shall be equipped with brakes adequate to con-
20 trol the movement of and to stop and to hold such vehicle
21 and so designed as to be applied by the driver of the
22 towing motor vehicle from its cab, and said brakes shall
23 be so designed and connected that in case of an accidental
24 breakaway of the towed vehicle the brakes shall be auto-
25 matically applied.

26 (4) Every new motor vehicle, trailer or semitrailer
27 hereinafter sold in this state and operated upon the high-
28 ways shall be equipped with service brakes upon all
29 wheels, with the following exceptions: (1) That trucks and
30 truck-tractors having three or more axles need not have
31 brakes on the front wheels, except when such vehicles
32 are equipped with at least two steerable axles, the wheels
33 of one such axle need not be equipped with brakes, and
34 (2) any motorcycle or motor-driven cycle, and except
35 that any semitrailer of less than one thousand five hun-

36 dred pounds gross weight need not be equipped with
37 brakes.

38 (5) In any combination of motor-driven vehicles, means
39 shall be provided for applying the rearmost trailer brakes,
40 of any trailer equipped with brakes, in approximate syn-
41 chronism with the brakes on the towing vehicle and
42 developing the required braking effort on the rearmost
43 wheels at the fastest rate; or means shall be provided
44 for applying braking effort first on the rearmost trailer
45 equipped with brakes; or both of the above means capa-
46 ble of being used alternatively may be employed.

47 (6) Every such vehicle and combination of vehicles,
48 except motorcycles and motor-driven cycles, shall be
49 equipped with parking brakes adequate to hold the ve-
50 hicle on any grade on which it is operated, under all
51 conditions of loading on a surface free from snow, ice,
52 or loose material. The parking brakes shall be capable
53 of being applied in conformance with the foregoing re-
54 quirements by the driver's muscular effort or by spring
55 action or by equivalent means. Their operation may be
56 assisted by the service brakes or other source of power
57 provided that failure of the service brake actuation sys-
58 tem or other power assisting mechanism will not prevent
59 the parking brakes from being applied in conformance
60 with the foregoing requirements. The parking brakes
61 shall be so designed that when once applied they shall
62 remain applied with the required effectiveness despite
63 exhaustion of any source of energy or leakage of any
64 kind. The same brake drums, brake shoes and lining
65 assemblies, brake shoe anchors and mechanical brake
66 shoe actuation mechanism normally associated with the
67 wheel brake assemblies may be used for both the service
68 brakes and the parking brakes. If the means of applying
69 the parking brakes and the service brakes are connected
70 in any way, they shall be so constructed that a failure
71 of any one part shall not leave the vehicle without opera-
72 tive brakes.

73 (7) The brake shoes operating within or upon the
74 drums on the vehicle wheels of any motor vehicle may be
75 used for both service and hand operation.

76 (b) *Performance Ability of Brakes.*—Every motor ve-

77 hicle or combination of motor-drawn vehicles shall be
 78 capable, at all times and under all conditions of loading,
 79 of being stopped on a dry, smooth, level road free from
 80 loose material, upon application of the service (foot)
 81 brake, within the distances specified below, or shall be
 82 capable of being decelerated at a sustained rate corre-
 83 sponding to these distances:

	Feet to stop from 20 miles per hour	Deceleration in feet per second
84 Vehicles or combinations of vehicles		
85 having brakes on all wheels	30	14
86 Vehicles or combinations of vehicles		
87 not having brakes on all wheels ...	40	10.7
88 (c) <i>Maintenance of Brakes.</i> —All brakes shall be main- 89 tained in good working order and shall be so adjusted as 90 to operate as equally as practicable with respect to the 91 wheels on opposite sides of the vehicle.		

CHAPTER 105

(House Bill No. 818—By Mr. Payne)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend and reenact section eight; article two, chap-
 ter eight of the code of West Virginia, one thousand nine
 hundred thirty-one, as amended, relating to the change of
 boundaries of cities, towns or villages.

Be it enacted by the Legislature of West Virginia:

That section eight, article two, chapter eight of the code of
 West Virginia, one thousand nine hundred thirty-one, as
 amended, be amended and reenacted to read as follows:

**Article 2. Creation, Alteration, Dissolution and Powers of
 Municipal Corporations.**

Section

8. Change of boundary of city, town or village.

Section 8. Change of Boundary of City, Town or Village.—Five per cent or more of the freeholders residing in any city, town or village desiring to change the corporate limits thereof, may file their petition in writing with the council thereof, setting forth the change proposed in the metes and bounds of such corporation, and asking that a vote be taken upon the proposed change. Such petition shall be verified and shall be accompanied by an accurate survey showing the territory embraced within the new boundaries. The council, upon bond in penalty prescribed by the council with good and sufficient surety being given by petitioners, and conditioned to pay the costs of such election if a majority of the votes cast are against the proposed change in boundary, shall thereupon order a vote of the qualified voters residing in such city, town or village to be taken upon the proposed change at a time and place therein to be named in the order, not less than twenty nor more than thirty days from the date thereof, and if it be proposed to include any additional territory within such corporate limits, the council shall, at the same time, order a vote of all the qualified voters residing in such additional territory, and of all persons, firms or corporations owning any part of such territory, whether they reside therein or not, to be taken upon the question on the same day, at some convenient place on or near such additional territory: *Provided*, That the additional territory to be included shall conform to the requirements of section one of this article, and the determination that the additional territory does so conform shall be reviewable by the circuit court on certiorari to the council. The election shall be held, superintended and conducted, and the result thereof ascertained, certified and returned, in the same manner and by the same persons as elections for city, town or village officers. The ballots cast on such question shall have written or printed on them the words:

For Change of Corporate Limits

Against Change of Corporate Limits

If a majority of all the votes so cast within such corporation be in favor of the proposed change, and no

42 additional territory is proposed to be included therein,
43 the corporate limits of such city, town or village shall
44 thereafter be as proposed by such petition. But, if addi-
45 tional territory is proposed to be included in such cor-
46 porate limits, such change shall not take effect unless
47 a majority of all the votes cast by persons eligible to
48 vote in such additional territory shall also be cast in
49 favor of such change. Any firm or corporation may vote
50 by its manager, president, or executive officer duly
51 designated in writing by such firm or corporation.

52 The council may by ordinance provide for the annexa-
53 tion of additional territory without ordering a vote on the
54 question, if sixty per cent of the qualified voters residing
55 in such additional territory and of all persons, firms or
56 corporations owning any part of such territory whether
57 they reside therein or not, file with council their petition
58 to be annexed.

59 When an election is held in any city, town or village
60 respecting a change in the boundary thereof, another
61 such election relating to the same territory or any part
62 thereof shall not be held for a period of one year.

63 The provisions of this and the following section shall
64 provide the exclusive procedure for effecting a change
65 in the boundary of every city, town or village except
66 municipalities which have adopted a home rule charter
67 under the provisions of chapter eight-a of the code: *Pro-*
68 *vided, however,* That any city, town or village, otherwise
69 authorized by said chapter eight-a or by special charter,
70 may utilize the procedures respecting minor boundary
71 adjustments set forth in section twenty-five, article six
72 of said chapter eight-a.

3

CHAPTER 106

(House Bill No. 525—By Mr. Bailey and Mr. Black)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections four and twelve, article
three, chapter eight of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, relating to holding quadrennial election of officers of municipal corporation.

Be it enacted by the Legislature of West Virginia:

That sections four and twelve, article three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Election, Appointment and Qualification of Officers.

Section

4. Regular elections.
12. Terms of officers.

Section 4. Regular Elections.—After the first election
2 of officers in such corporation all regular elections for
3 officers shall be held biennially on the first Tuesday in
4 June: *Provided*, That the first regular election held in
5 such corporations after this section becomes effective shall
6 be held on the first Tuesday in June: *Provided further*,
7 That elections may be held quadrennially on the first Tues-
8 day of June in any such corporation upon submission to
9 the voters and approval of such proposition.

Sec. 12. Terms of Officers.—The sergeant and superin-
2 tendent of roads, streets and alleys shall continue in
3 office during the pleasure of the council.

4 Except as otherwise provided, the terms of all officers
5 elected after the first election in municipalities holding
6 biennial elections shall commence on the first day of July
7 following their election and shall be for two years, and in
8 municipalities holding quadrennial elections the terms of
9 all officers shall commence on the first day of July follow-
10 ing their election and shall be for four years.

11 All municipal officers, whether elected at first or regular
12 elections, or appointed as herein provided, shall hold
13 their offices until their successors are elected or appointed
14 and qualified according to law, unless sooner removed
15 from office according to law. Officers in office when this
16 code becomes effective shall hold their offices until the
17 next regular election held pursuant to section four of
18 this article, and subject to the provisions of the preceding
19 sentence.

CHAPTER 107

(House Bill No. 754—By Mr. Nelson)

[Passed March 4, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation of municipal councilmen.

Be it enacted by the Legislature of West Virginia:

That section two, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

2. Compensation of officers and employees.

Section 2. Compensation of Officers and Employees.—

2 In any municipal corporation of this state, where no pro-
3 vision is made by legislative charter or otherwise for
4 compensation to municipal officers and employees, the
5 mayor, recorder, superintendent of roads, streets and
6 alleys, members of the council and policemen of such cor-
7 poration, may each receive compensation for his services,
8 to be fixed by the council, by proper ordinance, which
9 shall not be increased or diminished during the term for
10 which they shall have been elected or appointed. The com-
11 pensation of each member of the council, other than the
12 mayor and recorder, shall not exceed the sum of twenty-
13 five dollars for each meeting of the council held at which
14 such member is in actual attendance; and, in no event,
15 shall a councilman, other than the mayor and recorder,
16 receive compensation in any one fiscal year in excess of
17 the sum of three hundred dollars.

CHAPTER 108

(House Bill No. 760—By Mr. Vickers and Mr. Seibert)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-b, relating to the creation of regional planning commissions and the prescribing of their powers and duties.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article four-b, to read as follows:

Article 4-b. Regional Planning.

Section

1. Statement of intent.
2. Creation of a regional planning commission.
3. Definition of region.
4. Membership and organization of commission; meetings.
5. Annual budget; appropriations; depositories; expenditures.
6. Financial aid; contracts; reports.
7. Cooperation by and with other planning commissions, governmental units and officials; authority of political subdivisions to expend funds.
8. Director and staff.
9. Powers and duties of regional planning commissions generally.
10. Certification and implementation of regional plans.
11. Adoption of plan by local planning commissions and governing bodies; amendments to plan.
12. Cooperation by local governments.
13. Annual report.
14. Separability.

Section 1. Statement of Intent.—The Legislature recognizes the social and economic interdependence of the people residing within a region of the state and the common interest they share in its future development. The Legislature further recognizes that plans and decisions made by local governments within a region with respect to land use, circulation patterns, capital improvements and the like, affect the welfare of neighboring

9 jurisdictions and therefore should be developed jointly.
10 It is, therefore, the purpose of this article to provide a
11 means for: (1) Formulation and execution of objectives
12 and policies necessary for the orderly growth and de-
13 velopment of a region as a whole; and (2) coordination
14 of the objectives, plans and policies of the separate units
15 of government comprising the area.

Sec. 2. Creation of a Regional Planning Commission.—

2 A regional planning commission may be established pur-
3 suant to the following procedures and with the approval
4 of the commissioner of commerce:

5 (a) Two or more municipalities, two or more counties,
6 or one county or two or more counties and a municipality
7 or municipalities within the county or counties may, by
8 agreement among their respective governing bodies,
9 create or reorganize a regional planning commission: *Pro-*
10 *vided*, That a municipality or county not having a plan-
11 ning commission shall not participate in the creation or
12 reorganization of a regional planning commission: *Pro-*
13 *vided further*, That (1) in the case of municipalities, the
14 largest one within the region shall be a party to the agree-
15 ment; and (2) the total number of both counties and
16 municipalities participating in the agreement shall equal
17 fifty per cent or more of the total number of counties and
18 municipalities within the region. The agreement shall be
19 effected through the adoption by the governing body of
20 each participating government, acting individually, of
21 an appropriate resolution. A copy of such agreement
22 shall be filed with the commissioner of commerce.

23 (b) Any additional county or municipality within
24 the region may become a party to the original agreement
25 or a new agreement reorganizing the commission.

Sec. 3. Definition of Region.—“Region,” as used in this
2 article, shall mean a specific geographic area in which a
3 regional planning commission shall have jurisdiction,
4 which area shall be fixed and determined by the commis-
5 sioner of commerce and be stipulated with his approval
6 in the agreement by which the commission is established
7 or reorganized: *Provided, however*, That no territory
8 within a municipality or county not having a planning

9 commission shall be included in the area except that
10 territory within a municipality having a planning com-
11 mission may be included even though the county in
12 which it is located does not have a planning commission.

Sec. 4. Membership and Organization of Commission;
2 **Meetings.**—Except as provided below, membership of a
3 regional planning commission shall consist of representa-
4 tives from each participating government or stipulated
5 combinations thereof, in number to be specified in the
6 agreement: *Provided, however,* That at least one member
7 of the planning commission and one member of the gov-
8 erning body of each participating government shall be
9 members of the commission, and all members of the com-
10 mission shall be qualified by knowledge and experience in
11 matters pertaining to the planning and development of
12 cities, counties or regions with the exception of the mem-
13 ber or members of the governing body of each participat-
14 ing governmental unit. A commission may appoint not to
15 exceed two members from the general public, such mem-
16 bers to have demonstrated outstanding leadership in
17 community affairs. The terms of the members of a com-
18 mission, the manner of their appointment or removal,
19 and the filling of any vacancies on a commission, as well
20 as any additional qualifications for membership on a
21 commission, shall be specified in the agreement. A repre-
22 sentative of the state government may be designated by
23 the governor to attend meetings of a commission.

24 Members of a commission shall serve without com-
25 pensation, but shall be reimbursed for expenses incurred
26 in pursuit of their duties on the commission. A commis-
27 sion shall elect a chairman from among its members,
28 and shall establish its own rules and such committees as
29 it deems necessary to carry on its work. Such com-
30 mittees may have as members persons other than mem-
31 bers of the commission. A commission shall meet as
32 often as necessary, but not less than four times a year.

Sec. 5. Annual Budget; Appropriations; Depositories;
2 **Expenditures.**—A regional planning commission shall
3 adopt an annual budget, to be submitted to the participat-
4 ing governments which shall each contribute to the financ-

5 ing of the commission according to a formula specified in
6 the agreement, and each such government is hereby au-
7 thorized to appropriate and expend funds for services ren-
8 dered it by the commission. Money received by a com-
9 mission shall be deposited in such depository as the com-
10 mission may determine in the agreement and be paid out
11 in such manner as the commission may determine.

Sec. 6. Financial Aid; Contracts; Reports.—A regional
2 planning commission is authorized to accept and expend
3 funds and grants provided for the purposes of this article
4 by the government of the United States or its depart-
5 ments or agencies, by departments and agencies of this
6 state or of any other state, or by one or more municipali-
7 ties, counties or other political subdivisions of this state
8 or of any other state, or by any other agency whose inter-
9 ests are in harmony with the purposes of this article,
10 including planning commissions, all in accordance with
11 any federal requirements and under any conditions state
12 laws may provide, and to contract with respect thereto,
13 either separately, jointly, or cooperatively, if the con-
14 tract is approved by the attorney general, and to provide
15 such information and reports as may be necessary to
16 secure such financial aid. In this connection, a commis-
17 sion is hereby expressly authorized to participate in any
18 federal planning assistance program.

**Sec. 7. Cooperation by and with other Planning Com-
missions, Governmental Units and Officials; Authority
of Political Subdivisions to Expend Funds.**—To effectuate
4 the purposes of this article, a regional planning commis-
5 sion and the planning commissions of participating gov-
6 ernments in the region may cooperate with regional plan-
7 ning commissions for other regions or the planning com-
8 missions of participating governments therein, with the
9 governing or administrative bodies and officials of any
10 municipality, county, or other political subdivision, in-
11 cluding those in other states, with federal and state de-
12 partments, agencies, and officials, including those of other
13 states, and with any other agency whose interests are in
14 harmony with the purposes of this article, with a view to
15 coordinating and integrating the planning for the cooper-

16 ating governmental units, and may appoint such commit-
17 tees and may adopt such rules as may be thought proper
18 to effect such cooperation; and, for the purpose of such
19 coordination and integration, may contract with respect
20 thereto with such bodies, departments, agencies, and of-
21 ficials, all in accordance with any federal requirements
22 and under any conditions state laws may provide, if the
23 contract is approved by the attorney general. Governing
24 or administrative bodies and officials of municipalities,
25 counties, and other political subdivisions within this state
26 are authorized to cooperate in this manner with such
27 planning commissions and with governing or administra-
28 tive bodies and officials of political subdivisions in other
29 states for the purposes of such coordination and integra-
30 tion.

31 Municipalities, counties, and other political subdivisions
32 within this state are authorized to appropriate and ex-
33 pend funds for services they obtain through cooperative
34 arrangements made pursuant to the provisions of this
35 section.

Sec. 8. Director and Staff.—A regional planning com-
2 mission may appoint a director, who shall be qualified
3 by training and experience and shall serve at the pleas-
4 ure of the commission. The director will be the chief
5 administrative and planning officer and regular technical
6 advisor of the commission, and will appoint and remove
7 the staff of the commission. When authorized by the
8 regional planning commission, such director may make
9 agreements with planning commissions of participating
10 governments for temporary transfer or joint use of staff
11 employees, and may contract for professional or con-
12 sultant services from other governmental and private
13 agencies.

14 In case no director is appointed, a commission may
15 exercise the powers granted a director by this section as
16 well as the other powers granted to it by this article.

**Sec. 9. Powers and Duties of Regional Planning Commis-
2 sions Generally.**—A regional planning commission shall:
3 (a) Prepare, and from time to time revise, amend, ex-
4 tend or add to a plan or plans for the development of

5 the region. Such plans shall be based on studies of phys-
6 ical, social, economic and governmental conditions and
7 trends, and shall aim at the coordinated development of
8 the region in order to promote the general health, welfare,
9 convenience and prosperity of its people. The plans shall
10 embody the policy recommendations of the regional
11 planning commission, and may include, but shall not be
12 limited to:

13 (1) A statement of the objectives, standards and prin-
14 ciples sought to be expressed in the plan.

15 (2) Recommendations for the most desirable pattern
16 and intensity of general land use within the region in
17 the light of the best available information concerning
18 natural environmental factors, the present and prospec-
19 tive economic and demographic bases of the region, and
20 the relation of land use within the region to land use
21 in adjoining areas. The land use pattern shall include
22 provision for open as well as urban, suburban, and rural
23 development.

24 (3) Recommendations for the general circulation pat-
25 tern for the region, including land, water and air trans-
26 portation and communication facilities, whether used for
27 movement within the region or to and from adjacent
28 areas.

29 (4) Recommendations concerning the need for and
30 proposed general location of public and private works
31 and facilities, which by reason of their function, size, ex-
32 tent or for any other cause are of a regional, as distin-
33 guished from purely local, concern.

34 (5) Recommendations for the long-range program-
35 ming and financing of capital projects and facilities.

36 (6) Such other recommendations as it may deem ap-
37 propriate concerning current and impending problems
38 as may affect the region.

39 (b) Prepare, and from time to time revise, recom-
40 mended ordinances and regulations which would imple-
41 ment the regional plan.

42 (c) Prepare studies of the region's resources, both
43 natural and human, with respect to existing and emerging
44 problems of industry, commerce, transportation, popula-

45 tion, housing, agriculture, public service, local govern-
46 ments and any other matters which are relevant to
47 regional planning.

48 (d) Collect, process and analyze, at regular intervals,
49 the social and economic statistics for the region which
50 are necessary to planning studies, and make the results
51 of such collection, processing and analysis available to
52 the general public.

53 (e) Participate with other governmental agencies,
54 educational institutions and private organizations in the
55 coordination of regional research activities described un-
56 der paragraphs (c) and (d) of this section.

57 (f) Cooperate with, and provide planning assistance
58 to counties, municipalities, and county and municipal
59 planning commissions within the region, and coordinate
60 regional planning with the planning activities and plans
61 of the state and of the counties and municipalities within
62 the region, as well as neighboring areas, including those
63 in adjoining states, and the programs of federal depart-
64 ments and agencies.

65 (g) Provide information to officials, departments,
66 agencies, and instrumentalities of federal, state and local
67 governments, and to the public at large, in order to foster
68 public awareness and understanding of the objectives of
69 the regional plan and the functions of regional and local
70 planning, and in order to stimulate public interest and
71 participation in the orderly, integrated development of
72 the region.

73 (h) Receive and review for compatibility with re-
74 gional plans all proposed comprehensive land use, cir-
75 culation, and public facilities plans and projects, ordi-
76 nances and regulations, official maps and building codes
77 of local governments in the geographic area and all
78 amendments or revisions of such plans, regulations and
79 maps, and make recommendations for their modification
80 where deemed necessary to achieve such compatibility.

81 (i) Review applications of participating governments
82 for capital project financial assistance from state and
83 federal governments, and comment upon their consistency
84 with the regional development plan; and review and com-

85 ment upon state plans for highways and public works
86 within the area to promote coordination of all inter-
87 governmental activities in the region on a continuing
88 basis.

89 (j) Exercise all other powers necessary and proper
90 for the discharge of its duties.

91 In making a comprehensive plan, the plan may be for
92 all or part of the territory in the region, or for all or
93 part of the territory in the region and any territory adja-
94 cent to the region, including that without the state, which,
95 in the opinion of the commission, bears a substantial re-
96 lation to the planning for territory within the region:
97 *Provided*, That any plan for a part of the region shall be
98 for territory which does not begin and terminate within
99 the boundaries of any single participating government.
100 In making a plan, a commission shall give consideration
101 to any comprehensive or general development plan exist-
102 ing in any participating government.

103 During the preparation of the plan, a commission shall
104 periodically consult with the planning commissions of
105 the various participating governments involved in the
106 plan and make every effort to develop a plan which will
107 meet with the approval of the planning commissions of
108 such governments.

**Sec. 10. Certification and Implementation of Regional
2 Plans.**—All comprehensive regional plans, including
3 zoning ordinances and subdivision regulations, prepared
4 pursuant to this article, after adoption by the regional
5 planning commission shall be certified by the commission
6 to all planning commissions of participating governments
7 within the region.

**Sec. 11. Adoption of Plan by Local Planning Com-
2 missions and Governing Bodies; Amendments to Plan.**—A
3 plan shall not be considered the comprehensive plan or a
4 part thereof for any participating government until it has
5 been adopted by its governing body in accordance with
6 the provisions of sections eighteen through twenty-two of
7 article five of this chapter, and when so adopted it shall
8 supersede any previous comprehensive plan or any part of
9 such plan inconsistent therewith of the participating gov-

10 ernment. Before rejecting or amending a plan as certified
11 by the commission, the planning commission or the gov-
12 erning body of the participating government shall refer
13 the plan to the regional planning commission which pre-
14 pared it for its recommendations in regard to such re-
15 jection or amendment, but any report of such commission
16 after such a reference shall be advisory only.

17 Amendments to a regional plan, including ordinances
18 and regulations, shall be adopted in the same manner
19 as provided herein for the adoption of the original plan,
20 except that if the planning commission or governing body
21 of a participating government desires an amendment it
22 may request the regional planning commission to pre-
23 pare an amendment and certify it to the local planning
24 commission as herein provided.

25 After the adoption or rejection of a regional plan, a
26 commission shall from time to time re-examine the plan
27 with the view of keeping it up to date.

28 After the adoption of such plan by a participating gov-
29 ernment, its planning commission shall thereafter act in
30 effectuating the plan in that jurisdiction.

Sec. 12. Cooperation by Local Governments.—Any
2 county or municipality within the geographic area of
3 the region may, and all participating governments and
4 their planning commissions shall, file with the regional
5 planning commission all current and proposed plans,
6 zoning ordinances, official maps, building codes, subdivi-
7 sion regulations, and project plans for capital facilities
8 and amendments to and revisions of any of the foregoing,
9 as well as copies of their regular and special reports
10 dealing with planning matters. Each county or municipal-
11 ity within the geographic area of the region shall afford
12 the regional planning commission having jurisdiction
13 therein a reasonable opportunity to comment upon any
14 such proposed plans, zoning and subdivision ordinances,
15 regulations and capital facilities projects and shall con-
16 sider such comments, if any, prior to adopting any such
17 plan, ordinance, regulation or project.

Sec. 13. Annual Report.—A regional area planning
2 commission shall submit an annual report to the commis-

3 sioner of commerce and to the governing bodies and plan-
 4 ning commissions of all participating governments in the
 5 region.

Sec. 14. Separability.—If any part or parts of this
 2 article shall be held invalid, such invalidity shall not
 3 affect the validity of the remaining parts of this article.
 4 The Legislature hereby declares that it would have passed
 5 the remaining parts of this article if it had known that
 6 any part or parts thereof would be declared invalid.

CHAPTER 109

(House Bill No. 831—By Mr. Boiarsky)

[Passed March 5, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section fourteen, article five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to administrative powers and duties of planning commissions.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 5. Urban and Rural Planning and Zoning.

Section

14. Administrative powers and duties.

Section 14. Administrative Powers and Duties.—To
 2 effectuate the purposes of this article, the commission
 3 shall have the power and duty to:

- 4 1. Exercise general supervision of and make regula-
 5 tions for the administration of the affairs of the commis-
 6 sion.
- 7 2. Prescribe uniform rules pertaining to its investi-
 8 gations and hearings.
- 9 3. Supervise the fiscal affairs and responsibilities of
 10 the commission.

11 4. Prescribe the qualifications of, appoint, remove, and
12 fix the compensation of the employees of the commission,
13 such compensation to be in conformity to and in com-
14 pliance with salaries and compensations theretofore fixed
15 by the governing body of a city or county court of such
16 cities or counties. Delegate to employees authority to
17 perform ministerial acts in all cases except where final
18 action of the commission is necessary.

19 5. Keep an accurate and complete record of all de-
20 partmental proceedings; record and file all bonds and
21 contracts and assume responsibility for the custody and
22 preservation of all papers and documents of the com-
23 mission.

24 6. Make recommendations and an annual report to
25 the governing body of a city or county court concerning
26 the operation of the commission and the status of planning
27 within its jurisdiction.

28 7. Prepare, publish and distribute reports, ordinances
29 and other material relating to the activities authorized
30 under this article.

31 8. Adopt a seal, and certify to all official acts.

32 9. Invoke any legal, equitable or special remedy for
33 the enforcement of the provisions of the article or ordi-
34 nance or its action taken thereunder.

35 10. Prepare and submit an annual budget in the same
36 manner as other departments of city and county govern-
37 ment and shall be limited in all expenditures to the pro-
38 visions made therefor by the governing body of such
39 city or the county court of such county.

40 11. If deemed advisable, establish an advisory com-
41 mittee or committees.

42 12. Delegate to a committee composed of one or more
43 members of the commission the power to hold any public
44 hearings or conferences required or permitted by this
45 article to be held by the commission. If the hearing or
46 conference is held by a committee, a written record of
47 the substance of the hearing or conference shall be made
48 and preserved with the records of the commission for
49 not less than five years. The committee shall have au-
50 thority only to conduct the hearing and report to the
51 commission.

CHAPTER 110

(House Bill No. 814—By Mr. Nelson and Mr. Casey)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section ten, article three, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to ordinance procedure and the adoption of comprehensive or technical codes by reference.

Be it enacted by the Legislature of West Virginia:

That section ten, article three, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Home Rule Charters; Ordinances.

Section

10. Ordinance procedure.

Section 10. Ordinance Procedure.—The governing body shall enact an ordinance in the cases specified in section nine of this article in accordance with the following requirements:

(1) An ordinance shall be read at not less than two meetings with at least one week intervening between each meeting;

(2) At least five days before the meeting at which such ordinance is finally adopted the governing body shall cause notice of the proposed adoption of said ordinance to be published in at least one newspaper of general circulation in said city for at least one publication, stating the subject matter of such ordinance and the time and place of the proposed final vote on adoption, and the place or places within the city where such ordinance may be inspected by the public;

(3) An ordinance shall not be finally passed until after three days from the date of the publication and until all interested parties have been given an opportunity

20 to attend a meeting of the council and be heard with
21 respect to such ordinance.

22 (4) An ordinance shall not be materially amended at
23 the same meeting at which finally passed.

24 The governing body of any municipality may adopt
25 building codes, housing codes, plumbing codes, sanitary
26 codes, electrical codes, fire prevention codes, or any other
27 technical codes dealing with general public health, safety
28 or welfare, or a combination of the same, by ordinance,
29 in the manner herein prescribed. Before any such code
30 shall be adopted, it shall be either printed or typewritten
31 and shall be presented in pamphlet form to the governing
32 body of the municipality at a regular meeting, and copies
33 shall be made available for public inspection. The ordi-
34 nance adopting such code shall not set out said code in
35 full, but shall merely identify the same. The vote on
36 passage of said ordinance shall be the same as on any
37 other ordinance. After its adoption, such code or codes
38 shall be certified to by the chief executive officer and shall
39 be filed as a permanent record in the office of the clerk,
40 who shall not be required to transcribe and record the
41 same in the ordinance book as other ordinances. It shall
42 not be necessary that such ordinance adopting such code
43 or the code itself be published in full, but before final pas-
44 sage of such ordinance, notice of the proposed adoption of
45 such code shall be given by publication as herein provided
46 for other ordinances, which notice shall state where,
47 within the city, the code or codes will be available for
48 public inspection.

49 A home rule charter may prescribe a procedure for the
50 enactment of ordinances in greater detail than prescribed
51 by this section, but the provisions of this section shall
52 be required. A governing body may enact an ordinance
53 under suspension of the rules prescribed by this section
54 only in the case of a pressing public emergency making a
55 procedure in accordance with the section dangerous to the
56 public health, safety, or morals, and by affirmative vote
57 of two thirds of the members elected to the governing
58 body. The nature of the emergency shall be set out in
59 full in the ordinance.

CHAPTER 111

(Senate Bill No. 243—By Mr. McCourt)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to additional powers, duties and services of the director of the department of natural resources.

Be it enacted by the Legislature of West Virginia:

That section seven, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Organization and Administration.

Section

7. Additional powers, duties and services of director.

Section 7. Additional Powers, Duties and Services of

2 Director.—In addition to all other powers, duties and
3 responsibilities granted and assigned to the director in
4 this chapter and elsewhere by law, the director is hereby
5 authorized and empowered to:

6 (1) With the advice of the commission, prepare and
7 administer, through the various divisions created by this
8 chapter, a long-range comprehensive program for the con-
9 servation of the natural resources of the state which
10 best effectuates the purpose of this chapter and which
11 makes adequate provisions for the natural resources laws
12 of the state;

13 (2) Sign and execute in the name of the state by the
14 "Department of Natural Resources" any contract or agree-
15 ment with the federal government or its departments or
16 agencies, subdivisions of the state, corporations, associa-
17 tions, partnerships or individuals;

18 (3) Conduct research in improved conservation meth-
19 ods and disseminate information matters to the residents
20 of the state;

21 (4) Conduct a continuous study and investigation of
22 the habits of wildlife, and for purposes of control and
23 protection to classify by regulation the various species
24 into such categories as may be established as necessary;

25 (5) Prescribe the locality in which and the manner and
26 method by which the various species of wildlife may be
27 taken, or chased, unless otherwise specified by this
28 chapter;

29 (6) Fix by regulation the open seasons and the bag,
30 creel, size, age, weight and sex limits with respect to wild-
31 life in this state;

32 (7) Hold at least six meetings each year at such times
33 and at such points within the state, as in the discretion of
34 the director may appear to be necessary and proper for
35 the purpose of giving interested persons in the various
36 sections of the state an opportunity to be heard concerning
37 open seasons for their respective areas, before such sea-
38 sons and bag limits are fixed;

39 (8) Suspend open hunting seasons upon any or all
40 wildlife in any or all counties of the state with the prior
41 approval of the governor in case of an emergency such as
42 a drought, forest fire hazard or epizootic of disease among
43 wildlife. The suspension shall continue during the exist-
44 ence of the emergency and until rescinded by the director.
45 Suspension, or reopening after such suspension, of open
46 seasons may be made upon twenty-four hours' notice by
47 delivery of a copy of the order of suspension or reopening
48 to the wire press agencies at the state capitol;

49 (9) Supervise the fiscal affairs and responsibilities of
50 the department;

51 (10) Designate such localities as he shall determine to
52 be necessary and desirable for the perpetuation of any
53 species of wildlife;

54 (11) Enter private lands to make surveys or inspec-
55 tions for conservation purposes, to investigate for viola-
56 tions of provisions of this chapter, to serve and execute
57 warrants and processes, to make arrests and to otherwise
58 effectively enforce the provisions of this chapter;

59 (12) Acquire for the state in the name of the "Depart-
60 ment of Natural Resources" by purchase, condemnation,

61 lease or agreement, or accept or reject for the state, in
62 the name of the department of natural resources, gifts,
63 donations, contributions, bequests or devises of money,
64 security or property, both real and personal, and any
65 interest in such property, including lands and waters,
66 which he deems suitable for the following purposes:

67 (a) For state forests for the purpose of growing timber,
68 demonstrating forestry, furnishing or protecting water-
69 sheds or providing public recreation;

70 (b) For state parks or recreation areas for the purpose
71 of preserving scenic, esthetic, scientific, cultural, archae-
72 ological or historical values or natural wonders, or pro-
73 viding public recreation;

74 (c) For public hunting, trapping, or fishing grounds or
75 waters for the purpose of providing areas in which the
76 public may hunt, trap or fish, as permitted by the provi-
77 sions of this chapter, and the rules and regulations issued
78 hereunder;

79 (d) For fish hatcheries, game farms, wildlife research
80 areas and feeding stations;

81 (e) For the extension and consolidation of lands or
82 waters suitable for the above purposes by exchange of
83 other lands or waters under his supervision;

84 (f) For such other purposes as may be necessary to
85 carry out the provisions of this chapter;

86 (13) Capture, propagate, transport, sell or exchange
87 any species of wildlife as may be necessary to carry out
88 the provisions of this chapter;

89 (14) Sell, with the approval in writing of the governor,
90 timber for not less than the value thereof, as appraised by
91 a qualified appraiser appointed by the director, from all
92 lands under the jurisdiction and control of the director,
93 except those lands that are designated as state parks. The
94 appraisal shall be made within a reasonable time prior to
95 any sale, reduced to writing, filed in the office of the direc-
96 tor and shall be available for public inspection. When the
97 appraised value of the timber to be sold is more than five
98 hundred dollars, the director, before making sale thereof,
99 shall receive sealed bids therefor, after notice by publica-
100 tion once a week for at least two weeks in two newspapers

101 of general circulation published nearest the lands in-
102 volved. The timber so advertised shall be sold at not less
103 than the appraised value to the highest responsible bidder,
104 who shall give bond for the proper performance of the
105 sales contract as the director shall designate; but the di-
106 rector shall have the right to reject any and all bids and
107 to readvertise for bids. If the foregoing provisions of this
108 section have been complied with, and no bid equal to or
109 in excess of the appraised value of the timber is received,
110 the director may, at any time, during a period of six
111 months after the opening of the bids, sell the timber in
112 such manner as he deems appropriate, but the sale price
113 shall not be less than the appraised value of the timber
114 advertised. No contract for sale of timber made pursuant
115 to this section shall extend for a period of more than ten
116 years. And all contracts heretofore entered into by
117 the state for the sale of timber shall not be validated by
118 this section if the same be otherwise invalid. The pro-
119 ceeds arising from the sale of the timber so sold, shall be
120 paid to the treasurer of the state of West Virginia, and
121 shall be credited to the department and used exclusively
122 for the purposes of this chapter;

123 (15) Sell or lease with the approval in writing of the
124 governor, coal, oil, gas, sand, gravel and any other minerals
125 that may be found in the lands under the jurisdiction
126 and control of the director, except those lands that are
127 designated as state parks. The director, before making
128 sale or lease thereof, shall receive sealed bids therefor,
129 after notice by publication once a week for at least
130 two weeks in two newspapers of general circulation
131 published nearest the lands involved. The minerals so
132 advertised shall be sold or leased to the highest responsi-
133 ble bidder, who shall give bond for the proper perform-
134 ance of the sales contract or lease as the director shall
135 designate; but the director shall have the right to reject
136 any and all bids and to readvertise the bids. The proceeds
137 arising from any such sale or lease shall be paid to the
138 treasurer of the state of West Virginia and shall be cred-
139 ited to the department and used exclusively for the pur-
140 poses of this chapter;

141 (16) Exercise the powers granted by this chapter for

142 the protection of forests, and regulate fires and smoking
143 in the woods or in their proximity at such times and in
144 such localities as may be necessary to reduce the danger
145 of forest fires;

146 (17) Cooperate with departments and agencies of state,
147 local and federal governments in the conservation of
148 natural resources and the beautification of the state;

149 (18) Report to the governor each year all information
150 relative to the operation and functions of his department
151 and he shall make such other reports and recommenda-
152 tions as may be required by the governor, including an
153 annual financial report covering all receipts and disburse-
154 ments of the department for each fiscal year, and he shall
155 deliver such report to the governor on or before the first
156 day of December next after the end of the fiscal year so
157 covered. A copy of such report shall be delivered to each
158 house of the Legislature when convened in January next
159 following;

160 (19) Keep a complete and accurate record of all pro-
161 ceedings, record and file all bonds and contracts taken or
162 entered into, and assume responsibility for the custody
163 and preservation of all papers and documents pertaining
164 to his office, except as otherwise provided by law;

165 (20) Offer and pay, in his discretion, rewards for infor-
166 mation respecting the violation, or for the apprehension
167 and conviction of any violators, of any of the provisions of
168 this chapter;

169 (21) Require such reports as he may deem to be neces-
170 sary from any person issued a license or permit under the
171 provisions of this chapter, but no person shall be required
172 to disclose secret processes or confidential data of com-
173 petitive significance;

174 (22) Purchase as provided by law all equipment neces-
175 sary for the conduct of his department;

176 (23) Conduct and encourage research designed to fur-
177 ther new and more extensive uses of the natural resources
178 of this state and to publicize the findings of such research;

179 (24) Encourage and cooperate with other public and
180 private organizations or groups in their efforts to publicize
181 the attractions of the state;

182 (25) Accept and expend, without the necessity of ap-
183 propriation by the Legislature, any gift or grant of money
184 made to the department for any and all purposes specified
185 in this chapter, and he shall account for and report on all
186 such receipts and expenditures to the governor;

187 (26) Cooperate with the state historian and other ap-
188 propriate state agencies in conducting research with refer-
189 ence to the establishment of state parks and monuments
190 of historic, scenic and recreational value, and to take such
191 steps as may be necessary in establishing such monuments
192 or parks as he deems advisable;

193 (27) Maintain in his office at all times, properly in-
194 dexed by subject matter, and also, in chronological se-
195 quence, all rules and regulations made or issued under
196 the authority of this chapter. Such records shall be avail-
197 able for public inspection on all business days during the
198 business hours of working days as prescribed by the state
199 board of public works;

200 (28) Delegate the powers and duties of his office, ex-
201 cept the power to execute contracts, to appointees and em-
202 ployees of the department, who shall act under the direc-
203 tion and supervision of the director and for whose acts he
204 shall be responsible;

205 (29) Conduct schools, institutes and other educational
206 programs, apart from or in cooperation with other govern-
207 mental agencies, for instruction and training in all phases
208 of the natural resources program of the state; and

209 (30) Promulgate rules and regulations, in accordance
210 with the provisions of chapter twenty-nine-a of this code,
211 to implement and make effective the powers and duties
212 vested in him by the provisions of this chapter and take
213 such other steps as may be necessary in his discretion for
214 the proper and effective enforcement of the provisions of
215 this chapter: *Provided*, That all rules and regulations re-
216 lating to articles five and five-a of this chapter shall be
217 promulgated by the water resources board.

CHAPTER 112

(House Bill No. 644—By Mr. Myles and Mr. Goodwin)

[Passed March 11, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the taking of game animals.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Game and Fish.

Section

5. Unlawful methods of hunting and fishing.

Section 5. Unlawful Methods of Hunting and Fish-

2 **ing.**—Except as authorized by the director, it shall be
3 unlawful at any time for any person to:

4 (1) Shoot at or to shoot any wild bird or animal unless
5 it is plainly visible to him;

6 (2) Dig out, cut out, or smoke out, or in any manner
7 take or attempt to take any live wild animal or wild bird
8 out of its den or place of refuge, except as may be au-
9 thorized by regulations promulgated by the director or
10 by law;

11 (3) Make use of, or take advantage of, any artificial
12 light in hunting for, or taking any wild animals or wild
13 birds, except that artificial lights such as are ordinarily
14 carried in the hand or on the person may be used for
15 the purpose of taking raccoon, opossum or skunk; or to
16 throw or cast the rays of a spotlight, headlight, or other
17 artificial light, from any vehicle, on any animal or game
18 bird, or attempt to do so, while having in his or their
19 possession or under their control, or in any vehicle or
20 conveyance in which they may be traveling, a cased or
21 uncased firearm or other implement whereby any wild

22 animal or wild bird could be killed, even though such
23 animal be not shot at, injured or killed. The provisions
24 of this subdivision shall not apply if it shall be proven
25 that the headlights of a motor vehicle while traveling on
26 a highway in the usual way, cast a light upon such animal,
27 on or adjacent to such highway, and there was no attempt
28 or intent to locate such animal;

29 (4) Hunt for, take, kill, wound or shoot at wild animals
30 or wild birds from an airplane, or other airborne con-
31 veyance, an automobile, or other land conveyance, or
32 from a motor-driven water conveyance, except as may be
33 authorized by regulations promulgated by the director;

34 (5) Take any beaver or muskrat by any means other
35 than by trap;

36 (6) Catch, capture, take or kill by seine, net, bait,
37 trap or snare or like device of any kind, any wild turkey,
38 ruffed grouse, pheasant or quail;

39 (7) Destroy or attempt to destroy needlessly or wil-
40 fully the nest or eggs of any wild bird or have in his
41 possession such nest or eggs unless authorized to do so
42 under regulations or under a permit by the director;

43 (8) Except as provided in section six of this article,
44 carry an uncased or loaded gun in any of the woods of
45 this state except during the open firearms hunting season
46 for game animals and nonmigratory game birds within
47 any county of the state, unless he has in his possession
48 a permit in writing issued to him by the director: *Pro-*
49 *vided, however,* That this section shall not prohibit hunt-
50 ing or taking of unprotected species of wild animals and
51 wild birds and migratory game birds, during the open
52 season, in the open fields, open water and open marshes
53 of the state;

54 (9) Except as provided in section six of this article,
55 carry an uncased or loaded gun after the hour of five
56 o'clock antemeridian on Sunday in any woods or on any
57 highway, railroad right of way, public road, field or
58 stream of this state, except at a regularly used rifle,
59 pistol, skeet, target or trap shooting ground or range
60 and nothing contained in section eighteen, article eight,
61 chapter sixty-one of the code shall prohibit the use of a

62 gun by a licensed hunter before the hour of five o'clock
63 antemeridian on Sunday;

64 (10) To have in his possession a loaded firearm or a
65 firearm from the magazine of which all shells and car-
66 tridges have not been removed, in or on any vehicle or
67 conveyance, or its attachments, within the state, except
68 as may otherwise be provided by law or regulation. Ex-
69 cept as hereinafter provided, between five o'clock post-
70 meridian of one day and seven o'clock antemeridian,
71 eastern standard time of the day following, any unloaded
72 firearm, being lawfully carried in accordance with the
73 foregoing provisions, shall be so carried only when in a
74 case or taken apart and securely wrapped. During the
75 period from July first to September thirtieth, inclusive,
76 of each year, the foregoing requirements relative to car-
77 rying certain unloaded firearms shall be permissible only
78 from eight-thirty o'clock postmeridian to five o'clock ante-
79 meridian, eastern standard time;

80 (11) Hunt, catch, take, kill, trap, injure or pursue with
81 firearms or other implement by which wildlife may be
82 taken after the hour of five o'clock antemeridian on Sun-
83 day any wild animals or wild birds: *Provided, however,*
84 That traps previously and legally set may be tended after
85 the hour of five o'clock antemeridian on Sunday, if the
86 person so doing shall not have firearms or long bow of
87 any description in his possession;

88 (12) Hunt with firearms or long bow while under the
89 influence of intoxicating liquor;

90 (13) Possess a ferret;

91 (14) Buy raw furs, pelts or skins of fur-bearing ani-
92 mals unless licensed to do so;

93 (15) Have in his possession or about his premises,
94 without the written permission of the director, any hunt-
95 ing or fishing paraphernalia which cannot be used law-
96 fully in this state for hunting or fishing, and any con-
97 servation officer shall remove and destroy such hunting
98 and fishing paraphernalia, whenever found in this state,
99 and the person or persons claiming ownership shall have
100 no recourse at law against such confiscation and destruc-
101 tion;

102 (16) Catch, take, kill, or attempt to catch, take or kill
103 any fish at any time by any means other than by rod,
104 line, and hooks with natural or artificial lures unless
105 otherwise authorized by law or regulation issued by the
106 director: *Provided, however,* That snaring of any species
107 of suckers, carp, fallfish and creek chubs through the ice
108 shall at all times be lawful;

109 (17) Employ or hire, or induce or persuade, by the use
110 of money or other things of value, or by any means, any
111 person to hunt, take, catch or kill, any wild animal or
112 wild bird except those species on which there is no closed
113 season, or to fish for, catch, take or kill any fish, am-
114 phibian or aquatic life which is protected by the pro-
115 visions of this chapter or regulations of the director, or
116 the sale of which is prohibited;

117 (18) Hunt, catch, take, kill, capture, pursue, transport,
118 possess or use any migratory game or nongame birds in-
119 cluded in the terms of conventions between the United
120 States and Great Britain and between the United States
121 and United Mexican States for the protection of migra-
122 tory birds and game mammals concluded, respectively,
123 August sixteen, one thousand nine hundred sixteen, and
124 February seven, one thousand nine hundred thirty-six,
125 except during the time and in the manner and numbers
126 prescribed by the federal Migratory Bird Treaty Act and
127 regulations made thereunder;

128 (19) Kill, take, catch, or have in his possession living
129 or dead, any wild bird, other than a game bird; or expose
130 for sale, or transport within or without the state any such
131 bird, except as aforesaid. No part of the plumage, skin
132 or body of any protected bird shall be sold or had in
133 possession for sale, except mounted or stuffed plumage,
134 skin, bodies or heads of such birds legally taken and
135 stuffed or mounted, irrespective of whether such bird was
136 captured within or without this state, except the English
137 or European sparrow (*Passer domesticus*), starling
138 (*Sturnus vulgaris*), sharp-shinned hawk (*Accipiter stri-*
139 *atus*), Cooper's hawk (*Accipiter cooperii*), goshawk (*Acci-*
140 *piter gentilis*), crow (*Corvus brachyrhynchos*) and cow-
141 bird (*Molothrus ater*), which shall not be protected and
142 the killing thereof at any time is lawful;

143 (20) Use dynamite or any like explosives or poisonous
144 mixture placed in any waters of the state for the purpose
145 of killing or taking fish. Any person violating the pro-
146 visions of this subdivision shall be guilty of a felony,
147 and, upon conviction thereof, shall be imprisoned for not
148 less than six months nor more than three years, and, in
149 the discretion of the court, may be fined not more than
150 five hundred dollars;

151 (21) Have both a bow and a gun in the fields or woods
152 at the same time;

153 (22) Have a crossbow in the woods or fields or use a
154 crossbow to hunt for, take or attempt to take any wild-
155 life;

156 (23) Take or attempt to take turkey, bear, elk or deer
157 with any arrow unless the same is equipped with a point
158 having at least two sharp cutting edges measuring in
159 excess of three fourths of an inch wide;

160 (24) Take or attempt to take any wildlife with an
161 arrow having an explosive head or shaft, a poisoned
162 arrow, or an arrow which would affect wildlife by any
163 chemical action;

164 (25) Shoot an arrow across any public highway or
165 from aircraft, motor-driven watercraft, motor vehicle
166 or other land conveyance;

167 (26) Permit any dog owned by him or under his
168 control to chase, pursue or follow upon the track of any
169 game animal or game bird, either day or night, between
170 the first day of May and the fifteenth day of August next
171 following: *Provided, however,* That dogs may be trained
172 on game animals and game birds, except deer and wild
173 turkeys, and field trials may be held or conducted on
174 the grounds or lands of the owner or by his bona fide
175 tenant or tenants or upon the grounds or lands of another
176 person with his written permission or on public lands,
177 at any time: *Provided further,* That the person training
178 said dogs does not have firearms or other implements
179 in his possession during the closed season on such game
180 animals and game birds, whereby game animals or game
181 birds could be taken or killed; and

182 (27) Conduct or participate in a field trial, water race
183 or wild hunt hereafter referred to as trial: *Provided,*

184 *however*, That any person, group of persons, club or or-
185 ganization may hold such trial at any time of the year
186 upon obtaining such permit as is provided for in section
187 fifty-six of this article. The person responsible for ob-
188 taining said permit shall prepare and keep an accurate
189 record of the names and addresses of all persons partici-
190 pating in said trial, and make same readily available for
191 inspection by any conservation officer upon request.

CHAPTER 113

(Senate Bill No. 50—By Mr. Tompos)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article five, and sections three, four and nineteen-a, article five-a, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to general powers and duties of the chief of the division of water resources and the water resources board with respect to water resources and pollution, and to disposition of moneys collected by the director of natural resources resulting from loss of game-fish or aquatic life.

Be it enacted by the Legislature of West Virginia:

That section five, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections three, four and nineteen-a, article five-a of said chapter, be amended and reenacted, all to read as follows:

Article

- 5. **Water Resources.**
- 5-a. **Water Pollution Control Act.**

Article 5. Water Resources.

Section

- 5. General powers and duties of chief of division and board with respect to water resources.

**Section 5. General Powers and Duties of Chief of
2 Division and Board with Respect to Water Resources.—**

3 (a) In addition to all other powers and duties of the
4 chief of the department's division of water resources, as
5 prescribed in this article or elsewhere by law, the chief,
6 under the supervision of the director, shall have and may
7 exercise the following powers and authority and shall
8 perform the following duties:

9 (1) To conduct, or contract for the conducting of,
10 scientific investigations, experiments and research, and
11 to collect data, concerning the water resources of the
12 state;

13 (2) To advise all users of water resources as to the
14 availability of water resources and the most practicable
15 method of water diversion, use, development and con-
16 servation; and

17 (3) To cooperate with federal officers and agencies,
18 other state agencies and officers, interstate agencies, and
19 other interested persons in the conservation, improvement
20 and development of water resources, and to this end, the
21 department may receive moneys from such agencies,
22 officers and persons on behalf of the state: *Provided,*
23 That the department shall pay all moneys so received
24 into a special fund hereby created in the state treasury,
25 which fund shall be expended under the direction of the
26 chief solely for the purpose or purposes for which the
27 grant, gift or contribution shall have been made.

28 (b) In addition to all other powers and duties of the
29 water resources board, as prescribed in this article or
30 elsewhere by law, the board shall have and may exercise
31 the following powers and authority and shall perform the
32 following duties:

33 (1) To enter into compacts and agreements concerning
34 this state's share of waters in watercourses where a por-
35 tion of such waters is contained within the territorial
36 limits of this state or of a neighboring state or states,
37 subject to the approval of the Legislature; and

38 (2) To promulgate rules and regulations, in accordance
39 with the provisions of chapter twenty-nine-a of this code,
40 to implement and make effective the powers, duties and
41 responsibilities vested in the board and the chief by the
42 provisions of this article and otherwise by law.

43 (c) The board, any member thereof and the chief,
44 and their duly authorized representatives shall have the
45 power and authority to enter at all reasonable times upon
46 any private or public property for the purpose of making
47 surveys, examinations, investigations and studies needed
48 in the gathering of facts concerning the water resources
49 of the state and their use, subject to responsibility for any
50 damage to the property entered. Upon entering, and
51 before making any survey, examination, investigation
52 and study, such person shall immediately present himself
53 to the occupant of the property. Upon entering property
54 used in any manufacturing, mining or other commercial
55 enterprise, or by any municipality or governmental agency
56 or subdivision, and before making any survey, examina-
57 tion, investigation and study, such person shall imme-
58 diately present himself to the person in charge of the
59 operation, and if he is not available, to a managerial em-
60 ployee. All persons shall cooperate fully with the person
61 entering such property for such purposes. Upon refusal
62 of the person owning or controlling such property to per-
63 mit such entrance or the making of such surveys, exami-
64 nations, investigations and studies, the board or the chief
65 may apply to the circuit court of the county in which
66 such property is located, or to the judge thereof in vaca-
67 tion, for an order permitting such entrance or the making
68 of such surveys, examinations, investigations and studies;
69 and jurisdiction is hereby conferred upon such court
70 to enter such order upon a showing that the relief asked
71 is necessary for the proper enforcement of this article:
72 *Provided, however,* That a dwelling occupied for resi-
73 dential purposes shall not be entered without a search
74 warrant.

75 (d) The board is hereby authorized to hire one or
76 more individuals to serve as hearing examiners on a full
77 or part-time basis. Such individuals may be attorneys
78 at law admitted to practice before any circuit court of
79 this state. All such hearing examiners shall be individ-
80 uals authorized to take depositions under the laws of this
81 state.

Article 5-a. Water Pollution Control Act.**Section**

3. General powers and duties of chief of division and board with respect to water pollution.
4. Cooperation with other governments and agencies.
- 19-a. Civil liability; natural resources game-fish and aquatic life fund; use of funds.

Section 3. General Powers and Duties of Chief of Division and Board with Respect to Water Pollution.—

(a) In addition to all other powers and duties of the chief of the department's division of water resources, as prescribed in this article or elsewhere by law, the chief, under the supervision of the director, shall have and may exercise the following powers and authority and shall perform the following duties:

(1) To encourage voluntary cooperation by all persons in controlling and reducing the pollution of the waters of this state, and to advise, consult and cooperate with all persons, all agencies of this state, the federal government or other states, and with interstate agencies in the furtherance of the purposes of this article, and to this end and for the purpose of studies, scientific or other investigations, research, experiments and demonstrations pertaining thereto, the department may receive moneys from such agencies, officers and persons on behalf of the state: *Provided*, That the department shall pay all moneys so received into a special fund hereby created in the state treasury, which fund shall be expended under the direction of the chief solely for the purpose or purposes for which the grant, gift or contribution shall have been made;

(2) To encourage the formulation and execution of plans by cooperative groups or associations of municipal corporations, industries, and other users of waters of the state, who, jointly or severally, are or may be the source of pollution of the same waters, for the control and reduction of pollution;

(3) To encourage, participate in, or conduct or cause to be conducted studies, scientific or other investigations, research, experiments and demonstrations relating to water pollution, and the causes, control and reduction thereof, and to collect data with respect thereto, all as

36 may be deemed advisable and necessary to carry out
37 the purposes of this article;

38 (4) To study and investigate all problems concerning
39 water flow, water pollution and the control and reduc-
40 tion of such pollution, and to make reports and recom-
41 mendations with respect thereto;

42 (5) To collect and disseminate information relating to
43 water pollution and the control and reduction thereof;

44 (6) To develop a public education and promotion pro-
45 gram to aid and assist in publicizing the need and secur-
46 ing support for pollution control and abatement;

47 (7) To sample ground and surface water with sufficient
48 frequency to ascertain the standards of purity or quality
49 from time to time of the waters of the state;

50 (8) To develop programs for the control and reduction
51 of the pollution of the waters of the state;

52 (9) To exercise general supervision over the adminis-
53 tration and enforcement of the provisions of this article,
54 and all orders issued pursuant to the provisions of this
55 article; and

56 (10) In cooperation with the college of engineering
57 at West Virginia university, to conduct studies, scientific
58 or other investigations, research, experiments and
59 demonstrations in an effort to discover economical and
60 practical methods for the elimination, disposal, control
61 and treatment of sewage, industrial wastes, and other
62 wastes, and the control and reduction of water pollution,
63 and to this end, the chief may cooperate with any public
64 or private agency and receive therefrom, on behalf of
65 the state, and for deposit in the state treasury, any moneys
66 which such agency may contribute as its part of the
67 expenses thereof, and all gifts, donations or contributions
68 received as aforesaid shall be expended by the chief ac-
69 cording to the requirements or directions of the donor
70 or contributor without the necessity of an appropriation
71 therefor, except that an accounting thereof shall be made
72 in the fiscal reports of the department.

73 (b) In addition to all other powers and duties of the
74 water resources board, as prescribed in this article or
75 elsewhere by law, the board shall have and may exercise

76 the following powers and authority and shall perform
77 the following duties:

78 (1) To cooperate with any interstate agencies for the
79 purpose of formulating, for submission to the Legisla-
80 ture, interstate compacts and agreements relating to the
81 control and reduction of water pollution; and

82 (2) To promulgate rules and regulations, in accordance
83 with the provisions of chapter twenty-nine-a of this code,
84 to implement and make effective the powers, duties and
85 responsibilities vested in the board and the chief by the
86 provisions of this article and otherwise by law: *Provided*,
87 That all such rules and regulations shall be consistent
88 with the declaration of public policy set forth in section
89 one of this article.

90 (c) The board is hereby authorized to hire one or
91 more individuals to serve as hearing examiners on a full
92 or part-time basis. Such individuals may be attorneys
93 at law admitted to practice before any circuit court of
94 this state. All such hearing examiners shall be indi-
95 viduals authorized to take depositions under the laws of
96 this state.

97 (d) The board, any member thereof and the chief,
98 and their duly authorized representatives, shall have
99 the power and authority to make investigations, inspec-
100 tions and inquiries concerning compliance with the pro-
101 visions of this article, any order made and entered in
102 accordance with the provisions of this article, any rule
103 or regulation promulgated by the board, and with the
104 terms and conditions of any permit issued in accordance
105 with the provisions of section seven of this article. In
106 order to make such investigations, inspections and in-
107 quires, the board, any member thereof and the chief,
108 and their duly authorized representatives, shall have the
109 power and authority to enter at all reasonable times upon
110 any private or public property, subject to responsibility
111 for any damage to the property entered. Upon entering,
112 and before making any investigation, inspection and in-
113 quiry, such person shall immediately present himself to
114 the occupant of the property. Upon entering property
115 used in any manufacturing, mining or other commercial
116 enterprise, or by any municipality or governmental

117 agency or subdivision, and before making any investiga-
118 tion, inspection and inquiry, such person shall imme-
119 diately present himself to the person in charge of the
120 operation, and if he is not available, to a managerial
121 employee. All persons shall cooperate fully with the
122 person entering such property for such purposes. Upon
123 refusal of the person owning or controlling such property
124 to permit such entrance or the making of such inspections,
125 investigations and inquiries, the board or the chief may
126 apply to the circuit court of the county in which such
127 property is located, or to the judge thereof in vacation,
128 for an order permitting such entrance and the making
129 of such inspections, investigations and inquiries; and
130 jurisdiction is hereby conferred upon such court to enter
131 such order upon a showing that the relief asked is neces-
132 sary for the proper enforcement of this article: *Pro-*
133 *vided, however,* That a dwelling occupied for residential
134 purposes shall not be entered without a search warrant.
135 (e) The board is hereby authorized and empowered
136 to investigate and ascertain the need and factual bases
137 for the establishment of public service districts as a
138 means of controlling and reducing pollution from un-
139 incorporated communities and areas of the state, and
140 to present reports and recommendations thereon to the
141 county court or courts of the areas concerned, together
142 with a request that such county court or courts create
143 a public service district, or districts, as therein shown
144 to be needed and required and as provided in article
145 thirteen-a, chapter sixteen of this code.

Sec. 4. Cooperation with Other Governments and
2 **Agencies.**—The division of water resources is hereby de-
3 signated as the water pollution control agency for this
4 state for all purposes of the Federal Water Pollution Con-
5 trol Act, Public Law 660, 84th Congress, approved July
6 ninth, one thousand nine hundred fifty-six, as amended
7 by Public Law 87—88, 87th Congress, approved July
8 twentieth, one thousand nine hundred sixty-one, and sub-
9 sequent amendatory provisions thereof, all hereinafter
10 called the “federal act,” and is hereby authorized to take
11 all action necessary or appropriate to secure to this state
12 the benefits of said act. In carrying out the purposes of

13 this section, the chief, in addition to any other action
14 which may be necessary or appropriate, is hereby author-
15 ized to cooperate with the surgeon general of the United
16 States public health service, other agencies of the federal
17 government, other states, interstate agencies and other
18 interested parties in all matters relating to water pollu-
19 tion, including the development of programs for con-
20 trolling and reducing water pollution and improving the
21 sanitary conditions of waters; to apply for and receive,
22 on behalf of this state, funds made available to the divi-
23 sion under the aforesaid federal act by any agency of
24 the federal government, on condition that all moneys
25 received from any federal agency as herein provided shall
26 be paid into the state treasury and shall be expended,
27 under the direction of the chief, solely for the purpose
28 or purposes for which the grant or grants shall have
29 been made; to approve projects for which application
30 for loans or grants under the federal act is made by any
31 municipality (including any city, town, district or other
32 public body created by or pursuant to the laws of this
33 state and having jurisdiction over the disposal of sewage,
34 industrial wastes, or other wastes) or agency of this
35 state or by any interstate agency; and to participate
36 through his authorized representatives in proceedings
37 under the federal act to recommend measures for the
38 abatement of water pollution originating in this state.
39 The governor is hereby authorized, in his discretion, to
40 give consent on behalf of this state to requests by the
41 secretary of the United States department of health, edu-
42 cation, and welfare to the attorney general of the United
43 States for the bringing of actions for the abatement of
44 such pollution. Whenever a federal law requires the
45 approval or recommendation of a state agency or any
46 political subdivision of the state in any matter relating
47 to the water resources of the state, the director, subject
48 to approval of the Legislature, is hereby designated as
49 the sole person to give the approval or recommendation
50 required by the federal law, unless the federal law spe-
51 cifically requires the approval or recommendation of
52 some other state agency or political subdivision of the
53 state.

Sec. 19-a. Civil Liability; Natural Resources Game-Fish and Aquatic Life Fund; Use of Funds.—If any loss of game-fish or aquatic life results from a person's or persons' failure or refusal to discharge any duty imposed upon him by this article, the West Virginia department of natural resources shall have a cause of action on behalf of the state of West Virginia to recover from such person or persons causing such loss a sum equal to the cost of replacing such game-fish or aquatic life. Any moneys so collected by the director shall be deposited in a special revenue fund entitled "Natural Resources Game-Fish and Aquatic Life Fund" and shall be expended as hereinafter provided. The fund shall be expended to stock waters of this state with game-fish and aquatic life. Where feasible, the director shall use any sum collected in accordance with the provisions of this section to stock waters in the area in which the loss resulting in the collection of such sum occurred. Any balance of such sum shall remain in said fund and be expended to stock state-owned and operated fishing lakes and ponds, wherever located in this state, with game-fish and aquatic life.

CHAPTER 114

(Com. Sub. for Senate Bill No. 215—By Mr. Gainer)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of conservation officers.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Law Enforcement, Procedures and Penalties.**Section****4. Powers and duties of conservation officers.****Section 4. Powers and Duties of Conservation Officers.**

2 —Conservation officers and all other persons authorized
3 to enforce the provisions of this chapter shall be under
4 the supervision and direction of the director in the per-
5 formance of their duties as herein provided. The au-
6 thority, powers and duties of the conservation officers
7 shall be state-wide and they shall have authority to:

8 (1) Arrest on sight, without warrant or other court
9 process, any person or persons detected by them in the
10 violation of any of the provisions of this chapter, but no
11 such arrests shall be made where any form of adminis-
12 trative procedure is prescribed by this chapter for the
13 enforcement of any of the particular provisions contained
14 herein;

15 (2) Carry such arms and weapons as may be prescribed
16 by the director in the course and performance of their
17 duties, upon giving the bond required by the provisions of
18 section five, article seven, chapter sixty-one of this code,
19 but no license or other authorization shall be required of
20 such officers for this privilege;

21 (3) Search and examine, in the manner provided by
22 law, any boat, vehicle, automobile, conveyance, express or
23 railroad car, fish box, fish bucket or creel, game bag or
24 game coat, or any other place in which hunting and fishing
25 paraphernalia, wild animals, wild birds, fish, amphibians
26 or other forms of aquatic life could be concealed, packed
27 or conveyed whenever they have reason to believe that
28 they would thereby secure or discover evidence of the
29 violation of any provisions of this chapter;

30 (4) Execute and serve any search warrant, notice or
31 any process of law issued under the authority of this chap-
32 ter or any law relating to wildlife, forests, and all other
33 natural resources, by a justice of the peace or any court
34 having jurisdiction thereof, or copies of orders made and
35 entered by the chief of the division of water resources, or,
36 without fee, any subpoena or subpoena duces tecum issued
37 in accordance with the provisions of article five-a of this
38 chapter, in the same manner, with the same authority,

39 and with the same legal effect, as any constable or sheriff
40 can serve or execute such warrant, notice or process;

41 (5) Require the operator of any motor vehicle or other
42 conveyance, on or about the public highways or roadways,
43 or in or near the fields and streams of this state, to stop
44 for the purpose of allowing such officers to conduct game-
45 kill surveys;

46 (6) Summon aid in making arrests or seizures or in
47 executing any warrants, notices or processes, and they
48 shall have the same rights and powers as sheriffs have in
49 their respective counties in so doing;

50 (7) Enter private lands or waters within the state
51 while engaged in the performance of their official duties
52 hereunder: *Provided*, That in connection with all surveys,
53 examinations, inspections, inquiries, investigations and
54 studies needed in the gathering of facts concerning water
55 resources and their use or the pollution thereof under
56 article five or article five-a of this chapter, such conserva-
57 tion officers and all other persons authorized to enforce
58 the provisions of this chapter, shall act pursuant to and
59 under the direction of the chief of the division of water
60 resources or the state water resources board, and such
61 officers and other persons shall be subject to the provisions
62 of subparagraph (c) of section five, article five, and sub-
63 paragraph (d) of section three, article five-a of this
64 chapter;

65 (8) Arrest on sight, without warrant or other court
66 process, subject to the limitations set forth in subpara-
67 graph (1) of this section, any person or persons com-
68 mitting a criminal offense in violation of any law of this
69 state in the presence of any such officer on any state lands
70 and waters under lease by the department of natural re-
71 sources and all national forest lands, waters and parks
72 within the boundaries of the state of West Virginia, and,
73 in addition to any authority conferred in the other sub-
74 paragraphs of this section, execute all warrants of arrest
75 on such state and national lands, waters and parks, con-
76 sistent with the provisions of article one, chapter sixty-
77 two of this code; and

78 (9) Do all things necessary to carry into effect the pro-
79 visions of this chapter.

CHAPTER 115

(Senate Bill No. 189—By Mr. McCourt)

[Passed February 24, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend article nine, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-b, relating to the creation of the West Virginia New York world's fair pavilion fund.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-b, to read as follows:

Article 9. Department of Commerce.

Section

3-b. West Virginia New York world's fair pavilion fund.

Section 3-b. West Virginia New York World's Fair

2 Pavilion Fund.—For the purpose of carrying out the pro-
3 visions of this section, there is hereby created a special
4 revenue fund in the state treasury entitled the “West Vir-
5 ginia New York World's Fair Pavilion Fund,” which fund
6 shall remain in existence only until the end of the fiscal
7 year, one thousand nine hundred sixty-six.

8 The commissioner of the department of commerce shall
9 have the duty of administering, managing and controlling
10 said fund and shall make expenditures therefrom in ac-
11 cordance with the provisions of article three, chapter
12 twelve of the code of West Virginia, one thousand nine
13 hundred thirty-one, as amended. Requisitions for ex-
14 penditures from said fund shall be signed by said com-
15 missioner and approved by the director of said pavilion
16 and all of such requisitions shall require the signature of
17 both of said officials.

18 The fund may be expended for repairs, alterations, reno-
19 vations, operation, maintenance and additions to the West
20 Virginia pavilion at the New York world's fair including
21 but not limited to the payment of regular current expense
22 items, salaries, promotional expenses and all other ex-

23 penses necessary and proper to operate and maintain said
24 pavilion in a good and businesslike manner. There may
25 also be expended from this fund such sums as may be
26 required for the demolition of said pavilion and the clear-
27 ing of said site: *Provided*, That there shall not be ex-
28 pended from the fund hereby created any sum or sums of
29 money for expenses, liabilities, loans, liens, contracts, or
30 any other indebtedness of whatever kind or character
31 made or incurred prior to January one, one thousand nine
32 hundred sixty-five, other than for electric utility service.

33 The state auditor is hereby directed and authorized to
34 transfer to this fund all unencumbered appropriated bal-
35 ances in any accounts now standing to the credit of the
36 West Virginia New York world's fair pavilion, and in
37 addition said auditor is hereby directed and authorized
38 to transfer to this special revenue account all balances
39 on hand in any income account accumulated in the opera-
40 tion of said pavilion, including the balance remaining in
41 that certain account currently held by the state treasurer
42 of the state of West Virginia to the credit of the West
43 Virginia pavilion.

44 All of such transfer and any and all subsequent appro-
45 priations by the Legislature as well as all income to said
46 pavilion from exhibitors' fees, concessions, or from what-
47 ever source shall be deposited in this special revenue fund
48 and all of said sums may be expended for the purpose
49 aforestated.

50 Any balances remaining in this special revenue fund
51 on June thirtieth, one thousand nine hundred sixty-five,
52 shall remain in this fund and may be expended for the
53 foregoing purposes.

CHAPTER 116

(Senate Bill No. 190—By Mr. Martin)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article ten, chapter fifty-six of the code of
West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new section, designated section seven, relating to the holding of hearings and entering of orders in any county of a circuit court.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seven, to read as follows:

Article 10. Miscellaneous Provisions Relating to Procedure.

Section

7. Right of circuit judge to hold hearings and entering orders in any county of circuit unless objection filed; jury cases excepted.

Section 7. Right of Circuit Judge to Hold Hearings and Entering Orders in Any County of Circuit unless Objection Filed; Jury Cases Excepted.—In any (a) appeal from or to review the judgment, order or ruling of any court of record or administrative agency, (b) appeal from a justice of the peace court, (c) ex parte proceeding, (d) adoption proceeding, (e) change of name proceeding, (f) summary procedure or proceeding, (g) eminent domain proceeding, (h) juvenile proceeding, (i) action wherein an extraordinary remedy is sought, such as mandamus, prohibition, certiorari, habeas corpus, quo warranto, or information in the nature of quo warranto, and (j) civil action instituted under the rules of civil procedure for trial courts of record, the judge of a judicial circuit may hold hearings, including but not limited to pre-trial conferences, and enter orders in any county of his circuit although he is not physically present in the county in which such action, appeal or proceeding was instituted or is pending, unless there is objection thereto in writing, filed by one of the parties prior to such hearing or the entry of such order: *Provided*, That in any appeal, action or proceeding in which a jury trial has been demanded or exists as a matter of right, trial by jury shall be held only in the county wherein such appeal, action or proceeding is pending.

CHAPTER 117

(House Bill No. 662—By Mr. Ayers and Mr. Seabright)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article two-a; section three, article three, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article three of said chapter by adding thereto two new sections, designated sections four-b and four-c, relating to the powers and duties of the medical licensing board, examinations by the medical licensing board, the practice of medicine and surgery in the state of West Virginia, and the formation of medical corporations; providing certain limitations on medical corporations; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section two, article two-a; section three, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article three of said chapter be amended by adding thereto two new sections, designated sections four-b and four-c, all to read as follows:

Article

2-a. Medical Licensing Board.

3. Physicians and Surgeons.

Article 2-a. Medical Licensing Board.

Section

2. Powers and duties.

Section 2. Powers and Duties.—The medical licensing board of West Virginia shall assume, carry on, and succeed, to all the duties, rights, powers, obligations and liabilities heretofore belonging to, exercised by, or assumed by the public health council, with regard to the licensure of physicians and surgeons, and chiropractors.

The medical licensing board shall examine all qualified applicants for license to practice medicine and surgery,

10 and chiropody, and it shall license all such applicants
 11 who are qualified under applicable statutes and who
 12 pass any examination that may be required by statute
 13 or by any legally adopted rule or regulation. The board
 14 shall also have authority to authorize medical corpora-
 15 tions in accordance with the provisions and subject to
 16 the limitations of article three of this chapter to practice
 17 medicine and surgery through duly licensed physicians
 18 and surgeons.

19 The said board shall have the power to make such ex-
 20 amination of all applicants appearing before it for any
 21 type of license as may be necessary to determine that
 22 the applicant is qualified. The said board shall also have
 23 the power to revoke or suspend any license or certificate
 24 of authorization issued by it, for cause, after having given
 25 the person whose license or medical corporation whose
 26 certificate of authorization is sought to be revoked or
 27 suspended, an opportunity to be heard in the manner pro-
 28 vided by section eight, article one, chapter thirty of this
 29 code. It shall have the power to reinstate any license or
 30 certificate of authorization revoked or suspended by it.

31 The said board is authorized and empowered to hold
 32 and conduct hearings and investigations on the issuance,
 33 suspension, revocation, or reinstatement of licenses or
 34 certificates of authorization.

35 The said board shall have the power to hire, fix the
 36 compensation of, and discharge such employees as are
 37 necessary for the performance of the powers and duties
 38 vested in the said board by law.

Article 3. Physicians and Surgeons.

Section

3. Examination by medical licensing board.
- 4-b. Medical corporations; application for registration; fee; notice to secretary of state of issuance of certificate; action by secretary of state.
- 4-c. Same; rights and limitations generally; biennial registration; fee; when practice to cease; admissibility and effect of certificate signed by secretary of medical licensing board; penalty; severability.

Section 3. Examination by Medical Licensing Board.—

- 2 The medical licensing board of West Virginia shall ex-
 3 amine all qualified applicants for license to practice
 4 medicine and surgery in this state, and shall examine

5 the application of medical corporations provided for in
6 section four-b of this article, and issue certificates of
7 license, and in the case of proposed medical corporations
8 certificates of authorization, to all applicants who are
9 legally entitled to receive the same; and said certificates
10 shall be signed by the chairman of the said board and by
11 the director of health as secretary thereof.

Sec. 4-b. Medical Corporations; Application for Registration; Fee; Notice to Secretary of State of Issuance of Certificate; Action by Secretary of State.—When two or
4 more physicians or surgeons duly licensed to practice
5 medicine in the state of West Virginia wish to form a
6 medical corporation, such physicians or surgeons shall file
7 a written application with the medical licensing board,
8 on a form prescribed by the board, and shall furnish proof
9 satisfactory to the board that all of the signers of such
10 application are such duly licensed physicians or surgeons.
11 A fee of twenty-five dollars shall accompany each such
12 application, no part of which shall be returnable.

13 If the board finds that all of the signers of such appli-
14 cation are such duly licensed physicians or surgeons, the
15 board shall notify the secretary of state that a certificate
16 of authorization has been issued to the individuals sign-
17 ing such application.

18 When the secretary of state receives notification from
19 the state medical board that certain persons have been
20 issued a certificate of authorization, he shall attach such
21 authorization to the corporation application and upon
22 compliance by the corporation with chapter thirty-one
23 of this code shall notify the incorporators that such cor-
24 poration, through duly licensed physicians and surgeons,
25 may engage in the practice of medicine and surgery.

Sec. 4-c. Same; Rights and Limitations Generally; Biennial Registration; Fee; When Practice to Cease; Admissibility and Effect of Certificate Signed by Secretary of Medical Licensing Board; Penalty; Severability.—(1) A
5 medical corporation may practice medicine and surgery
6 only through individual physicians and surgeons duly
7 licensed to practice medicine or surgery in the state of
8 West Virginia, but such physicians and surgeons may be

9 employees rather than shareholders of such corporation,
10 and nothing herein contained shall be construed to require
11 a license for or other legal authorization of any individual
12 employed by such corporation to perform services for
13 which no license or other legal authorization is otherwise
14 required. Nothing contained in this article is meant or
15 intended to change in any way the rights, duties, privi-
16 leges, responsibilities and liabilities incident to the physi-
17 cian-patient relationship nor is it meant or intended to
18 change in any way the personal character of the physician-
19 patient relationship. A corporation holding such certifi-
20 cate of authorization shall register biennially, on or before
21 the thirtieth day of June, on a form prescribed by the
22 medical licensing board, and shall pay an annual registra-
23 tion fee of fifty dollars.

24 (2) A medical corporation holding a certificate of
25 authorization shall cease to engage in the practice of
26 medicine and surgery upon being notified by the medical
27 licensing board that any of its shareholders is no longer a
28 duly licensed physician or surgeon, or when any shares
29 of such corporation have been sold or disposed of to a
30 person who is not a duly licensed physician or surgeon:
31 *Provided*, That the personal representative of a deceased
32 shareholder shall have a period, not to exceed twelve
33 months from the date of such shareholder's death, to dis-
34 pose of such shares; but nothing contained herein shall
35 be construed as affecting the existence of such corpora-
36 tion or its right to continue to operate for all lawful pur-
37 poses other than the practice of medicine and surgery.

38 (3) No corporation shall practice medicine or sur-
39 gery, or any of its branches, or hold itself out as being
40 capable of doing so, without a certificate from the medical
41 licensing board; nor shall any corporation practice medi-
42 cine or surgery or any of its branches, or hold itself out
43 as being capable of doing so, after its certificate has been
44 revoked, or if suspended, during the term of such sus-
45 pension. A certificate signed by the secretary of the
46 medical licensing board to which is affixed the official
47 seal of the board to the effect that it appears from the
48 records of the board that no such certificate to practice
49 medicine or surgery or any of its branches in the state

50 has been issued to any such corporation specified therein
51 or that such certificate has been revoked or suspended
52 shall be admissible in evidence in all courts of this state
53 and shall be prima facie evidence of the facts stated
54 therein.

55 (4) Any officer, shareholder or employee of such cor-
56 poration who participates in a violation of any provision
57 of this section shall be guilty of a misdemeanor, and, upon
58 conviction, shall be fined not exceeding one thousand dol-
59 lars.

60 (5) If any provision of sections four-b or four-c of
61 this article is held to be invalid, such invalidity shall not
62 affect the other provisions of said sections which can be
63 given effect without such invalid provision, and to this
64 end the provisions of said sections are severable.

CHAPTER 118

(Senate Bill No. 40—By Mr. Mullins, by request)

[Passed February 10, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section four-a, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the biennial registration of physicians and surgeons.

Be it enacted by the Legislature of West Virginia:

That section four-a, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Physicians and Surgeons.

Section

4-a. Biennial registration of physicians and surgeons.

Section 4-a. Biennial Registration of Physicians and

2 **Surgeons.**—Every person who, on or before the thirty-first
3 day of August, one thousand nine hundred forty-nine, is
4 licensed as a physician or surgeon to practice medicine
5 and surgery in this state, shall, on or before the said
6 thirty-first day of August, one thousand nine hundred
7 forty-nine, make application to the medical licensing

8 board for registration, and shall be registered by the
9 said board, as the holder of such license, which registra-
10 tion shall be for the period ending on the thirtieth day
11 of June, one thousand nine hundred fifty-one. On or
12 before the said thirtieth day of June, one thousand nine
13 hundred fifty-one, and biennially thereafter, on or before
14 the thirtieth day of June of each biennial period, every
15 person licensed as a physician or surgeon in this state,
16 shall apply to the said board for registration, or a renewal
17 of registration, as such license holder: *Provided*, That
18 no registration shall be required of any holder of a cer-
19 tificate of licensure for the biennial period, or any portion
20 thereof, during which such certificate is issued.

21 Each applicant for registration or renewal thereof shall
22 remit to the board, with his application, a fee of five
23 dollars.

24 The failure of any person to comply with the provisions
25 of this section shall operate automatically, and without
26 further proceedings, to cancel the certificate of such per-
27 son, and the license issued thereunder. Continued practice
28 by any such person after such cancellation of his certifi-
29 cate and license shall constitute practicing without a
30 license, and any person so practicing shall be subject to
31 all of the penalties provided by law for practicing without
32 a license.

33 Any certificate and license cancelled pursuant to the
34 provisions of this section, and not for any other reason,
35 shall be reinstated by the said board upon submission
36 to it of an application for registration by the person whose
37 certificate has been cancelled, together with current and
38 delinquent fees, and ten dollars reinstatement fee.

CHAPTER 119

(Com. Sub. for House Bill No. 601—By Mr. Lohr)

[Passed March 11, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections two and seven, article
five, chapter thirty of the code of West Virginia, one thou-

sand nine hundred thirty-one, as amended, relating to the appointment, qualifications, authority, powers and duties of the West Virginia board of pharmacy, and its powers with respect to refusal to issue, suspend or revoke a license or certificate of registration.

Be it enacted by the Legislature of West Virginia:

That sections two and seven, article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 5. Pharmacists and Drugstores.

Section

2. Board of pharmacy; appointment, qualifications and terms of members; powers and duties generally.
7. Refusal to issue; suspension or revocation of certificate of registration.

Section 2. Board of Pharmacy; Appointment, Qualifications and Terms of Members; Powers and Duties Generally.—There shall be a state board of pharmacy, known as the "West Virginia Board of Pharmacy," which shall consist of five practicing pharmacists, who shall be appointed by the governor by and with the advice and consent of the senate. Each member of the board, at the time of his appointment, shall be a citizen and registered pharmacist of this state, and actively engaged in the practice of pharmacy.

The members of the board in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified. On or before the first day of July, one thousand nine hundred thirty-one, and on or before the first day of July of each year thereafter, the governor shall appoint one member to serve for a term of five years, commencing on said first day of July, and any member shall be eligible for re-appointment.

The board, in addition to the authority, powers and duties granted to the board by this chapter and chapter sixteen of the code, shall have the authority to: (a) Regulate the practice of the profession of pharmacy; (b)

25 regulate the employment of apprentices and interns in
26 pharmacy; (c) appoint, within the limit of appropriations,
27 inspectors who shall be registered pharmacists and who
28 shall act as agents of the board within the provisions of
29 this chapter and chapter sixteen of the code and such
30 rules and regulations as the board shall promulgate; and
31 (d) adopt rules of professional conduct appropriate to
32 the establishment and maintenance of high standards of
33 integrity and dignity in a profession.

Sec. 7. Refusal to Issue; Suspension or Revocation of

2 **Certificate of Registration.** — The board of pharmacy
3 shall have the power to withhold, revoke or suspend any
4 license or any certificate issued under this article after
5 giving reasonable notice and an opportunity to be heard
6 to any person who has:

7 (1) Become unfit or incompetent to practice pharmacy
8 by reason of: (a) Acts of gross immorality; (b) habitual
9 intoxication; (c) habitual use of narcotics or habit-form-
10 ing drugs; (d) insanity; (e) any abnormal physical or
11 mental condition which threatens the safety of persons
12 to whom such person might sell or dispense prescriptions,
13 drugs, or devices, or for whom he might manufacture,
14 prepare or package, or supervise the manufacturing,
15 preparation, or packaging of prescriptions, drugs, or de-
16 vices.

17 (2) Been convicted in any of the courts of this state,
18 the United States of America, or any other state, of a
19 felony or any crime involving moral turpitude.

20 (3) Violated any of the provisions of this chapter or
21 chapter sixteen of the code.

22 (4) Failed to comply with the rules of professional
23 conduct adopted pursuant to subparagraph (d) of sec-
24 tion two of this article.

25 (5) Promoted to the public in any manner any one
26 drug which may only be dispensed pursuant to a pre-
27 scription over any other of such drugs.

28 (6) Solicited professional practice directly or indi-
29 rectly by promoting professional ability, experience, in-
30 tegrity, or professional qualifications.

CHAPTER 120

(House Bill No. 761—By Mr. Myles and Mr. Marsteller)

[Passed March 11, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the regulation of the practice of registered professional nursing; providing penalties; and providing for injunctive relief.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Nurses.

Section

1. Definitions.
2. License required to practice.
3. Board of examiners for registered professional nurses; appointment, term and qualifications of members; reappointment; vacancies; removal; compensation.
4. Organization and meetings of board; quorum; powers and duties generally; executive secretary; funds.
5. Schools of nursing; accreditation; standards; surveys and reports; failure to maintain standards.
6. Qualifications and examinations of persons seeking licensure; applications; practitioners licensed in another state; present practitioners; fees; temporary permits.
7. Licensure of aliens.
8. Renewal of licenses; reinstatement; fees; penalties; inactive list.
9. Contents of license or certificate.
10. Use of title "registered nurse" and abbreviation thereof.
11. Denial, revocation or suspension of a license; grounds for discipline.
12. Exceptions.
13. Prohibitions and penalties.
14. Injunction or other relief against unlawful acts.
15. Administration of anesthetics.
16. General law applicable.
17. Severability.

- Section 1. Definitions.**—As used in this article the
- 2 term:
 - 3 (a) "Board" shall mean the West Virginia board of
 - 4 examiners for registered professional nurses;
 - 5 (b) The practice of "registered professional nursing"
 - 6 shall mean the performance for compensation of any

7 service requiring substantial specialized judgment and
8 skill based on knowledge and application of principles
9 of nursing derived from the biological, physical and social
10 sciences, such as responsible supervision of a patient re-
11 quiring skill in observation of symptoms and reactions
12 and the accurate recording of the facts, or the supervision
13 and teaching of other persons with respect to such prin-
14 ciples of nursing, or in the administration of medications
15 and treatments as prescribed by a licensed physician or
16 a licensed dentist, or the application of such nursing
17 procedures as involve understanding of cause and effect
18 in order to safeguard life and health of a patient and
19 others.

Sec. 2. License Required to Practice.—In order to safe-
2 guard life and health, any person practicing or offer-
3 ing to practice registered professional nursing in this
4 state for compensation shall hereafter be required to sub-
5 mit evidence that he or she is qualified so to practice,
6 and shall be licensed as hereinafter provided. After the
7 thirtieth day of June, one thousand nine hundred sixty-
8 five, it shall be unlawful for any person not licensed
9 under the provisions of this article to practice or to offer
10 to practice registered professional nursing in this state,
11 or to use any title, sign, card or device to indicate that
12 such person is a registered professional nurse.

Sec. 3. Board of Examiners for Registered Professional
2 **Nurses; Appointment, Term and Qualifications of Mem-**
3 **bers; Reappointment; Vacancies; Removal; Compensation.**
4 —The governor shall appoint, by and with the advice and
5 consent of the senate, a board consisting of five members
6 who shall constitute and be known as the West Virginia
7 board of examiners for registered professional nurses:
8 *Provided, however,* That the present members of the West
9 Virginia state board of examiners for registered nurses in
10 office on the effective date of this article shall, unless
11 sooner removed, continue to serve as members of the
12 board hereby created until their respective terms of mem-
13 bership shall have expired and their successors are ap-
14 pointed under the provisions of this article. Appointments
15 hereunder shall be made by the governor, by and with the

16 advice and consent of the senate, from lists submitted to
17 the governor by the West Virginia nurses' association.
18 Such lists shall contain the names of at least three persons
19 eligible for membership for each membership or vacancy
20 to be filled and shall be submitted to the governor on or
21 before the first day of June of each year and at such other
22 time or times as a vacancy on the board shall exist. Ap-
23 pointments under the provisions of this article shall be for
24 a term of five years each or for the unexpired term, if any,
25 of the present members. Any member may be eligible for
26 reappointment, but no member shall serve longer than
27 two successive terms. Vacancies shall be filled in the same
28 manner as is provided for appointment in the first in-
29 stance. The governor may remove any member for
30 neglect of duty, for incompetence, or for unprofessional
31 or dishonorable conduct.

32 Each member of the board hereafter appointed shall
33 (a) be a citizen of the United States and a resident of
34 this state, (b) be a graduate from an accredited educa-
35 tional program in this or any other state for the prepara-
36 tion of practitioners of registered professional nursing,
37 or be a graduate from an accredited college or university
38 with a major in the field of nursing, (c) be a graduate from
39 an accredited college or university, (d) be a registered
40 professional nurse licensed in this state or eligible for
41 licensure as such, (e) have had at least five years of ex-
42 perience in teaching in an educational program for the
43 preparation of practitioners of registered professional
44 nursing, or in a combination of such teaching and either
45 nursing service administration or nursing education ad-
46 ministration, and (f) have been actually engaged in reg-
47 istered professional nursing for at least three years pre-
48 ceding his or her appointment or reappointment.

49 Each member of the board shall receive twenty dollars
50 for each day actually spent in attending meetings of the
51 board, or of its committees, and shall also be reimbursed
52 for actual and necessary expenses.

**Sec. 4. Organization and Meetings of Board; Quorum;
2 Powers and Duties Generally; Executive Secretary;
3 Funds.**—The board shall meet at least once each year and

4 shall elect from its members a president and a secretary.
5 The secretary shall also act as treasurer of the board. The
6 board may hold such other meetings during the year as it
7 may deem necessary to transact its business. A majority,
8 including one officer, of the board shall constitute a
9 quorum at any meeting. The board is hereby authorized
10 and empowered to:

11 (a) Adopt and, from time to time, amend such rules
12 and regulations, not inconsistent with this article, as may
13 be necessary to enable it to carry into effect the provi-
14 sions of this article;

15 (b) Prescribe standards for educational programs pre-
16 paring persons for licensure to practice registered pro-
17 fessional nursing under this article;

18 (c) Provide for surveys of such educational programs
19 at such times as it may deem necessary;

20 (d) Accredite such educational programs for the prepa-
21 ration of practitioners of registered professional nursing
22 as shall meet the requirements of this article and of the
23 board;

24 (e) Deny or withdraw accreditation of educational
25 programs for failure to meet or maintain prescribed
26 standards required by this article and by the board;

27 (f) Examine, license and renew the licenses of duly
28 qualified applicants;

29 (g) Conduct hearings upon charges calling for disci-
30 pline of a licensee or revocation or suspension of a license;

31 (h) Keep a record of all proceedings of the board;

32 (i) Make a biennial report to the governor;

33 (j) Appoint and employ a qualified person, who shall
34 not be a member of the board, to serve as executive sec-
35 retary to the board;

36 (k) Define the duties and fix the compensation for
37 the executive secretary; and

38 (l) Employ such other persons as may be necessary
39 to carry on the work of the board.

40 The executive secretary shall possess all of the qualifi-
41 cations prescribed in section three for members of the
42 board, except that he or she shall (a) have had at least

43 eight years of experience in the practice of registered
44 professional nursing since graduation from a college or
45 university, at least five of which shall have been devoted
46 to the teaching in or to the administration of an edu-
47 cational program for the preparation of practitioners of
48 registered professional nursing, or to a combination of
49 such teaching and administration, and (b) shall have
50 been actively engaged in the practice of registered pro-
51 fessional nursing for at least five years preceding his or
52 her appointment by the board.

53 All fees and other moneys collected by the board pur-
54 suant to the provisions of this article shall be kept in a
55 separate fund and expended solely for the purpose of
56 this article. No part of this special fund shall revert to
57 the general funds of this state. The compensation pro-
58 vided by this article and all expenses incurred under
59 this article shall be paid from this special fund. No com-
60 pensation or expense incurred under this article shall be
61 a charge against the general funds of this state.

**Sec. 5. Schools of Nursing; Accreditation; Standards;
2 Surveys and Reports; Failure to Maintain Standards.—**An
3 institution desiring to be accredited by the board for the
4 preparation of practitioners of registered professional
5 nursing shall file an application therefor with the board,
6 together with the information required and a fee of fifty
7 dollars. It shall submit written evidence that: (a) It
8 is prepared to give a program of nursing education which
9 meets the standards prescribed by the board; and (b)
10 it is prepared to meet all other standards prescribed in
11 this article and by the board.

12 Instruction and practice may be secured in one or more
13 institutions approved by the board. Such institution or
14 institutions with which the school is to be affiliated shall
15 be surveyed by the executive secretary of the board, who
16 shall submit a written report of the survey to the board.
17 If, in the opinion of the board, the requirements for an
18 accredited school to prepare practitioners of registered
19 professional nursing are met, it shall approve the school
20 as an accredited school. From time to time as deemed
21 necessary by the board, it shall be the duty of the board,
22 through its executive secretary, to survey all such schools.

23 Written reports of such surveys shall be submitted to the
24 board. If the board determines that any such accredited
25 school is not maintaining the standards required by this
26 article and by the board, notice thereof in writing speci-
27 fying the defect or defects shall be immediately given to
28 the school. A school which fails to correct these condi-
29 tions to the satisfaction of the board within a reasonable
30 time shall be removed from the list of accredited schools.

**Sec. 6. Qualifications and Examinations of Persons
2 Seeking Licensure; Applications; Practitioners Licensed
3 in Another State; Present Practitioners; Fees; Temporary
4 Permits.**—To obtain a license to practice registered profes-
5 sional nursing, an applicant for such license shall submit
6 to the board written evidence, verified by oath, that he
7 or she (a) is of good moral character; (b) has completed
8 an approved four-year high school course of study or
9 the equivalent thereof, as determined by the appropriate
10 educational agency; and (c) has completed an accredited
11 program of registered professional nursing education and
12 holds a diploma of a school accredited by the board.

13 The applicant shall also be required to pass a written
14 examination in such subjects as the board may deter-
15 mine. Each written examination may be supplemented
16 by an oral examination. Upon successfully passing such
17 examination or examinations, the board shall issue to
18 the applicant a license to practice registered professional
19 nursing. The board shall determine the times and places
20 for examinations. In the event an applicant shall have
21 failed to pass examinations on two occasions, the appli-
22 cant shall, in addition to the other requirements of this
23 section, present to the board such other evidence of his
24 or her qualifications as the board may prescribe.

25 The board may, upon application, issue a license to
26 practice registered professional nursing by endorsement
27 to an applicant who has been duly licensed as a registered
28 professional nurse under the laws of another state, ter-
29 ritory or foreign country if in the opinion of the board
30 the applicant meets the qualifications required of reg-
31 istered professional nurses at the time of graduation.

32 The board shall, upon application, issue a license, desig-
33 nated as a "waiver license," to practice registered profes-

34 sional nursing to any person who shall submit to the
35 board written evidence, verified by oath, that the appli-
36 cant: (a) Is of good moral character; (b) has practiced
37 professional nursing in this state for at least three years
38 during the five-year period immediately preceding the
39 effective date of this article; and (c) has completed a
40 registered professional nursing education program which,
41 at the time of the applicant's completion of such pro-
42 gram, was either accredited by the West Virginia state
43 board of examiners for registered nurses and which would
44 have rendered the applicant eligible to take an examina-
45 tion for licensure under the provisions of chapter ninety-
46 six of the acts of the Legislature, one thousand nine hun-
47 dred forty-five, or which at the time of the applicant's
48 completion of such program was accredited by the duly
49 constituted licensing authority of the state, territory or
50 country wherein such program was conducted and which
51 would have made the applicant eligible to take an ex-
52 amination for licensure in such state, territory or country:
53 *Provided, however,* That no license shall be issued by the
54 board under the provisions of this paragraph unless the
55 applicant therefor shall have filed his or her written
56 application with the board prior to the thirtieth day of
57 June, one thousand nine hundred sixty-seven.

58 Any person holding a valid license designated as a
59 "waiver license" pursuant to the provisions of the next
60 preceding paragraph may, at any time after the issuance
61 of such license, submit an application to the board for
62 a license containing no reference to the fact that such
63 person has theretofore been issued such "waiver license."
64 The provisions of this section relating to examination
65 and fees and the provisions of all other sections of this
66 article shall apply to any application submitted to the
67 board pursuant to the provisions of this paragraph.

68 Any person applying for a license to practice registered
69 professional nursing, including a "waiver license," under
70 the provisions of this article shall, with his or her applica-
71 tion, pay to the board a fee of thirty dollars, except that
72 the fee to be paid by any person applying for a license
73 by endorsement hereunder shall be fifteen dollars. In
74 the event it shall be necessary for the board to re-examine

75 any applicant for a license, an additional fee of ten dol-
76 lars shall be paid to the board by the applicant for each
77 subject in which re-examination shall be necessary: *Pro-*
78 *vided, however,* That the total of such additional fees
79 shall in no case exceed thirty dollars for any one ex-
80 amination.

81 Any person holding a license heretofore issued by the
82 West Virginia state board of examiners for registered
83 nurses and which license is valid on the date this article
84 becomes effective shall be deemed to be duly licensed
85 under the provisions of this article for the remainder of
86 the period of any such license heretofore issued. Any
87 such license heretofore issued shall also, for all purposes,
88 be deemed to be a license issued under this article and
89 to be subject to the provisions hereof.

90 The board shall, upon receipt of a duly executed ap-
91 plication for licensure and of the accompanying fee of
92 thirty dollars, issue a temporary permit to practice reg-
93 istered professional nursing to any applicant who has
94 received a diploma from a school of nursing approved
95 by the board pursuant to this article after the date the
96 board last scheduled a written examination for persons
97 eligible for licensure: *Provided, however,* That no such
98 temporary permit shall be renewable nor shall any such
99 permit be valid for any purpose subsequent to the date
100 the board has announced the results of the first written
101 examination given by the board following the issuance
102 of such permit.

Sec. 7. Licensure of Aliens.—No license to practice
2 registered professional nursing shall be issued to any
3 person who is not a citizen of the United States of Amer-
4 ica unless such person has legally declared his or her
5 intention of becoming a citizen. Any license which may
6 be issued to any such person shall terminate and become
7 void at the end of five years from the date of such declara-
8 tion of intention if the holder of such license has not
9 then become a citizen. A license so terminated may be
10 reissued by the board at any time thereafter upon its
11 receipt of evidence of citizenship and an explanation of
12 the delay satisfactory to the board. Every person apply-
13 ing for a license pursuant to this section shall, with his

14 or her application for a license, submit for the board's
15 inspection his or her declaration of intention to become
16 a citizen of the United States.

17 All other provisions of this article shall be applicable
18 to any application for or license issued pursuant to this
19 section.

Sec. 8. Renewal of Licenses; Reinstatement; Fees; Penalties; Inactive List.—The license of every person licensed
2 and registered under the provisions of this article shall
3 be annually renewed except as hereinafter provided. On
4 or before January first, one thousand nine hundred sixty-
5 six, the board shall mail an application for renewal of
6 license to every known active nurse who has ever
7 been licensed as a registered nurse in this state. At
8 such time or times as the board in its discretion may
9 determine each year thereafter, the board shall mail a re-
10 newal application to every person whose license was
11 renewed during the previous year and every such person
12 shall fill in such application blank and return it to the
13 board with a renewal fee of three dollars within thirty
14 days after receipt of said renewal application. Upon
15 receipt of the application and fee, the board shall verify
16 the accuracy of the application and, if the same be ac-
17 curate, issue to the applicant a certificate of renewal for
18 the current year. Such certificate of renewal shall en-
19 title the holder thereof to practice registered professional
20 nursing for the period stated on the certificate of re-
21 newal. Any licensee who allows his or her license to
22 lapse by failing to renew the license as provided above
23 may be reinstated by the board on satisfactory explana-
24 tion for such failure to renew his or her license and on
25 payment to the board of the renewal fee hereinabove
26 provided and a reinstatement fee of three dollars. Any
27 person practicing registered professional nursing during
28 the time his or her license has lapsed shall be considered
29 an illegal practitioner and shall be subject to the penalties
30 provided for violation of this article. A person licensed
31 under the provisions of this article desiring to retire from
32 practice temporarily shall send a written notice of such
33 desire to the board. Upon receipt of such notice the board
34 shall place the name of such person upon the inactive
35

36 list. While remaining on this list the person shall not be
37 subject to the payment of any renewal fees and shall not
38 practice registered professional nursing in this state.
39 When the person desires to resume active practice, ap-
40 plication for renewal of license and payment of the re-
41 newal fee for the current year shall be made to the
42 board.

Sec. 9. Contents of License or Certificate.—Each li-
2 cense or certificate issued by the board shall bear a serial
3 number, the full name of the applicant, the date of ex-
4 piration of any such license and the date of issuance of
5 any such certificate, the seal of the board, and shall be
6 signed by the executive secretary of the board.

**Sec. 10. Use of Title "Registered Nurse" and Abbrevi-
2 ation Thereof.**—Any person who holds a license to prac-
3 tice registered professional nursing in this state shall
4 have the right to use the title "registered nurse" and the
5 abbreviation "R. N." No other person shall assume such
6 title or use such abbreviation or any other words, letters,
7 signs or devices to indicate that the person using the
8 same is a registered professional nurse.

**Sec. 11. Denial, Revocation or Suspension of a License;
2 Grounds for Discipline.**—The board shall have the power
3 to deny, revoke or suspend any license to practice reg-
4 istered professional nursing issued or applied for in ac-
5 cordance with the provisions of this article, or to other-
6 wise discipline a licensee or applicant upon proof that
7 he or she:

8 (a) Is or was guilty of fraud or deceit in procuring or
9 attempting to procure a license to practice registered
10 professional nursing; or

11 (b) Has been convicted of a felony; or

12 (c) Is unfit or incompetent by reason of negligence,
13 habits or other causes; or

14 (d) Is habitually intemperate or is addicted to the
15 use of habit-forming drugs; or

16 (e) Is mentally incompetent; or

17 (f) Is guilty of conduct derogatory to the morals or
18 standing of the profession of registered nursing; or

19 (g) Is practicing or attempting to practice registered
20 professional nursing without a license or reregistration;
21 or

22 (h) Has wilfully or repeatedly violated any of the
23 provisions of this article.

Sec. 12. Exceptions.—This article shall not be construed to prohibit:

3 (a) The furnishing of nursing assistance in an emergency; or

5 (b) The practice of nursing incidental to a program
6 of study by students enrolled in a nursing education program
7 accredited by the board; or

8 (c) The practice of any legally qualified nurse of
9 another state who is employed by the United States or
10 any bureau, division or agency thereof, while in the discharge
11 of his or her official duties.

Sec. 13. Prohibitions and Penalties.—It shall be a misdemeanor for any person, including any corporation or association, to:

4 (a) Sell or fraudulently obtain or furnish any nursing
5 diploma, license or record or aid or abet therein; or

6 (b) Practice registered professional nursing under
7 cover of any diploma, license or record illegally or fraudulently
8 obtained or signed or issued or under fraudulent
9 representation; or

10 (c) Practice registered professional nursing unless
11 duly licensed to do so under the provisions of this article;
12 or

13 (d) Use in connection with his or her name any designation
14 tending to imply that he or she is licensed to practice registered
15 professional nursing unless duly licensed so to practice under the
16 provisions of this article; or

17 (e) Practice registered professional nursing during
18 the time his or her license issued under the provisions of
19 this article shall be suspended or revoked; or

20 (f) Conduct a nursing education program for the
21 preparation of registered professional nursing practitioners unless
22 such program has been accredited by the board;
23 or

24 (g) Otherwise violate any provisions of this article.

25 Upon conviction, each such misdemeanor shall be pun-
26 ishable by a fine of not less than twenty-five nor more
27 than two hundred fifty dollars.

Sec. 14. Injunction or Other Relief against Un-
2 **lawful Acts.**—The practice of registered professional
3 nursing by any person who has not been licensed under
4 the provisions of this article, or whose license has ex-
5 pired or has been suspended or revoked, is hereby
6 declared to be inimical to the public health and welfare
7 and to be a public nuisance. Whenever in the judgment
8 of the board any person has engaged in, is engaging in
9 or is about to engage in the practice of registered pro-
10 fessional nursing without holding a valid license here-
11 under, or has engaged, is engaging or is about to engage
12 in any act which constitutes, or will constitute, a viola-
13 tion of this article, the board may make application to
14 the appropriate court having equity jurisdiction for an
15 order enjoining such practices or acts, and upon a show-
16 ing that such person has engaged, is engaging or is about
17 to engage, in any such practices or acts, an injunction,
18 restraining order, or such other order as the court may
19 deem appropriate shall be entered by the court.

20 The remedy provided in this section shall be in addition
21 to, and not in lieu of, all other penalties and remedies
22 provided in this article.

Sec. 15. Administration of Anesthetics.—In any case
2 where it is lawful for a duly licensed physician or den-
3 tist practicing medicine or dentistry under the laws of
4 this state to administer anesthetics, such anesthetics may
5 lawfully be given and administered by any person (a)
6 who has been licensed to practice registered professional
7 nursing under this article, and (b) who holds a diploma
8 or certificate evidencing his or her successful completion
9 of the educational program of a school of anesthesia duly
10 accredited by the American association of nurse anes-
11 thetists: *Provided*, That such anesthesia is administered
12 by such person in the presence and under the super-
13 vision of such physician or dentist.

Sec. 16. General Law Applicable.—Except to the ex-
2 tent that the provisions of this article may be inconsistent

- 3 therewith, the board shall conform to the requirements
- 4 prescribed in article one of this chapter.

Sec. 17. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 shall be held invalid, the remainder of the article and
4 the application of such provision to other persons or cir-
5 cumstances shall not be affected thereby.

CHAPTER 121

(House Bill No. 719—By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two, three, four, five and six, article eleven; and to further amend said article by adding thereto five new sections, designated sections seven, eight, nine, ten and eleven, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the licensing of chiropody-podiatry.

Be it enacted by the Legislature of West Virginia:

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

Article 11. Chiropodists-Podiatrists.

Section

1. License required; present practitioners.
2. Definition of chiropody-podiatry; use of title "doctor."
3. Qualifications of applicant for license.
4. Examination for license; issuance of license; reciprocity.
5. Offenses; penalties.
6. Limitations and application of article.
7. Fees.
8. Refusal to issue; suspension or revocation of license.
9. Biennial renewal of license; cancellation of certificate for failure to renew; reinstatement; fees.
10. Separability.
11. Repeal.

Section 1. License Required; Present Practitioners.—It shall be unlawful for any person to practice or offer to practice in this state the branch of medicine known as chiropody-podiatry, as hereinafter defined, unless duly licensed so to do by the medical licensing board of this state, after examination conducted by such board, the members of which shall be members of the licensing board and include the chiropodist-podiatrist members, under rules and regulations prepared and promulgated by it, except as hereinafter provided: *Provided, however,* That the provisions of this section shall not apply to any person legally entitled to practice chiropody or podiatry in this state at the time of the adoption of this article: *And provided further,* That all persons now licensed to practice chiropody shall be permitted to use the term “chiropody-podiatry” and shall have all the rights and privileges as defined in this article.

Sec. 2. Definition of Chiropody-Podiatry; Use of Title “Doctor.”—For the purpose of this article “chiropody-podiatry” shall mean the medical, mechanical or surgical treatment of the ailments of the human hand or foot, except the amputation of the foot, hand, toes or fingers, without the use of anesthetics other than local. It shall also include the fitting or recommending of appliances, devices or shoes for the correction or relief of hand or foot ailments.

Licensees under this article shall not use the title “doctor,” except in connection with the word chiropody or chiropodists or podiatry or podiatrists, or the initials of the college degree held by the practitioner.

Sec. 3. Qualifications of Applicant for License.—An applicant for license shall furnish to the medical licensing board satisfactory proof that he is: (a) Twenty-one years of age or over; (b) of good moral character; (c) a graduate of a school of chiropody or podiatry registered and approved by the West Virginia medical licensing board or that he has taken and passed the examination in another state, territory or foreign country having by law requirements of qualifications equal to the requirements of this state; has been in the practice of chiropody or

12 podiatry for a period of at least five years in such state,
13 territory or foreign country and is at the time of applica-
14 tion and examination in good standing in said state, terri-
15 tory or foreign country; (d) possessed of a minimum
16 high school education recognized by the state department
17 of education as being a proper standard and at least two
18 years of academic work of collegiate grade in a standard
19 college of arts and sciences, so recognized as being a
20 proper standard by the state department of education:
21 *Provided*, That the requirement of two years of academic
22 work of collegiate grade in a standard college of arts and
23 sciences shall not apply to applicants who on or before
24 June seventh, one thousand nine hundred fifty-seven, had
25 been accepted and entered into an approved, accredited
26 college of chiropody, podiatry, or chiropody-podiatry,
27 pursued his studies and after said date received his de-
28 gree.

Sec. 4. Examination for License; Issuance of License;
2 **Reciprocity.**—The medical licensing board shall conduct
3 examinations for license to practice chiropody-podiatry
4 at the times and places designated by it for conducting
5 examinations for licenses to practice medicine. Exami-
6 nations shall be in English, and in writing, and shall be
7 of a scientific and practical character. They shall cover
8 the subjects of general and special anatomy, physiology,
9 hygiene and sanitation, physics, chemistry, biology, em-
10 bryology, histology, pathology, physical therapy, bacteri-
11 ology, minor surgery, materia medica and therapeutics,
12 foot orthopedics and surgery, dermatology and syphilol-
13 ogy, roentgenology, physical diagnosis, didactic and clini-
14 cal chiropody-podiatry. Upon the successful completion
15 of such examination by an applicant, the medical licens-
16 ing board shall issue to such applicant a license to practice
17 "chiropody-podiatry": *Provided, however*, That the said
18 board or a majority thereof, may accept in lieu of an
19 examination of applicants under this article, the certifi-
20 cate of license to practice chiropody or podiatry or chiro-
21 pody-podiatry legally granted by the licensing authority
22 of another state, territory or any foreign country whose
23 standard of qualifications for the practice of chiropody
24 or podiatry or chiropody-podiatry is equivalent to that

25 of this state, and provided such state or territory accords
 26 like privileges to licensees of this state, and may grant to
 27 such applicant a certificate of license to practice chirop-
 28 ody-podiatry in this state.

Sec. 5. Offenses; Penalties.—(a) Whoever, not being
 2 lawfully authorized to practice chiropody, podiatry, or
 3 chiropody-podiatry within the state of West Virginia,
 4 holds himself out as a practitioner of chiropody, podiatry,
 5 or chiropody-podiatry or in any way advertises himself
 6 as such, or practices or attempts to practice such profes-
 7 sion or professions; (b) or whoever obtains or attempts
 8 to obtain a license or permit to practice in the profession
 9 by fraudulent misrepresentation or in any way contrary
 10 to the provisions of this article, shall be guilty of a mis-
 11 demeanor, and, upon conviction, shall be fined not less
 12 than one hundred dollars nor more than one thousand
 13 dollars; (c) or whoever practices or attempts to practice
 14 chiropody, podiatry, or chiropody-podiatry under a false
 15 or assumed name, or under a name other than that under
 16 which he has a license to practice chiropody, podiatry, or
 17 chiropody-podiatry; (d) or whoever impersonates another
 18 practitioner of like or different name; (e) or whoever lends
 19 his name or has professional connections with anyone
 20 convicted of any offense, as herein provided; (f) or who-
 21 ever violates any of the provisions of this article for which
 22 no specific penalty is provided herein shall be guilty of a
 23 misdemeanor, and, upon conviction thereof, shall be fined
 24 not less than fifty dollars nor more than two hundred
 25 dollars, or confined in the county jail not less than one
 26 nor more than four months, or both, for each and every
 27 offense, and in addition, the medical licensing board shall
 28 suspend or revoke his license for an indefinite period, but
 29 for not less than six months. For any and all misdemean-
 30 ors under this article justices of the peace shall have con-
 31 current jurisdiction with circuit and criminal courts for
 32 the enforcement thereof.

33 A person so convicted shall not be entitled to any fee
 34 for services rendered, and, if a fee has been paid, the
 35 patient or guardian or heir may recover the same as debts
 36 of like amount are now recovered by law.

Sec. 6. Limitations and Application of Article.—Nothing contained in this article shall be construed to prevent physicians and surgeons legally practicing in this state from practicing chiropody, podiatry or chiropody-podiatry as a branch of their medical and surgical practice; nor to prevent physicians and surgeons of the United States army, air force, navy or marine hospital service from practicing chiropody-podiatry in the actual discharge of their duties as such; nor to prevent chiropodists or podiatrists living in other states and duly qualified to practice chiropody or podiatry therein from being called in consultation into this state by a chiropodist-podiatrist already entitled to practice chiropody-podiatry in this state; nor to prohibit the fitting, recommending or sale of corrective shoes, arch supports or similar mechanical appliances in commercial establishments: *Provided, however,* That chiropodists-podiatrists licensed hereunder shall have the same rights and privileges of physicians and surgeons of other schools of medicine insofar and insofar only as pertains to the medical, mechanical or surgical treatment of ailments of the human hand or foot.

Sec. 7. Fees.—The medical licensing board shall be entitled to charge and collect the following fees in addition to those provided in article one of this chapter: For granting to a licensed chiropodist-podiatrist from another state, territory or foreign country, a license to practice chiropody-podiatry in this state, under the provisions of section four of this article, one hundred dollars, which must accompany application; for reciprocal endorsement, ten dollars.

Sec. 8. Refusal to Issue; Suspension or Revocation of License.—The medical licensing board may refuse to grant a license to a person convicted of a felony or guilty of gross immorality or addicted to drunkenness or the habitual use of narcotic drugs, and may by legal proceedings as provided in article one of this chapter suspend or revoke a license for like cause, or for malpractice, or for fraud in procuring the license, but no such refusal, suspension or revocation shall be ordered by reason of the individual belonging to or practicing in any particular

11 school or system of chiropody or podiatry: *Provided*,
12 *however*, That malpractice as herein used means bad,
13 wrong or injudicious treatment of a patient, profession-
14 ally and in respect to the particular disease or injury,
15 resulting in injury, unnecessary suffering, or death to
16 the patient and proceeding from ignorance, carelessness,
17 want of professional skill, gross disregard of established
18 rules or principles, neglect, or a malicious or criminal
19 intent.

**Sec. 9. Biennial Renewal of License; Cancellation of
2 Certificate for Failure to Renew; Reinstatement; Fees.—**
3 Every person who on or before the thirty-first day of Au-
4 gust, one thousand nine hundred sixty-five, is licensed as a
5 podiatrist to practice chiropody-podiatry in this state,
6 shall, on or before the said thirty-first day of August, one
7 thousand nine hundred sixty-five, make application to the
8 medical licensing board for registration, and shall be
9 registered by the said board, as a holder of such license,
10 which registration shall be for the period ending on the
11 thirtieth day of June, one thousand nine hundred sixty-
12 seven. On or before the said thirtieth day of June, one
13 thousand nine hundred sixty-seven, and biennially there-
14 after, on or before the thirtieth day of June of each
15 biennial period, every person licensed as a chiropodist-
16 podiatrist in this state, shall apply to the said board for
17 registration, or a renewal of registration, as such license
18 holder: *Provided*, That no registration shall be required
19 of any holder of a certificate of licensure for the biennial
20 period, or any portion thereof, during which such certifi-
21 cate is issued. Each applicant for registration or renewal
22 thereof shall remit to the board, with his application, a
23 fee of five dollars.

24 The failure of any person to comply with the provisions
25 of this section after receiving thirty days' notice from the
26 medical licensing board, which shall be served by de-
27 positing in the United States mail, addressed to the mail-
28 ing address of the licensee, shall operate automatically,
29 and without further proceedings, to cancel the certificate
30 of such person, and the license issued thereunder. Con-
31 tinued practice by any such person after such cancella-

32 tion of his certificate and license shall constitute prac-
33 ticing without a license, and any person so practicing
34 shall be subject to all the penalties provided by law for
35 practicing without a license.

36 Any certificate and license cancelled pursuant to the
37 provisions of this section, and not for any other reason,
38 shall be reinstated by the said board upon submission to it
39 of an application for registration by the person whose
40 certificate has been cancelled, together with current and
41 delinquent fees, and ten dollars' reinstatement fee.

2 Sec. 10. Separability.—The terms of this article are de-
3 clared to be separable; and should any word, phrase, sen-
4 tence, or section be declared unconstitutional or otherwise
5 invalid, the remainder of this article shall not be thereby
affected, but shall remain in full force and effect.

2 Sec. 11. Repeal.—All articles or parts of articles in con-
3 flict with this article are hereby repealed to the extent of
such conflict.

CHAPTER 122

(Senate Bill No. 164—By Mr. Hylton)

[Passed March 8, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections seven, ten and fifteen, article thirteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to regulation of the practice of engineering and providing for an increase in the registration fee and renewal of certification fee.

Be it enacted by the Legislature of West Virginia:

That sections seven, ten and fifteen, article thirteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 13. Engineers.**Section**

7. Form of application for registration; fee.
10. Expiration date of certificates; renewals.
15. Reciprocal registration.

Section 7. Form of Application for Registration; Fee.—

2 Applications for registration shall be on forms prescribed
3 and furnished by the board, shall contain statements made
4 under oath showing the applicant's education and de-
5 tailed summary of his technical work, and shall contain
6 not less than five references, of whom three or more shall
7 have personal knowledge of his engineering experience.

8 The registration fee for professional engineers shall be
9 twenty-five dollars, ten dollars of which shall accompany
10 application, the remaining fifteen dollars to be paid upon
11 issuance of certificate. Should the board deny the issuance
12 of a certificate of registration to any applicant, the initial
13 fee deposited shall be retained as an examination fee.

Sec. 10. Expiration Date of Certificates; Renewals.—

2 Certificates of registration shall expire on the last day of
3 the month of June following their issuance or renewal
4 and shall become invalid on that date unless renewed.
5 It shall be the duty of the secretary of the board to notify
6 every person registered under this article of the date of
7 the expiration of his certificate and the amount of the fee
8 that shall be required for renewal for one year; such
9 notice shall be mailed at least one month in advance of
10 the date of the expiration of said certificate. Renewal may
11 be effected at any time during the month of June by the
12 payment of a uniform fee to be annually fixed by the
13 board, the amount thereof not to exceed ten dollars. The
14 failure on the part of any registrant to renew his certifi-
15 cate annually in the month of June as required above
16 shall not deprive such person of the right of renewal, but
17 the fee to be paid for the renewal of a certificate after
18 the month of June shall be increased ten per cent for each
19 month or fraction of a month that payment of renewal is
20 delayed: *Provided*, That the maximum fee for delayed
21 renewal shall not exceed twice the normal renewal fee.

Sec. 15. Reciprocal Registration.—(a) The board shall,
2 upon application therefor, and the payment of a fee of

3 fifteen dollars, issue a certificate of registration as profes-
4 sional engineer to any person who holds an unexpired
5 certificate of registration issued to him by the proper au-
6 thority in any state or territory or possession of the United
7 States or in any country in which the requirements for
8 the registration of professional engineers are of a standard
9 not lower than that specified in this article: *Provided*,
10 That the engineering registration boards of said states,
11 territories, possessions, or countries shall grant full and
12 equal reciprocal registration rights and privileges to regis-
13 trants of this board. Agreements for reciprocity with
14 other states, territories, possessions, or countries may be
15 entered into by the board at its discretion.

16 (b) The board shall, upon application therefor and
17 payment of a fee of fifteen dollars, issue a certificate of
18 registration as professional engineer to any person who
19 holds an unrevoked card or certificate of national recip-
20 rocal registration, issued by any state, province, or country
21 in conformity with the regulations of the national council
22 of state boards of engineering examiners and who com-
23 plies with the regulations of this board, except as to quali-
24 fications and registration fee.

3

CHAPTER 123

(Com. Sub. for House Bill No. 688—By Mr. Moyers
and Mr. Casey)

[Passed March 5, 1965: in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact article sixteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation, organization, powers and duties of the West Virginia board of chiropractic examiners for the licensing of chiropractors and the examination, licensing, revocation and suspension of licenses, annual renewal of licenses of chiropractors, regulation of chiropractic practice, and offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That article sixteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follow:

Article 16. Chiropractors.

Section

1. License required; existing licenses.
2. Definitions.
3. Board of chiropractic examiners; establishment and composition; appointment, term and qualifications of members; vacancies.
4. Application for license; qualification of applicant.
5. Examinations for licenses; issuance of certificates; fee.
6. Licensing chiropractors from other states; fee.
7. Annual renewal of licenses; fee; effect of failure to renew; reinstatements.
8. Refusal to issue; suspension or revocation of license.
9. Who may practice chiropractic; title of chiropractor.
10. Use of diagnostic instruments.
11. Duty of chiropractor to observe health regulations; report to health officer and local registrar of vital statistics.
12. Chiropractor not permitted to perform certain acts; exception.
13. Offenses; penalties.
14. Duties of prosecuting attorneys and secretary of the board.
15. Separability.
16. Repeal.

Section 1. License Required; Existing Licenses.—It shall be unlawful for any person to practice or offer to practice, in this state, chiropractic, as hereinafter defined, without a license issued by the West Virginia board of chiropractic examiners: *Provided*, That any certificate or license heretofore issued under the laws of this state, authorizing its holder to practice chiropractic, shall in no way be affected by the enactment of this article; except that the holder of every such certificate of license shall be subject to all the provisions of this article respecting the requirements and obligations herein prescribed for the continuance in force of such certificate of license.

Sec. 2. Definitions.—The following words, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section:

- (a) "Board" shall mean the West Virginia board of chiropractic examiners;
- (b) "Chiropractor" shall mean a practitioner of chiropractic;
- (c) "Chiropractic" is hereby defined as physical diag-

9 nosis, nerve tracing, palpation of the segments of the
10 spinal column, and the adjustment of the misaligned seg-
11 ments of the spinal column to their normal position for
12 the purpose of relieving pressure upon spinal nerves.

**Sec. 3. Board of Chiropractic Examiners; Establishment
2 and Composition; Appointment, Term and Qualifications
3 of Members; Vacancies.**—There shall be a board, known
4 as the “West Virginia Board of Chiropractic Examiners,”
5 composed of the director of health ex officio and three
6 licensed chiropractors appointed by the governor, by and
7 with the advice and consent of the senate, from a list of
8 three names recommended by the West Virginia Chiro-
9 practors’ Society, Incorporated. Each chiropractic mem-
10 ber of the board shall have been a resident of and engaged
11 in the practice of chiropractic in this state for a period of
12 at least five years preceding his appointment.

13 The chiropractic members of the board shall be ap-
14 pointed for a term of office of three years. The two chiro-
15 practic members of the medical licensing board of West
16 Virginia in office on the date this article takes effect
17 shall become and be members of the West Virginia board
18 of chiropractic examiners and said chiropractors shall no
19 longer be members of the medical licensing board of West
20 Virginia. Of such two chiropractic members of the med-
21 ical licensing board of West Virginia, the member whose
22 term of office sooner expires, shall serve on the West Vir-
23 ginia board of chiropractic examiners, for a two-year term
24 ending June thirtieth, one thousand nine hundred sixty-
25 seven, and the other such member shall serve for a three-
26 year term, ending June thirtieth, one thousand nine hun-
27 dred sixty-eight, or until their successors have been ap-
28 pointed and have qualified. On or before the first day of
29 July, one thousand nine hundred sixty-five, the governor
30 shall appoint the third member to serve for a term of one
31 year commencing on said first day of July, and on or be-
32 fore the first day of July of each year thereafter, the gov-
33 ernor shall appoint one member to serve for a term of
34 three years commencing on said first day of July; and
35 any member shall be eligible for reappointment. When
36 a vacancy in the membership of the board occurs for any

37 cause other than the expiration of a term, the governor
38 shall appoint a successor as a member of the board to fill
39 the unexpired portion of the term of office of the member
40 whose office has been vacated.

Sec. 4. Application for License; Qualification of Applicant.—Any person wishing to practice chiropractic in this state shall apply to the secretary of the board for a license so to practice. Each applicant shall establish the fact to the board that he has satisfied the following requirements: (a) That he is twenty-one years of age or over; (b) that he is of good moral character; (c) that he is a graduate of an accredited high school giving a four-year course or has an education equivalent to the same; (d) that he has attended for at least two academic years an academic college equal in standing to the West Virginia University; (e) that he is a graduate of a chiropractic school or college approved by the West Virginia board of chiropractic examiners and accredited by the American chiropractic association or the international chiropractic association which requires for graduation a resident course of not less than four academic years of nine months each, and active attendance at the same for a minimum of four thousand hours of fifty minutes each of classroom and laboratory instruction: *Provided*, That this requirement shall not be construed to disqualify applicants that graduated from chiropractic schools or colleges before the passage of this article which taught a resident course of at least three academic years of eight months each or a minimum of two thousand hours of fifty minutes each and required active attendance upon the same. Attendance at the academic college as set forth in requirement (d) shall be prior to completion of the chiropractic training as set forth in requirement (e): *Provided, however*, That this requirement of sequence of attendance at an academic college and chiropractic school or college shall not apply to those applicants who at the time of passage of this article have completed or are in the process of fulfilling the requirements set forth in (e) above; nor shall such requirement of sequence of attendance at academic col-

37 lege and chiropractic school or college apply to such
 38 applicants who have, subsequent to the passage of this
 39 article, commenced the fulfillment of requirement (c) un-
 40 der the educational provisions of the Federal Servicemen's
 41 Readjustment Act now in force or as may hereafter be
 42 amended, or such federal act of similar effect, benefit or
 43 purpose as may hereafter be enacted by Congress.

Sec. 5. Examinations for Licenses; Issuance of Certifi-
 2 **cates; Fee.**—The examination for a license to practice
 3 chiropractic shall be written and oral and shall cover the
 4 following subjects: Anatomy and embryology, physiology,
 5 physical diagnosis and symptomatology, chemistry, hy-
 6 giene and sanitation, bacteriology, chiropractic philoso-
 7 phy, chiropractic analysis and nerve tracing, palpation and
 8 the art of adjusting. The list of subjects may be regrouped
 9 at the discretion of the board.

10 The board shall issue certificates of license to all appli-
 11 cants who shall successfully pass the said examination,
 12 but no license shall be issued under this section until
 13 the person applying therefor shall have paid to the board
 14 a fee of twenty-five dollars.
 15 All applicants shall be required to secure an average
 16 grade of seventy-five per cent in all subjects: *Provided,*
 17 That sixty per cent shall be the minimum grade in any
 18 subject.

Sec. 6. Licensing Chiropractors from Other States; Fee.
 2 —Persons licensed to practice chiropractic under the laws
 3 of any other state, territory or the District of Columbia
 4 having requirements equivalent to those of this article,
 5 and extending like privileges to practitioners of this state,
 6 may in the discretion of the West Virginia board of
 7 chiropractic examiners be licensed to practice in this
 8 state without examination; but no license shall be issued
 9 under the provisions of this section until the person
 10 applying therefor shall have paid to the board a fee
 11 of one hundred dollars. Any other state or the Dis-
 12 trict of Columbia, whose chiropractic licensing law in-
 13 cludes among its chiropractic training requirements,
 14 graduation from a chiropractic school or college approved
 15 by the American chiropractic association or the inter-

16 national chiropractic association with active resident at-
17 tendance thereat for a minimum of four thousand hours,
18 may, for the purpose of reciprocity and of this section,
19 be deemed the equivalent of the provision concerning
20 the length of attendance as included in section four-(e).

Sec. 7. Annual Renewal of Licenses; Fee; Effect of Failure to Renew; Reinstatements.—All holders of certificates
2 of license to practice chiropractic in this state shall renew
3 of license to practice chiropractic in this state shall renew
4 them annually on or before the first day of July of each
5 year by payment of a renewal fee of twenty-five dollars
6 to the West Virginia board of chiropractic examiners.
7 The board shall notify each certificate holder by mail, at
8 least thirty days prior to July first each year, of the
9 necessity of renewing his (or her) certificate. The first
10 annual renewal fee shall be due on July one, one thou-
11 sand nine hundred sixty-five.

12 The failure to renew a certificate of license to practice
13 chiropractic shall operate as an automatic suspension of
14 the rights and privileges granted by its issuance.

15 A certificate of license suspended by a failure to make
16 an annual renewal thereof as herein provided may be
17 reinstated by the board upon payment of all fees that
18 would have been paid had the certificate holder main-
19 tained his certificate in good standing, and the payment
20 to the board of a reinstatement fee of not to exceed
21 fifty dollars as determined by the board; but no certifi-
22 cate shall be reinstated after a lapse of three years.
23 After a lapse of three years, license may be issued only
24 after the former certificate holder subsequent to said
25 lapse has passed the examination in this article pro-
26 vided.

Sec. 8. Refusal to Issue; Suspension or Revocation of License.—The board may either refuse to issue or may
2 suspend or revoke any license to practice chiropractic in
3 this state upon any one or more of the following grounds:
4 this state upon any one or more of the following grounds:
5 (a) The employment of fraud or deception in apply-
6 ing for a license or permit to practice chiropractic, or in
7 passing the examination provided for in this article;
8 (b) Practicing or attempting to practice under a name
9 other than one's own;

10 (c) Conviction of a crime involving moral turpitude
11 as shown by a certified copy of the record of the trial
12 court;

13 (d) Malpractice;

14 (e) Habitual drunkenness, or habitual addiction to the
15 use of narcotic or habit-forming drugs;

16 (f) Violation of any provision of this article regu-
17 lating the practice of chiropractic but such board may
18 not refuse to issue or may not suspend or revoke any
19 license upon the aforesaid grounds without notification in
20 writing to the chiropractor concerned, delivered by certi-
21 fied mail at his last known address, stating the action of
22 the board and their reason or reasons for such refusal,
23 suspension or revocation, granting unto such chiropractor
24 a reasonable opportunity to be heard at a fair and im-
25 partial hearing before such board in accordance with
26 the statutes of the state of West Virginia and due pro-
27 cess of law.

**Sec. 9. Who May Practice Chiropractic; Title of Chiro-
2 practor.**—Every chiropractor who has complied with the
3 provisions of this article shall thereupon be entitled to
4 practice chiropractic in this state. The title of chiroprac-
5 tor shall be doctor of chiropractic and shall be desig-
6 nated by the letters "D.C."

Sec. 10. Use of Diagnostic Instruments.—Any chiro-
2 practor who has complied with the provisions of this
3 article may use any instruments for the purpose of diag-
4 nosis and analyses of diseases or abnormalities, and for
5 this purpose only: *Provided*, That such instrument is used
6 in a school approved by the American chiropractic asso-
7 ciation, the international chiropractic association, or their
8 successors: *And provided further*, That the West Virginia
9 board of chiropractic examiners has placed the same on
10 an approved list.

**Sec. 11. Duty of Chiropractor to Observe Health Reg-
2 ulations; Report to Health Officer and Local Registrar of
3 Vital Statistics.**—Doctors of chiropractic shall observe and
4 be subject to all state and municipal regulations in re-
5 gard to the control of infectious diseases, and to any and

6 all other matters pertaining to public health, and shall
7 report to the public health officer in the same manner
8 as is required of other practitioners. It shall further be
9 the duty of doctors of chiropractic in this state to report
10 to the registrar of vital statistics of his magisterial dis-
11 trict, within ten days of its occurrence, any death which
12 may come under his supervision, with a certificate of
13 the cause of death and such correlative facts as may be
14 at the time required by the state department of health.

Sec. 12. Chiropractor Not Permitted to Perform Certain Acts; Exception.—No chiropractor shall be permitted to prescribe any medicine or drugs now or hereafter included in materia medica, or to administer any such medicine or drugs; and no chiropractor shall perform any minor or major surgery, practice obstetrics or practice osteopathy, unless duly licensed to do so by the laws of this state in addition to his license to practice chiropractic.

Sec. 13. Offenses; Penalties.—Each of the following acts shall constitute a misdemeanor, punishable upon conviction by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court, and each day any person shall so violate any provision of this article shall constitute a separate and distinct offense:

9 (a) The obtaining of or attempt to obtain a license by
10 the use of fraud, deceit or wilful misrepresentation;

11 (b) The practice, or attempting to practice, as a chiro-
12 practor without a license granted under the provisions
13 of this article, or practicing or attempting to practice
14 while said license is suspended, or after said license has
15 been revoked;

16 (c) The use of any title to induce belief that the user
17 of said title is engaged in the practice of chiropractic, if
18 the user of said title has not fully complied with the pro-
19 visions of this article;

20 (d) The buying, selling or fraudulent procurement of
21 any diploma of, or license to practice, chiropractic;

22 (e) The violation of any provision of this article regu-
23 lating the practice of chiropractors.

Sec. 14. Duties of Prosecuting Attorneys and Secretary of the Board.—It shall be the duty of the several
2 prosecuting attorneys of this state to enforce the pro-
3 visions of this article, and it shall be the duty of the
4 secretary of the board, under the direction of said board,
5 to aid such attorneys in such enforcement.
6

Sec. 15. Separability.—The terms of this article are
2 declared to be separable; and should any word, phrase,
3 sentence or section hereof be declared unconstitutional
4 or otherwise invalid, the remainder of this article shall
5 not thereby be affected, but shall remain in full force
6 and effect.

Sec. 16. Repeal.—All articles or parts of articles in
2 conflict with this article are hereby repealed to the extent
3 of such conflict.

CHAPTER 124

(House Bill No. 827—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend article ten, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-b, relating to the establishment of a joint counties fund and the administration thereof for general relief.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-b, to read as follows:

Article 10. Fiscal Provisions.**Section**

5-b. Counties joint fund; administration of fund; election to participate; transfer of balances in county general relief fund.

Section 5-b. Counties Joint Fund; Administration of Fund; Election to Participate; Transfer of Balances in County General Relief Fund.—For a more effective administration of general relief, the counties of the state are hereby authorized to join together in the establishment of a joint fund. The fund shall be administered by the state commissioner of welfare in the same manner as the funds provided for in section seven of this article. Expenditures from this fund shall be made by the state commissioner of welfare without regard to county lines.

The county court of any county may elect to participate in the joint fund in the manner and on such forms as may be prescribed by the state commissioner of welfare. When a county court has elected to participate in said joint fund it shall not thereafter be permitted to revoke its action nor to withdraw its election to participate.

When any county court elects to participate in the joint fund it shall transfer all balances remaining in the county general relief fund to the joint fund, which fund is hereby established and any county court that elects to participate in said joint fund is hereby authorized to make a transfer of any balance remaining in said county general relief fund notwithstanding any other provisions of law to the contrary.

Any county court electing to participate in such joint fund shall, in lieu of the requirements of section five of this article, provide for the fiscal year one thousand nine hundred sixty-five—sixty-six not less than nine per cent of the total the county is legally authorized to levy for current purposes by section ten, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended. For the fiscal year one thousand nine hundred sixty-six—sixty-seven and thereafter the amount so required shall be not less than six per cent.

CHAPTER 125

(Senate Bill No. 97—By Mr. Moreland and Mr. Carrigan)

[Passed February 16, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the specification of purposes in the order or ordinance submitting the proposition of issuing bonds to a vote.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Bond Issues for Original Indebtedness.

Section

6. Bonds may be specified for more than one purpose; single or general purpose defined.

Section 6. Bonds May Be Specified for More Than One Purpose; Single or General Purpose Defined.—The order or ordinance submitting the proposition of issuing bonds to a vote may specify more than one purpose for which bonds are to be issued: *Provided*, That the amount of the proceeds of the issue to be used for each purpose shall also be specified therein: *Provided further*, That all expenditures, including but not limited to expenditures for the acquisition of sites, the construction, erection, equipping and furnishing of one or more buildings, structures, improvements or facilities, or group of buildings, structures, improvements or facilities, and the relocation, alteration, renovation or enlargement of any existing buildings, structures, improvements or facilities, or group of buildings, structures, improvements or facilities, for the same general purpose shall be construed to be a single purpose within the meaning of this section. It shall not be necessary to specify in the order or ordinance submitting the proposition the amount of the proceeds of such bond issue

20 to be used for each such site, building, structure, improve-
21 ment or facility, or group of buildings, structures, im-
22 provements or facilities, which are a part of the same
23 general purpose and it shall be sufficient compliance with
24 this section if such order or ordinance state only the gen-
25 eral purposes for which bonds are to be issued and the
26 amount of the proceeds of such issue to be used for each
27 such general purpose.

CHAPTER 126

(Senate Bill No. 98—By Mr. Moreland and Mr. Carrigan)

[Passed February 16, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section six-a, relating to the content of an order or ordinance submitting the proposition of issuing bonds to a vote.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section six-a, to read as follows:

Article 1. Bond Issues for Original Indebtedness.

Section

6-a. When proceeds of bond issue specified for one project may be used for another project.

Section 6-a. When Proceeds of Bond Issue Specified for One Project May Be Used for Another Project.—If the order or ordinance submitting the proposition of issuing bonds to a vote specifies several projects within the same general purpose and the amount of the proceeds of such issue to be used for each project and for any reason one or more of said projects cannot be constructed, carried out, or completed, the amount of money specified for such

9 projects and any sums remaining unused upon comple-
10 tion of any one of the specified projects may be allocated
11 by the governing body in its discretion to and expended
12 for any one or more of the remaining projects specified
13 in said order or ordinance if said order or ordinance of
14 submission shall contain a provision authorizing it to do so.

c

CHAPTER 127

(House Bill No. 821—By Mr. Speaker, Mr. White, and Mr. Cann)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, seven and sixteen, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions, the sale or exchange and the authority for refunding revenue bonds.

Be it enacted by the Legislature of West Virginia:

That sections two, seven and sixteen, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2-a. Revenue Bond Refinancing.

Section

2. Definitions.
7. Sale or exchange; deposit and investment of proceeds.
16. Article complete authority for refunding bonds; construction.

Section 2. Definitions.—The following terms wherever
2 used or referred to in this article shall have the following
3 meaning, unless a different meaning plainly appears from
4 the context:

5 The term “public body” shall mean any city, town,
6 county, public service district, sanitary district or the
7 state of West Virginia acting through any of its agencies,
8 boards, commissions or departments having power to
9 issue revenue obligations.

10 The term "governing body" shall mean board, council
11 or other body having power to borrow money on behalf
12 of a public body.

13 The term "law" shall mean any act or statute, general,
14 special or local, of this state, including, without being
15 limited to, the charter of any public body.

16 The term "enterprise" shall mean any work, under-
17 taking, or project which the public body is or may here-
18 after be authorized to construct and from which the pub-
19 lic body has heretofore derived or may hereafter derive
20 revenues, for the refinancing, or the refinancing and im-
21 proving of which enterprise, refunding bonds are issued
22 under this article, and such enterprise shall include all
23 improvements, betterments, extensions and replacements
24 thereto, and all appurtenances, facilities, lands, rights in
25 land, water rights, franchises, and structures in connec-
26 tion therewith or incidental thereto.

27 The term "federal agency" shall include the United
28 States of America, the president of the United States of
29 America, the federal emergency administrator of public
30 works, reconstruction finance corporation, or any agency,
31 instrumentality or corporation of the United States of
32 America, which has heretofore been or may hereafter
33 be designated or created by or pursuant to any act or acts
34 or joint resolution or joint resolutions of the Congress of
35 the United States of America, or which may be owned
36 or controlled, directly or indirectly, by the United States
37 of America.

38 The term "improving" shall mean reconstructing, re-
39 placing, extending, repairing, bettering, equipping, de-
40 veloping, embellishing or improving; or any one or more,
41 or all of the foregoing.

42 The term "refunding bonds" shall mean notes, bonds,
43 certificates or other obligations of a public body issued
44 pursuant to this article, or pursuant to any other law, as
45 supplemented by, or in conjunction with this article.

46 The term "refinancing" shall mean funding, refunding,
47 paying or discharging, by means of refunding bonds or
48 the proceeds received from the sale thereof, all or any
49 part of any notes, bonds, or other obligations heretofore
50 or hereafter issued to finance or to aid in financing the

51 acquisition, construction or improving of an enterprise
52 and payable solely from all or any part of the revenues
53 thereof, including interest thereon in arrears, the re-
54 demption premiums, if any, payable on the redemption
55 of such notes, bonds or other obligations, the interest to
56 accrue thereon to the payment or redemption date,
57 whether or not such interest is represented by coupons
58 or interest certificates, and the costs of issuance of the
59 refunding bonds.

60 The term "revenues" shall mean all fees, tolls, rates,
61 rentals and charges to be levied and collected in connec-
62 tion with and all other income and receipts of whatever
63 kind or character derived by the public body from the
64 operation of any enterprise or arising from any enter-
65 prise, and including earnings derived from investments
66 and bank deposits.

67 The term "holder of bonds" or "bondholder" or any
68 similar term shall mean any person who shall be the
69 bearer of any outstanding refunding bond or refunding
70 bonds registered to bearer or not registered, or the reg-
71 istered owner of any such outstanding bond or bonds
72 which shall at the time be registered other than to bearer.

73 Words importing the singular number shall include the
74 plural number in each case and vice versa, and words
75 importing persons shall include firms and corporations.

Sec. 7. Sale or Exchange; Deposit and Investment of
2 **Proceeds.**—The refunding bonds may be sold or exchanged
3 in installments at different times, or an entire issue or
4 series may be sold or exchanged at one time. Any issue or
5 series of refunding bonds may be exchanged in part or
6 sold in part in installments at different times or at one
7 time. The refunding bonds may be sold or exchanged at
8 any time on, before, or after the maturity of any of the
9 outstanding notes, bonds, certificates or other obligations
10 to be refinanced thereby.

11 If the governing body determines to exchange any re-
12 funding bonds, such refunding bonds may be exchanged
13 privately for and in payment and discharge of any of the
14 outstanding notes, bonds or other obligations of the pub-
15 lic body issued to finance or to aid in financing the ac-

16 quisation, the construction, the improving, the refinancing,
17 or the improving and refinancing, of an enterprise. The
18 refunding bonds may be exchanged for a like or greater
19 principal amount of such notes, bonds or other obliga-
20 tions of the public body, except that the principal amount
21 of the refunding bonds may exceed the principal amount
22 of such outstanding notes, bonds, or other obligations
23 to the extent necessary or advisable, in the discretion of
24 the governing body, to fund interest in arrears or about
25 to become due. The holder or holders of such outstanding
26 notes, bonds, or other obligations need not pay accrued
27 interest on the refunding bonds to be delivered in ex-
28 change therefor if, and to the extent that interest is due
29 or accrued and unpaid on such outstanding notes, bonds,
30 or other obligations to be surrendered.

31 If the governing body determines to sell any refunding
32 bonds, such refunding bonds shall be sold at public sale,
33 after advertisement in Bond Buyers Guide, or the Wall
34 Street Journal, once a week for two weeks prior to date
35 of sale, as the governing body shall deem best for the in-
36 terests of the public body. Such refunding bonds may be
37 sold in any aggregate principal sum including the princi-
38 pal amount outstanding of the revenue obligations of the
39 public body being refinanced, interest in arrears and in-
40 terest accrued and to accrue on such revenue obligations
41 until payment or redemption thereof, any redemption
42 premiums applicable to such revenue obligations, any
43 costs of improving the enterprise, the revenues of which
44 were pledged to the payment of such revenue obligations,
45 and of acquiring, constructing and improving any other
46 enterprise and the costs of issuing such refunding bonds.
47 The proceeds of sale of the refinancing portion of a re-
48 funding bond issue shall be deposited irrevocably in
49 trust for the purchase, redemption prior to maturity or
50 payment at maturity of the revenue obligations being
51 refinanced, such purchase to be at a price not exceeding
52 the par value of such revenue obligations plus accrued
53 interest at the time of such purchase. Such proceeds
54 while so deposited in trust shall be invested in direct
55 obligations of the United States of America or placed in
56 time deposits secured by direct obligations of the United

57 States of America, and maturing at such times and in
58 such amounts as shall be necessary to meet payments of
59 principal and interest on such revenue obligations being
60 refinanced or to redeem the same prior to the maturities
61 thereof. Such investments may be sold at not less than
62 the amount paid therefor, and such deposits may be with-
63 drawn, to the extent necessary to provide moneys for
64 the purchase of any of such revenue obligations. Earn-
65 ings from such investments shall, as received, be trans-
66 ferred to and deposited in the sinking fund reserve or
67 the bond and interest sinking fund established for pay-
68 ment of the refunding bonds.

**Sec. 16. Article Complete Authority for Refunding
2 Bonds; Construction.**—This article constitutes full and
3 complete authority for the issuance of refunding bonds.
4 No procedure or proceedings, publications, notices, con-
5 sents, approvals, orders, acts or things by any governing
6 body of any public body, or any board, officer, commission,
7 department, agency, or instrumentality of the state or any
8 public body shall be required to issue any refunding
9 bonds or to do any act or perform anything under this
10 article, except as may be prescribed in this article. The
11 powers conferred by this article shall be in addition and
12 supplemental to, and not in substitution for, and the lim-
13 itations imposed by this article shall not affect the powers
14 conferred by any other law: *Provided, however,* That
15 the principal amount of bonds authorized by this article
16 for refunding or refinancing shall be deemed to apply to
17 the principal amount of refunding bonds authorized
18 by all other laws providing for the issuance and refund-
19 ing of revenue bonds by public bodies, and the sale there-
20 of, notwithstanding any contrary provisions of such other
21 laws. This article is remedial in nature and shall be
22 liberally construed.

CHAPTER 128

(House Bill No. 667—By Mr. Speaker, Mr. White)

[Passed February 24, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section four-a, article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the transfer and investment of funds of public bodies.

Be it enacted by the Legislature of West Virginia:

That section four-a, article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. State Sinking Fund Commission.

Section

4-a. Authorizing the transfer and investment of funds raised by levy, sale of bonds or otherwise.

Section 4-a. Authorizing the Transfer and Investment of Funds Raised by Levy, Sale of Bonds or Otherwise.—
Any funds of a political subdivision or of any of the agencies, boards, commissions or departments of the state of West Virginia raised by levy, sale of bonds or otherwise and which cannot be used within a reasonable time may be transferred to the state sinking fund commission. Any funds so transferred shall be invested by the state sinking fund commission in accordance with the provisions of this article. Any such funds so transferred may be withdrawn by the public body which transferred the same as authorized by this article upon one hundred twenty days' notice in writing to the state sinking fund commission.

CHAPTER 129

(Com. Sub. for House Bill No. 902—By Mr. Black and Mr. Castleberry)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fifty-one, relating to a contributing retirement system for persons in the employ of the state and affiliated political subdivisions of the state.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section fifty-one, to read as follows:

Article 10. West Virginia Public Employees Retirement Act.

Section

51. Withdrawal.

Section 51. Withdrawal.—The police department
2 and/or fire department of any municipality of this state,
3 which municipality is a participating employer as de-
4 fined in section two (5) hereof, may withdraw its firemen
5 and/or policemen from the West Virginia public em-
6 ployees retirement system provided the following con-
7 ditions are met:

8 (1) City council, by appropriate ordinance, permits all
9 of its policemen of its police department and/or all of its
10 firemen of its fire department to withdraw from the
11 system.

12 (2) Each member of its police department and/or fire
13 department so withdrawing from the retirement system
14 must execute a release of all claims against the West Vir-
15 ginia public employees retirement system.

16 (3) Before any such withdrawal shall be effective, the
17 consulting actuary to the retirement system shall com-
18 pute all past, present and future liabilities and the mu-

19 nicipality shall pay the retirement system for all such
 20 liabilities before any withdrawal shall be effective; after
 21 an effective withdrawal, pursuant to the terms hereof, if
 22 additional liabilities of a municipality are discovered, the
 23 board of trustees shall certify such sums due the retire-
 24 ment system and the municipality shall thereafter forth-
 25 with pay said sum due the system.

26 (4) Compliance with rules and regulations as the
 27 board of trustees may from time to time promulgate sup-
 28 plementing the above conditions.

CHAPTER 130

(Senate Bill No. 65—By Mr. Carson, Mr. President,
 and Mr. McCourt)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, relating to reciprocal service credit between the West Virginia public employees' retirement system and the state teachers' retirement system.

Be it enacted by the Legislature of West Virginia:

That chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen, to read as follows:

Article 13. Public Employees' and Teachers' Reciprocal Service Credit Act.

Section

1. Short title.
2. Definitions.
3. Credited service upon transfer between systems.
4. Reciprocal service.
5. Prior service credit.
6. Disability reciprocal credit.
7. Payment of annuities.

Section 1. Short Title.—The short title by which this article may be referred to is “Public Employees’ and Teachers’ Reciprocal Service Credit Act.”

Sec. 2. Definitions.—The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) “State system” means the West Virginia public employees’ retirement system and the state teachers’ retirement system.

(b) “Public system” means the West Virginia public employees’ retirement system.

(c) “Teacher system” means the state teachers’ retirement system.

(d) “Member” means a member of either the West Virginia public employees’ retirement system or the state teachers’ retirement system. The term “member” shall not include any person who has retired under either state system.

(e) “Accumulated contributions” means the sum of the amounts deducted from the compensations of a member and credited to his individual account in a state system, together with interest, if any, credited thereto.

(f) “Public final average salary” means a member’s final average salary computed according to the law governing the public system. In computing his public final average salary, the compensations, if any, received by him for services rendered in positions covered by the teacher system shall be used in the same manner as if the compensations were received for services covered by the public system.

(g) “Teacher average salary” means a member’s average salary computed according to the law governing the teacher system. In computing his teacher average salary, the compensations, if any, received by him for services rendered in positions covered by the public system shall be used in the same manner as if the compensations were received for services covered by the teacher system.

37 (h) "Reciprocal service credit" for a member of the
38 public system who subsequently becomes a member of the
39 teacher system, or vice versa, means the sum of his
40 credited service in force acquired as a member of the
41 public system and his credit service in force acquired as a
42 member of the teacher system.

43 (i) "Annuity" means the annuity payable by a state
44 system.

45 (j) The masculine gender includes the feminine, and
46 words of the singular number with respect to persons in-
47 clude the plural number, and vice versa.

Sec. 3. Credited Service upon Transfer between Sys-
2 **tems.—(a) Transfer from Public Service System to**
3 **Teacher Service System—**Notwithstanding the provisions
4 of law governing the West Virginia public employees' re-
5 tirement system, in the event a member leaves a position
6 covered by the public system and becomes employed in a
7 position covered by the teacher system, he shall not forfeit
8 his credited service acquired as a member of the public
9 system: *Provided*, That he returns to the public system
10 the amount of accumulated contributions he might have
11 withdrawn therefrom, together with interest prescribed
12 by the said public system: *Provided, however*, That he has
13 not retired under either the public system or the teacher
14 system: *Provided further*, That after the effective date of
15 this article such subsequent employment in a position
16 covered by the teacher system must occur within a pe-
17 riod of five years from and after the date on which such
18 person left a position covered by the public system. Such
19 return of accumulated contributions shall be made in ac-
20 cordance with such rules and regulations as the board of
21 trustees of the public system shall from time to time adopt.

22 (b) *Transfer from Teacher Service System to Public*
23 *Service System—*Notwithstanding the provisions of law
24 governing the state teachers' retirement system, in the
25 event a member leaves a position covered by the teacher
26 system and becomes employed in a position covered by the
27 public system, he shall not forfeit his credited service ac-
28 quired as a member of the teacher system: *Provided*, That
29 he returns to the teacher system the amount of accumu-

30 lated contributions he might have withdrawn therefrom,
31 together with interest prescribed by the said teacher sys-
32 tem: *Provided, however,* That he has not retired under
33 either the public system or the teacher system: *Provided*
34 *further,* That after the effective date of this article such
35 subsequent employment in a position covered by the pub-
36 lic system must occur within a period of five years from
37 and after the date on which such person left a position
38 covered by the teacher system. Such return of accumu-
39 lated contributions shall be made in accordance with such
40 rules and regulations as the retirement board of the
41 teacher system shall from time to time adopt.

Sec. 4. Reciprocal Service.—In the event a member
2 leaves a position covered by the public system and within
3 five years thereafter becomes employed in a position cov-
4 ered by the teacher system, or a member leaves a position
5 covered by the teacher system and within five years there-
6 after becomes employed in a position covered by the
7 public system, in either case, the following provisions
8 shall apply, together with such rules and regulations as
9 the board of trustees of the public system and the retire-
10 ment board of the teacher system shall from time to time
11 mutually agree upon.

12 (a) A member's reciprocal service credit in force shall
13 be used to satisfy the service requirements for retirement
14 under the state system from which he retires.

15 (b) If a member, who has reciprocal service credit in
16 force, retires under the public system, he shall receive an
17 annuity payable by the public system and an annuity pay-
18 able by the teacher system. His public system annuity
19 shall be based upon (1) the portion of his reciprocal serv-
20 ice credit acquired as a member of the public system, and
21 (2) his public final average salary. His teacher system
22 annuity shall be based upon (1) the portion of his recipro-
23 cal service credit acquired as a member of the teacher
24 system, and (2) his teachers' retirement allowance as pro-
25 vided by the teachers' retirement act. His teacher system
26 annuity shall begin as of the date he retires under the
27 public system, but in no case prior to the date he would
28 have been eligible to retire under the teacher system if

29 all his reciprocal service credit had been acquired as a
30 member of the teacher system. Any annuities payable
31 under this subsection shall be subject to subsection (d) of
32 this section, and to section six.

33 (c) If a member, who has reciprocal service credit in
34 force, retires under the teacher system, he shall receive
35 an annuity payable by the teacher system and an annuity
36 payable by the public system. His teacher system annuity
37 shall be based upon (1) the portion of his reciprocal serv-
38 ice credit acquired as a member of the teacher system, and
39 (2) his teachers' retirement allowance as provided by the
40 teachers' retirement act. His public system annuity shall
41 be based upon (1) the portion of his reciprocal service
42 credit acquired as a member of the public system, and (2)
43 his public final average salary. His public system annuity
44 shall begin as of the date he retired under the teacher
45 system, but in no case prior to the date he would have
46 been eligible to retire under the public system if all his
47 reciprocal service credit had been acquired as a member
48 of the public system. Any annuities payable under this
49 subsection shall be subject to subsection (d) of this sec-
50 tion, and to section six.

51 (d) (1) In the event a member, who has reciprocal
52 service credit in force, retires under the public system,
53 his public system annuity, computed as a straight life
54 annuity, shall not exceed the difference between (i) the
55 public system straight life annuity to which he would
56 have been entitled under the law governing the public
57 system at the time of his retirement if all his reciprocal
58 service credit had been acquired as a member of the public
59 system, and (ii) his annuity, computed as a straight life
60 annuity, payable by the teacher system: *Provided*, That
61 any annuity or portion of an annuity payable by teacher
62 system resulting from voluntary deposits and/or contribu-
63 tions by members to teacher system shall not be consid-
64 ered in any way in reducing an annuity herein provided
65 for.

66 (2) In the event a member, who has reciprocal service
67 credit in force, retires under the teacher system, his
68 teacher system annuity, computed as a straight life an-
69 nuity, shall not exceed the difference between (i) the

70 teacher system straight life annuity to which he would
71 have been entitled under the law governing the teacher
72 system at the time of his retirement if all his reciprocal
73 service credit had been acquired as a member of the
74 teacher system, and (ii) his annuity, computed as a
75 straight life annuity, payable by the public system: *Pro-*
76 *vided*, That any annuity or portion of an annuity payable
77 by public system resulting from voluntary deposits and/or
78 contributions by members to public system shall not
79 be considered in any way in reducing an annuity herein
80 provided for.

Sec. 5. Prior Service Credit.—(a) In the event a mem-
2 ber of the public system has served in a position prior to
3 the date the teachers' system was created, which position
4 would be covered under the teachers' system as of the date
5 of retirement had the teachers' system been in existence
6 at said time, the board of trustees of the public system
7 may grant said member prior service credit for said time
8 worked under such rules and regulations as the public
9 board may from time to time adopt.

10 (b) In the event a member of the teacher system has
11 served in a position prior to the date the public system
12 was created, which position would be covered under the
13 public system as of the date of retirement had the public
14 system been in existence at said time, the teachers' re-
15 tirement board of the teacher system may grant said
16 member prior service credit for said time worked under
17 such rules and regulations as the teacher board may from
18 time to time adopt.

Sec. 6. Disability Reciprocal Credit.—In the event a
2 member, who has reciprocal service credit in force, retires
3 under the public system on account of disability his an-
4 nuity to be paid by the teacher system shall be subject to
5 approval of his disability retirement by the retirement
6 board of the teacher system. In the event a member, who
7 has reciprocal service credit in force, retires under the
8 teacher system on account of disability his annuity to be
9 paid by the public system shall be subject to approval of
10 his disability retirement by the board of trustees of the
11 public system.

Sec. 7. Payment of Annuities.—The state system from which a member, with reciprocal service credit in force, retires shall be the disbursing agent for his annuities. In cases where the public system is the disbursing agent, the teacher system shall reimburse the public system for the reciprocal annuities which are payable from funds of the teacher system. In cases where the teacher system is the disbursing agent, the public system shall reimburse the teacher system for the reciprocal annuities which are payable from funds of the public system. Such reimbursements shall be made in such manner and with such frequency and shall be accompanied by such supporting data, as the board of trustees of the public system and the retirement board of the teacher system shall from time to time mutually agree upon.

CHAPTER 131

(Com. Sub. for Senate Bill No. 144—By Mr. Gainer and Mr. Jackson)

[Passed March 13, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen, relating to a compulsory retirement age for employees of the state of West Virginia, any board, commission, department, institution or spending unit; prohibiting the hiring of persons who have attained such age or are older; and providing for enforcement of the provisions of the article.

Be it enacted by the Legislature of West Virginia:

That chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fourteen, to read as follows:

Article 14. Compulsory Retirement Age Act.

Section

1. Short title.
2. Definitions.
3. Compulsory retirement age.

4. Elected officials and their employees.
5. Enforcement.

Section 1. Short Title.—This article may be cited and referred to as the “Compulsory Retirement Age Act.”

Sec. 2. Definitions.—The following words and phrases when used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) “Employer” means the state of West Virginia, any board, commission, department, institution or spending unit, but shall not include the Legislature.

(b) “Employee” means any person who receives compensation in the amount of one hundred dollars or more in a calendar month from an employer as herein defined, but shall not include any person appointed by the governor with the advice and consent of the senate, nor the director of the department of health, nor the state superintendent of free schools, nor attaches or employees of the Legislature nor any medical doctor employed by the department of mental health or the commissioner of public institutions.

(c) “Elected official” means any elected official of the state of West Virginia, and includes judges of courts of record of the state of West Virginia.

Sec. 3. Compulsory Retirement Age.—As of July one, one thousand nine hundred sixty-six, all employees, as defined in section two of this article, who have attained age seventy or who thereafter attain such age shall have their work for any employer, as defined in section two of this article, terminated: *Provided, however,* That the governor or the supreme court of appeals may permit a person appointed by him or it to any office or position who has reached the mandatory retirement age to continue in such office or position at his or its will and pleasure.

On and after the effective date of this article, no person seventy years of age or older shall be hired by any employer as defined in said section two.

Sec. 4. Elected Officials and Their Employees.—The provisions of this article imposing a mandatory retirement

3 age shall not apply to elected officials as defined in section
 4 two of this article but shall apply in all respects to all
 5 employees of such elected officials.

Sec. 5. Enforcement.—After July one, one thousand nine
 2 hundred sixty-six, each payroll submitted to the state
 3 auditor shall contain a certification by the individual sub-
 4 mitting same that to the best of his knowledge and
 5 belief no person whose name is listed thereon is
 6 seventy years of age or older. If it is brought to the
 7 attention of the state auditor after said date that an em-
 8 ployee as defined in section two of this article is employed
 9 by an employer as therein defined in violation of the pro-
 10 visions of this article, the state auditor shall not issue
 11 a warrant for payment of said employee's services.

CHAPTER 132

(House Bill No. 681—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend article one, chapter sixteen of the code of
 West Virginia, one thousand nine hundred thirty-one, as
 amended, by adding thereto a new section, designated sec-
 tion twenty-two, relating to the authority of the state
 director of health to provide for the training of certain
 designated employees of the state department of health.

Be it enacted by the Legislature of West Virginia:

That article one, chapter sixteen of the code of West Vir-
 ginia, one thousand nine hundred thirty-one, as amended, be
 amended by adding thereto a new section, designated section
 twenty-two, to read as follows:

Article 1. State Department of Health.

Section

22. Training of employees.

Section 22. Training of Employees.—To insure ade-
 2 quate standards of public service, the state director of

3 health is authorized to provide technical and specialized
4 instruction for employees of the state department of
5 health.

6 If upon review of the personnel records of any em-
7 ployee of the state department of health, the director is
8 of the opinion that it would be in the best interest of the
9 state department of health to provide any such employee
10 with additional training or instruction, not to exceed nine
11 months in any four-year period, in the field or vocation
12 in which said employee is engaged, the director is au-
13 thorized, upon approval of the governor, to direct that
14 such employee obtain said additional training or instruc-
15 tion at such place as the director may deem suitable.
16 Designated attendance of said employees shall be com-
17 pensated for as a part of regular employment. The direc-
18 tor is further authorized to pay out of federal funds and
19 such state funds as are available to match such federal
20 funds, any required tuition or enrollment fees.

CHAPTER 133

(Com. Sub. for House Bill No. 961—By Mr. Speaker,
Mr. White, and Mr. Nelson)

[Passed March 12, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight-b, relating to dangerous drugs, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eight-b, to read as follows:

Article 8-b. Dangerous Drugs Act.

Section

1. Definitions.

2. Prohibited acts.
3. Exemptions.
4. Regulations.
5. Search warrants.
6. Penalties.
7. Severability.

Section 1. Definitions.—As used in this article:

2 (1) The term “dangerous drug or drugs” means (a)
3 the salts and derivatives of barbituric acid or compounds,
4 preparations or mixtures thereof; (b) any derivative of
5 barbituric acid which has been designated by the state
6 board of pharmacy as being habit forming; (c) any drug
7 which contains any quantity of amphetamine or any salt
8 of amphetamine or any salt of an optical isomer of am-
9 phetamine or any substance which the state board of
10 pharmacy, after investigation, has found to be, and by
11 regulation designated as habit forming because of its
12 stimulant effect on the central nervous system; and (d)
13 any drug which, under the regulations promulgated in
14 accordance with the “Federal Food, Drug and Cosmetic
15 Act of June 25, 1938,” or any amendment thereto, is desig-
16 nated as dangerous or habit forming: *Provided*, That the
17 term “dangerous drug” shall not include any drug the
18 manufacture or delivery of which is regulated by the nar-
19 cotic laws of the United States or of this state: *Provided*,
20 *however*, That any drug, compound, preparation or mix-
21 ture containing the salts or derivatives of barbituric acid
22 may be exempted from the provisions of this article by
23 regulations promulgated by the state board of pharmacy
24 and if so exempted, shall not be subject to the provisions
25 of this article;

26 (2) The term “delivery” means sale, dispensing, giv-
27 ing or supplying in any other manner;

28 (3) The term “patient” means, as the case may be
29 (a) the individual for whom a dangerous drug is pre-
30 scribed or to whom a dangerous drug is administered,
31 or (b) the owner or the agent of the owner of the animal
32 for which a dangerous drug is prescribed, or to which
33 a dangerous drug is administered, providing that the
34 prescribing or administering referred to in (a) and (b)
35 hereof is in good faith and in the course of professional
36 practice only;

37 (4) The term "person" includes individual, corpora-
38 tion, partnership and association;

39 (5) The term "practitioner" means a physician, den-
40 tist, or veterinarian licensed to practice his respective pro-
41 fession in this state;

42 (6) The term "professional practice of a practitioner"
43 means treatment of patients under a bona fide practi-
44 tioner-patient relationship;

45 (7) The term "pharmacist" means a person duly li-
46 censed as a pharmacist by the state board of pharmacy;

47 (8) The term "prescription" means an order for dan-
48 gerous drugs or medicines or combinations or mixtures
49 thereof, written or signed by a practitioner intended for
50 the treatment or prevention of diseases of man or animals,
51 and also includes orders for dangerous drugs or medicines
52 or combinations or mixtures thereof transmitted to a
53 pharmacist by word of mouth, telephone, telegraph, or
54 other means of communication by a practitioner, and such
55 prescriptions received by word of mouth, telephone, tele-
56 graph, or other legal means of communication recorded
57 in writing by a pharmacist;

58 (9) The term "manufacturers" means persons who
59 manufacture dangerous drugs, and includes persons who
60 prepare such dangerous drugs in dosage forms by mix-
61 ing, compounding, encapsulating, entableting, or other
62 process, but does not include pharmacists so preparing
63 such dangerous drugs solely for dispensing on prescrip-
64 tions received or to be received by them;

65 (10) The term "wholesalers" means persons engaged
66 in the business of distributing dangerous drugs to persons
67 included in clauses (a) and (b) of paragraph (1) of sec-
68 tion three of this article;

69 (11) The term "warehousemen" means persons who,
70 in the usual course of business, store dangerous drugs
71 for others lawfully entitled to possess them and who have
72 no control over the disposition of such dangerous drugs
73 except for the purpose of storage; and

74 (12) The term "carriers" means persons who, in the
75 usual course of business, transport dangerous drugs for
76 others lawfully entitled to possess and ship them and who

77 have no control over the disposition of such dangerous
78 drugs except for the purpose of transportation.

Sec. 2. Prohibited Acts.—It shall be unlawful:

2 (1) To deliver any dangerous drug unless (a) such
3 dangerous drug is delivered by a pharmacist in good faith
4 upon prescription and there is affixed to the immediate
5 container in which such dangerous drug is delivered a
6 label bearing (i) the name and address of the owner of
7 the establishment from which the dangerous drug was
8 delivered; (ii) the date on which the prescription for such
9 dangerous drug was filled; (iii) the number of such pre-
10 scription as filed in the prescription files of the pharma-
11 cist who filled such prescription; (iv) the name of the
12 practitioner who prescribed such dangerous drug; (v)
13 the name of the patient, and if such dangerous drug was
14 prescribed for an animal, a statement showing the species
15 of the animal; and (vi) the direction for use of the dan-
16 gerous drug and cautionary statements, if any, as con-
17 tained in the prescription; and (b) in the event that such
18 delivery is pursuant to a prescription transmitted by
19 word of mouth, telephone, telegraph, or other means of
20 communication, such prescription is promptly reduced to
21 writing and filed by the pharmacist; or (c) such danger-
22 ous drug is delivered by a practitioner in good faith and
23 in the course of his professional practice only;

24 (2) To refill any prescription for a dangerous drug
25 unless such refilling is specifically authorized on the pre-
26 scription;

27 (3) For any person to possess or exhibit a dangerous
28 drug unless such person obtained such dangerous drug
29 on the prescription of a practitioner or in accordance with
30 clause (c), paragraph (1) of this section or from a person
31 licensed by the laws of any other state to prescribe or dis-
32 pensate dangerous and other drugs;

33 (4) To sell, deliver or otherwise dispose of any dan-
34 gerous drugs in violation of this article;

35 (5) For any person to use to his own advantage, or
36 to reveal other than to a public official or employee
37 charged with the duty of enforcing laws relating to the
38 handling, sale, and distribution of dangerous drugs, or

39 to a court when relevant to a judicial proceeding, any
40 information required under the authority of this article
41 concerning any method or process which as a trade secret
42 is entitled to protection; or

43 (6) For any person to obtain or attempt to obtain a
44 dangerous drug by fraud, deceit, misrepresentation or
45 subterfuge; or by the forgery or alteration of a prescrip-
46 tion; or by the use of a false name or the giving of a false
47 address.

Sec. 3. Exemptions.—(1) The provisions of paragraphs
2 (1) and (3) of section two of this article shall not be ap-
3 plicable to: (a) The delivery of dangerous drugs for
4 medical or scientific purposes only to persons included in
5 any of the classes hereinafter named in this paragraph
6 in clauses (i) through (iv), or to the agents or employees
7 of such persons, for use in the usual course of their busi-
8 ness or practice or in the performance of their official
9 duties, as the case may be; or (b) the possession of dan-
10 gerous drugs by such persons or their agents or employees
11 for such use; or (c) the possession or exhibition of dan-
12 gerous drugs by persons included in any of the classes
13 hereinafter named in this paragraph in clauses (v) and
14 (vi), or their agents or employees, in the usual course of
15 their business as defined in paragraphs (9) through (12)
16 of section one of this article; (i) pharmacists; (ii) prac-
17 titioners; (iii) persons who legally procure dangerous
18 drugs for disposition by or under the supervision of phar-
19 macists or practitioners employed by them, or for the
20 purpose of lawful research, teaching, or testing and not
21 for resale; (iv) hospitals and other institutions which
22 procure dangerous drugs for lawful administration and
23 which dispense the same only upon the written direction
24 of a practitioner; (v) manufacturers and wholesalers;
25 (vi) carriers and warehousemen.

26 (2) Nothing contained in section two of this article
27 shall make it unlawful for a public officer, agent or em-
28 ployee, or person aiding such public officer, agent or em-
29 ployee, in performing his official duties to possess, obtain,
30 or attempt to obtain a dangerous drug for the purpose
31 of enforcing the provisions of any law in this state or of

32 the United States relating to the regulation of the han-
33 dling, sale or distribution of dangerous drugs and other
34 drugs.

Sec. 4. Regulations.—The state board of pharmacy may
2 promulgate necessary regulations for the administration
3 of this article.

Sec. 5. Search Warrants.—Search and seizure warrants
2 to enforce the provisions of this article shall be issued,
3 executed and returned as provided in article one-a, chap-
4 ter sixty-two of this code.

Sec. 6. Penalties.—Any person violating any provision
2 of this article shall, upon conviction, be punished by a
3 fine not exceeding one thousand dollars, or by imprison-
4 ment for not less than one nor more than five years, or
5 both, and for a second and each subsequent offense by
6 a fine not exceeding ten thousand dollars, or by imprison-
7 ment for not less than two nor more than ten years, or
8 both.

Sec. 7. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end the provisions of this article are declared to
7 be severable.

CHAPTER 134

(Com. Sub. for House Bill No. 959—By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, three, nine and twenty-three, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to county public service districts for water and sewerage service.

Be it enacted by the Legislature of West Virginia:

That sections two, three, nine and twenty-three, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 13-a. Public Service Districts for Water and Sewerage Services.

Section

2. Creation of districts by county court; enlarging or reducing district; consolidation; agreements, etc., infringing upon powers of county court.
3. Powers of districts; creation of governing boards; terms of members; vacancies; organization and meetings.
9. Service rates and charges; discontinuance of service to delinquent users; requiring connections with sewer facilities; lien for delinquent fees; certain sewer disposal systems exempted.
23. Validation of acts and proceedings of public service boards.

Section 2. Creation of Districts by County Court; Enlarging or Reducing District; Consolidation; Agreements, etc., Infringing upon Powers of County Court.—The county court of any county may on its own motion by order duly adopted propose the creation of such public service district within such county, setting forth in such order a description sufficient to identify the territory to be embraced therein and the name of such proposed district, or any one hundred legal voters resident within and owning real property within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description sufficient to identify the territory to be embraced therein and the name of such proposed district. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately-owned public service properties: *Provided, however,* That no territory shall be included within more than one public service district organized under this article and the boundaries shall conform to or follow magisterial district lines except where less than a whole of any magisterial district is to be included, in which latter case that part of any such

27 boundary shall conform to other natural boundary lines,
28 or the lines of a fixed survey: *And provided further*, That
29 no city, incorporated town or other municipal corporation
30 shall be included within the boundaries of such proposed
31 district except upon the adoption of a resolution of the
32 governing body of such city, incorporated town or other
33 municipal corporation consenting thereto.

34 Such petition shall be filed in the office of the clerk
35 of the county court of the county in which the territory
36 to constitute the proposed district is situated, and if such
37 territory is situated in more than one county then such
38 petition shall be filed in the office of the clerk of the
39 county court of the county in which the major portion
40 of such territory extends, and a copy thereof (omitting
41 signatures) shall be filed with each of the clerks of the
42 county courts of the other county or counties into which
43 the territory extends. It shall be the duty of the clerk
44 of the county court receiving such petition to present
45 same to the county court of such county at the first reg-
46 ular meeting after such filing or at a special meeting
47 called for the consideration thereof.

48 When the county clerk of any county enters an order
49 on its own motion proposing the creation of a public
50 service district, as aforesaid, or when a petition for such
51 creation is presented, as aforesaid, the county court shall
52 at the same session fix a date of hearing in such county
53 on the creation of the proposed public service district,
54 which date so fixed shall be not more than forty days
55 nor less than twenty days from the date of such action.
56 If the territory proposed to be included is situated in
57 more than one county, the county court, when fixing a
58 date of hearing, shall provide for notifying the county
59 court and clerk thereof of each of the other counties
60 into which the territory extends of the date so fixed.
61 The clerk of the county court of each county in which
62 any territory in the proposed public service district is
63 located shall cause notice of such hearing and the time
64 and place thereof, and setting forth a description of all
65 of the territory proposed to be included therein to be
66 given by publication at least once in a newspaper of gen-
67 eral circulation published in such county at least ten

68 days prior to such hearing. In all cases where proceed-
69 ings for the creation of such public service districts are
70 initiated by petition as aforesaid the person filing the
71 petition shall advance or satisfactorily indemnify the
72 payment of the costs and expenses of publishing the
73 hearing notice, and otherwise the costs and expenses of
74 such notice shall be paid in the first instance by the
75 county court out of contingent funds or any other funds
76 available or made available for that purpose.

77 All persons residing in or owning or having any in-
78 terest in property in such proposed public service district
79 shall have an opportunity to be heard for and against
80 its creation. At such hearing the county court before
81 which the hearing is conducted shall consider and deter-
82 mine the feasibility of the creation of the proposed dis-
83 trict. When it shall have been thus determined that the
84 construction or acquisition by purchase or otherwise, and
85 maintenance, operation, improvement, and extension of
86 public service properties by such public service district
87 will be conducive to the preservation of public health,
88 comfort and convenience of such area, then such county
89 court shall by order create such public service district,
90 and such order shall be conclusive and final in that re-
91 gard. If the court shall, after due consideration, deter-
92 mine that the proposed district will not be conducive
93 to the preservation of public health, comfort or conveni-
94 ence of such area, or that the creation of the proposed
95 district as set forth and described in the petition or order
96 is not feasible, it may refuse to enter an order creating
97 the same, or it may enter an order amending the descrip-
98 tion of the proposed district, and create said district as
99 amended. The clerk of the county court of each county
100 into which any part of such district extends shall retain
101 in his office an authentic copy of the order creating the
102 same: *Provided, however,* That if at such hearing written
103 protest is filed by thirty per cent or more of the qualified
104 voters registered and residing within said district, then
105 the county court shall not take any further action in
106 creating such district unless the creation of such district
107 shall be approved by a majority vote of the qualified
108 registered voters voting at a referendum to be called by

109 the county court for such purpose. Such referendum
110 shall be called and held in the manner provided in the
111 general election laws of the state of West Virginia ap-
112 plicable thereto and the funds therefor shall be supplied
113 from any county funds available for such purpose, or
114 from funds supplied from the persons who petitioned
115 for the creation of such district. If a majority of the
116 qualified registered electors participating in said election
117 shall vote against the creation of said district, then such
118 district shall not be created. If, however, a majority of
119 the qualified registered voters participating in such refer-
120 endum vote in favor of the creation of such district, then
121 the county court shall duly enter its order creating such
122 district.

123 After the creation of such district the county court may,
124 if in its discretion it deems it necessary, feasible and
125 proper, enlarge the said district to include additional
126 areas, reduce the area of said district, where facilities,
127 equipment, service or materials have not been extended,
128 or establish or consolidate two or more such districts:
129 *Provided*, That where the county court determines on its
130 own motion by order entered of record, or there is a peti-
131 tion, to enlarge the district or reduce the area of the
132 district, all of the applicable provisions of this article
133 providing for hearing, notice of hearing and protest shall
134 apply with like effect as if a district were being created.
135 The districts may not enter into any agreement, contract
136 or covenant that infringes upon, impairs, abridges or
137 usurps the duties, rights or powers of the county court, as
138 set forth in this article, or conflicts with any provision of
139 this article.

**Sec. 3. Powers of Districts; Creation of Governing
2 Boards; Terms of Members; Vacancies; Organization and
3 Meetings.**—From and after the date of the adoption of the
4 order creating any such public service district, it shall
5 thereafter be a public corporation and political subdivision
6 of the state with power of perpetual succession, but with-
7 out any power to levy or collect ad valorem taxes. Each
8 such district shall have power to acquire, own and hold
9 property, both real and personal, in its corporate name,
10 and shall have power to sue, may be sued, may adopt an

11 official seal, and may enter into contracts necessary or in-
12 cidental to its purposes, including contracts with any city,
13 incorporated town or other municipal corporation located
14 within or without its boundaries for furnishing wholesale
15 supply of water for the distribution system of such city,
16 town or other municipal corporation, and contract for the
17 operation, maintenance, servicing, repair and extension of
18 any properties owned by it, or for the operation and im-
19 provement or extension by such district of all or any part
20 of the existing municipally-owned public service proper-
21 ties of any city, incorporated town or other municipal cor-
22 poration included within such district: *Provided*, That no
23 such contract shall extend over a period of forty years, but
24 provisions may be included therein for a renewal or suc-
25 cessive renewals thereof, and shall conform to and comply
26 with the rights of the holders of any outstanding bonds
27 issued by such municipalities for such public service
28 properties.

29 The powers of each such public service district shall
30 be vested in and exercised by a public service board
31 consisting of not less than three members, who shall be
32 appointed in the following manner:

33 Each city, incorporated town, or other municipal cor-
34 poration having a population in excess of three thousand,
35 but not exceeding eighteen thousand, shall be entitled to
36 appoint one member of such board, and each such city, in-
37 corporated town, or other municipal corporation having a
38 population in excess of eighteen thousand shall be entitled
39 to appoint one additional member of such board for each
40 additional eighteen thousand population. The members of
41 said board representing such cities, incorporated towns or
42 other municipal corporations shall be residents thereof
43 and shall be appointed by a resolution of the governing
44 bodies thereof, and upon the filing of a certified copy or
45 copies of such resolution or resolutions in the office of the
46 clerk of the county court which entered the order creating
47 such district, such persons so appointed shall thereby be-
48 come members of said board without any further act or
49 proceedings. If the number of members of said board so
50 appointed by the governing bodies of cities, incorporated
51 towns or other municipal corporations included in the

52 district shall equal or exceed three, then no further mem-
53 bers shall be appointed to such board and such members
54 shall be and constitute the board of said district.

55 If no city, incorporated town or other municipal corpo-
56 ration having a population in excess of three thousand
57 is included within the district, then the county court
58 which entered the order creating the district shall appoint
59 three members of said board, who shall be persons re-
60 siding within the district, which said three members
61 shall become members of and constitute the board of said
62 district without any further act or proceedings.

63 If the number of members of said board appointed by
64 the governing bodies of cities, incorporated towns or
65 other municipal corporations included within the district
66 shall be less than three, then the county court which
67 entered the order creating the district shall appoint such
68 additional member or members of said board, who shall
69 be persons residing within the district, as shall be neces-
70 sary to make the number of members of said board equal
71 three, and said additional member or members shall
72 thereupon become members of such board; and the mem-
73 ber or members appointed by the governing bodies of the
74 cities, incorporated towns or other municipal corpora-
75 tions included within the district and the additional mem-
76 ber or members appointed by such county court as afore-
77 said, shall be and constitute the board of said district.
78 It shall be proper for one person to serve as a member
79 of the board in one or more public districts.

80 The population of any city, incorporated town or other
81 municipal corporation, for the purpose of determining
82 the number of members of such board, if any, to be ap-
83 pointed by the governing body or bodies thereof, shall
84 be conclusively deemed to be the population stated for
85 such city, incorporated town or other municipal corpo-
86 ration in the official federal census for the year one thou-
87 sand nine hundred sixty.

88 The respective terms of office of the members of the
89 first board shall be fixed by the county court and shall
90 be as equally divided as may be, that is approximately
91 one third of the members for a term of two years, a like
92 number for a term of four, and the term of the remaining

93 member or members for six years, from the first day of
94 the month during which such appointments are made.
95 The first members of the board appointed as aforesaid
96 shall meet at the office of the clerk of the county court
97 which entered the order creating the district as soon as
98 practicable after such appointments and shall qualify by
99 taking an oath of office: *Provided, however,* That any
100 member or members of the board may be removed from
101 their respective office by a majority vote of the registered
102 voters in such district. Such a vote shall be conducted
103 by the county court in the same manner as a county
104 general election, at a time and place to be specified by
105 the county court, after submission to the court of a duly
106 verified petition bearing the signatures of thirty per cent
107 of the persons residing in the district over the age of
108 twenty-one years.

109 Any vacancy shall be filled for the unexpired term,
110 and otherwise successor members of the board shall be
111 appointed for terms of six years, and the terms of office
112 shall continue until successors have been appointed and
113 qualified. All successor members shall be appointed in
114 the same manner as the member succeeded was ap-
115 pointed.

116 The board shall organize promptly following the first
117 appointments, and annually thereafter at its first meeting
118 after January one of each year, by selecting one of its
119 members to serve as chairman and by appointing a secre-
120 tary and a treasurer who need not be members of such
121 board. The secretary shall keep a record of all proceed-
122 ings of the board which shall be available for inspection
123 as other public records. The treasurer shall be the lawful
124 custodian of all funds of the public service district and
125 shall pay same out on orders authorized or approved by
126 the board. The secretary and treasurer shall perform
127 such other duties appertaining to the affairs of the district
128 and shall receive such salaries as shall be prescribed by
129 the board. The treasurer shall furnish bond in an
130 amount to be fixed by the board for the use and
131 benefit of the district. The members of the board, and
132 the chairman, secretary and treasurer thereof, shall make
133 available to the county court, at all times, all of its books

134 and records pertaining to the district's operation, finances
135 and affairs, for inspection and audit.

**Sec. 9. Service Rates and Charges; Discontinuance of
2 Service to Delinquent Users; Requiring Connections with
3 Sewer Facilities; Lien for Delinquent Fees; Certain Sewer
4 Disposal Systems Exempted.**—The board shall have
5 the power to make, enact and enforce all needful
6 rules and regulations in connection with the acquisi-
7 tion, construction, improvement, extension, management,
8 maintenance, operation, care, protection and the use of
9 any public service properties owned or controlled by
10 the district, and it shall be the duty of such board to
11 establish rates and charges for the services and facili-
12 ties it furnishes, which shall be sufficient at all times,
13 notwithstanding the provisions of any other law or laws,
14 to pay the cost of maintenance, operation and deprecia-
15 tion of such public service properties and principal of
16 and interest on all bonds issued and other obligations
17 incurred under the provisions of this article and all
18 reserve or other payments provided for in the proceed-
19 ings which authorized the issuance of any bonds here-
20 under. The schedule of such rates and charges may be
21 based upon either (a) the consumption of water on prem-
22 ises connected with such facilities, taking into consider-
23 ation domestic, commercial, industrial and public use
24 of water; or (b) the number and kind of fixtures con-
25 nected with such facilities located on the various prem-
26 ises; or (c) the number of persons served by such facili-
27 ties; or (d) any combination thereof; or (e) may be
28 determined on any other basis or classification which
29 the board may determine to be fair and reasonable,
30 taking into consideration the location of the premises
31 served and the nature and extent of the services and
32 facilities furnished. Where both water and sewer serv-
33 ices are furnished to any premises the schedule of
34 charges may be billed as a single amount for the aggre-
35 gate thereof. Whenever any rates, rentals or charges for
36 services or facilities furnished shall remain unpaid for
37 a period of thirty days after the same shall become due
38 and payable the property and the owner thereof, as

39 well as the user of the services and facilities shall be
40 delinquent until such time as all such rates and charges
41 are fully paid. The board shall be obligated under reas-
42 onable rules and regulations, to shut off and discontinue
43 both water and sewer services to all delinquent users of
44 either water facilities or sewer facilities, or both, and
45 shall not restore either water facilities or sewer facilities
46 to any delinquent user of either water facilities or sewer
47 facilities until all delinquent charges for both water
48 facilities and sewer facilities, including reasonable in-
49 terest and penalty charges, have been paid in full.

50 In the event that any city, incorporated town or other
51 municipal corporation included within the district shall
52 own and operate separately either water facilities or
53 sewer facilities, and the district shall own and operate
54 within such city, incorporated town or other municipal
55 corporation the other kind of facilities, either water or
56 sewer facilities, as the case may be, then the district and
57 such city, incorporated town or other municipal corpo-
58 ration shall have power to covenant and contract with
59 each other to shut off and discontinue, the supplying of
60 the kind of facilities furnished by the district or such
61 city, incorporated town or other municipal corporation,
62 as the case may be, for the nonpayment of fees and
63 charges for the other kind of facilities furnished by the
64 district or city, incorporated town or other municipal
65 corporation, as the case may be.

66 Any district furnishing sewer facilities within the dis-
67 trict shall also have power to require all owners, tenants
68 or occupants of any houses, dwellings and buildings
69 located near any such sewer facilities, where sewage
70 will flow by gravity from such houses, dwellings or
71 buildings into such sewer facilities, to connect with and
72 use such sewer facilities, and to cease the use of all other
73 means for the collection, treatment and disposal of sewage
74 and waste matters from such houses, dwellings and build-
75 ings where there is such gravity flow and such houses,
76 dwellings and buildings can be adequately served by the
77 sewer facilities of the district, and it is hereby found, de-
78 termined and declared that the mandatory use of such
79 sewer facilities provided for in this paragraph is necessary

80 and essential for the health and welfare of the inhabitants
81 and residents of such districts and of the state.

82 Whenever any district has made available sewer facilities
83 to any owner, tenant or occupant of any house, dwelling
84 or building located near such sewer facility, and
85 the engineer for the district has certified that such sewer
86 facilities are available to and are adequate to serve such
87 owner, tenant, or occupant, and sewage will flow by
88 gravity from such house, dwelling or building into such
89 sewer facilities, the district shall have the immediate right
90 and duty to charge, and such owner, tenant or occupant
91 shall have the duty to pay from and after the date of receiving
92 notice that such facilities are available, the rates
93 and charges for services established under this article.

94 All delinquent fees, rates and charges of the district
95 for either water facilities or sewer facilities shall be
96 liens on the premises served of equal dignity, rank and
97 priority with the lien on such premises of state, county,
98 school and municipal taxes. When such fees, rates and
99 charges have been delinquent for thirty days, the district
100 shall have power to forthwith foreclose the lien
101 on the premises served in the same manner now provided
102 in the laws of the state of West Virginia for the
103 foreclosure of mortgages on real property.

104 Anything in this section to the contrary notwithstanding,
105 any establishment, as defined in chapter twenty,
106 article five-a, section two, now or hereafter operating its
107 own sewage disposal system, pursuant to a permit issued
108 by the department of natural resources, as prescribed by
109 chapter twenty, article five-a, section seven of this code,
110 shall be exempt from the provisions of this section.

**Sec. 23. Validation of Acts and Proceedings of Public
2 Service Boards.**—All acts and proceedings taken by any
3 public service board the members of which were appointed,
4 prior to the date this section takes effect, by
5 any county court of this state having territorial jurisdiction
6 thereof, are hereby validated, ratified, approved and
7 confirmed, as to defects and irregularities which may
8 otherwise exist on account of their appointment and
9 qualification: *Provided, however,* That nothing herein
10 contained shall be construed to excuse a criminal act.

CHAPTER 135

(Senate Bill No. 4—By Mr. Carson, Mr. President)

[Passed January 26, 1965; in effect from passage. Approved by the Governor.]

AN ACT to repeal article twenty-one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia water development commission.

Be it enacted by the Legislature of West Virginia:

Article 21. Water Works Systems.

Section

1. Repeal of statute creating the West Virginia water development commission.

Section 1. Repeal of Statute Creating the West Virginia Water Development Commission.—That article twenty-one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed.

CHAPTER 136

(Senate Bill No. 182—By Mr. Holden and Mr. Mullins)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-two, relating to the detection of phenylketonuria in newborn children.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by

adding thereto a new article, designated article twenty-two, to read as follows:

Article 22. Detection and Control of Phenylketonuria in New-born Children.

Section

1. Findings.
2. Program to combat mental retardation; rules and regulations; facilities for making tests.
3. Tests for phenylketonuria; reports; assistance to afflicted children.
4. Penalties for violation of provisions of this article.
5. Severability.
6. Effective date.

Section 1. Findings.—The Legislature finds that phenylketonuria, a genetic defect affecting body metabolism, is usually associated with mental retardation. Laboratory tests are readily available to aid in the detection of this disease and its hazards to health of those suffering thereof may be lessened or prevented by early detection and treatment. Damage from the disease, if untreated in the early months of life, is usually rapid and not appreciably affected by treatment.

Sec. 2. Program to Combat Mental Retardation; Rules and Regulations; Facilities for Making Tests.—The state department of health is hereby authorized to establish and carry out a program designed to combat mental retardation in our state's population due to phenylketonuria, and may adopt reasonable rules and regulations necessary to carry out such a program. The department of health shall establish and maintain facilities at its state hygienic laboratory for testing specimens for the detection of phenylketonuria. Tests shall be made by such laboratory of specimens upon request by physicians, hospital medical personnel and other individuals attending newborn infants. The state department of health is authorized to establish additional laboratories throughout the state to perform tests for the detection of phenylketonuria.

Sec. 3. Tests for Phenylketonuria; Reports; Assistance to Afflicted Children.—The physician attending a newborn child or any person attending a newborn child not under the care of a physician may cause to be made a test for

5 phenylketonuria approved by the state department of
6 health. Any test found positive for phenylketonuria shall
7 be promptly reported to the state department of health by
8 the director of the laboratory performing such test.

9 The state department of health, in cooperation with
10 other state departments and agencies, and with attending
11 physicians, is authorized to provide medical, dietary and
12 related assistance to children determined to be afflicted
13 with phenylketonuria.

Sec. 4. Penalties for Violation of Provisions of This
2 **Article.**—Any person violating the provisions of this ar-
3 ticle shall be guilty of a misdemeanor, and, upon convic-
4 tion, shall be fined not less than twenty-five nor more
5 than fifty dollars. Violation of each such provision shall
6 be considered a separate offense.

Sec. 5. Severability.—If any provision or item of this
2 article or application thereof is held invalid, such inva-
3 lidity shall not affect other provisions, items or applica-
4 tions of this article.

Sec. 6. Effective Date.—The effective date of this article
2 shall be July one, one thousand nine hundred sixty-five.

CHAPTER 137

(Com. Sub. for House Bill No. 883—By Mr. Speaker,
Mr. White, and Mr. Vickers)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to traveling expenses, audit by state board and dues to voluntary organizations.

Be it enacted by the Legislature of West Virginia:

That section eleven, article three, chapter twelve of the code

of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Appropriations and Expenditures.

Section

11. Traveling expenses; rules to be promulgated by board of public works; dues to voluntary organizations; recruitment expenses for institutions of higher education.

Section 11. Traveling Expenses; Rules to Be Promulgated by Board of Public Works; Dues to Voluntary Organizations; Recruitment Expenses for Institutions of Higher Education.—The board of public works shall promulgate rules and regulations concerning out-of-state travel by state officials and employees. A copy of such rules and regulations shall be filed with the auditor, and the secretary of state. It shall be unlawful for the auditor to issue a warrant in payment of any claim for out-of-state travel expenses incurred by a state officer or employee unless such claim meets all the requirements of the rules and regulations so filed.

Payment for dues or membership in annual or other voluntary organizations shall be made from the proper item or appropriation after an itemized schedule of such organizations, together with the amount of such dues or membership, has been submitted to the budget director and approved by the board of public works.

It shall be lawful for the governing board of any state institution of higher education to authorize the payment of traveling expenses incurred by any person invited to visit the campus or other facilities of such institution to be interviewed concerning his possible employment by such governing board or agent thereof.

CHAPTER 138

(House Bill No. 838—By Mr. Frazer and Mr. Mentz)

[Passed March 12, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article one-g, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto three new sections, designated section twelve, section thirteen and section fourteen, relating to the establishment of an emergency service medal and a state commendation medal and the conditions for their award.

Be it enacted by the Legislature of West Virginia:

That article one-g, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, designated section twelve, section thirteen and section fourteen, to read as follows:

Article 1-g. Service Medals.

Section

12. Emergency service medal.
13. State commendation medal.
14. Multiple awards of the emergency service medal and the state commendation medal.

Section 12. Emergency Service Medal.—Any member
2 of the national guard of this state who shall serve in the
3 active military service of the state in the aid of civil au-
4 thorities in upholding the law and preserving order,
5 protecting lives and property, in the aid and relief of
6 citizens in disaster, or other similar service, duly ordered
7 by the governor, or who shall honorably serve for thirty
8 days in the armed forces of the United States as a member
9 of the national guard of this state called or ordered to
10 service therein by the president of the United States,
11 shall, upon recommendation of the military board of the
12 state of West Virginia, be awarded by the order of the
13 governor and furnished at the expense of the state an
14 emergency service medal, the design, precedence, and
15 procurement of which shall be as ordered by the military
16 board and approved by the governor.

Sec. 13. State Commendation Medal.—When any per-
2 son shall perform especially meritorious public service or
3 achievement or display exceptional bravery of a character
4 sufficient to justify award of the West Virginia distin-
5 guished service medal, he may upon recommendation of
6 any state, county, or municipal elected official, be
7 awarded by the order of the governor and furnished at

8 the expense of the state a state commendation medal, the
 9 design, precedence, and procurement of which shall be
 10 as ordered by the governor. This medal shall not be
 11 awarded to more than one hundred and thirty-four civil-
 12 ians in any one calendar year.

Sec. 14. Multiple Awards of the Emergency Service Medal and the State Commendation Medal.—In the event
 2 any person shall render service or perform acts entitling
 3 him to the award of the West Virginia emergency service
 4 medal or state commendation medal, and the award of
 5 such medal has theretofore been made to him, he shall
 6 for each subsequent award be entitled to wear on the
 7 ribbon of the medal, and on the ribbon bar denoting
 8 ownership of such medal a miniature gold mountain
 9 laurel blossom.
 10

CHAPTER 139

(Senate Bill No. 166—By Mr. Carson, Mr. President,
 and Mr. McCourt)

[Passed February 24, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a salary increase for members of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Department of Public Safety.

Section

3. Companies and platoons and how constituted; training of members and other peace officers; salaries and bonds of members.

Section 3. Companies and Platoons and How Constituted; Training of Members and Other Peace Officers; Salaries and Bonds of Members.—The superintendent shall

4 create, appoint and equip a department of public safety,
5 which shall, in addition to the personnel provided for in
6 section two of this article, consist of four companies or
7 platoons. Each company or platoon shall be composed
8 of one captain, one lieutenant, one first sergeant, five ser-
9 geants, eleven corporals and such number of troopers as
10 the superintendent may decide best, but such number of
11 troopers in any company or platoon shall not at any time
12 be less than twenty-five nor more than sixty-five.

13 The superintendent shall provide adequate facilities
14 for the training of all members of the department and
15 shall prescribe a basic training course for newly enlisted
16 members. He shall also provide advance or in-service
17 training from time to time for all members of the de-
18 partment. The superintendent may, in his discretion,
19 hold training classes for other peace officers in the state
20 without cost to such officers, except actual expenses for
21 food, lodging and school supplies.

22 Members of the department shall receive salaries, as
23 follows:

24 The inspector shall receive an annual salary of seven
25 thousand nine hundred twenty dollars; captains shall each
26 receive an annual salary of seven thousand twenty dol-
27 lars; lieutenants shall each receive an annual salary of
28 six thousand six hundred dollars; the master sergeants
29 and first sergeants shall receive an annual salary of six
30 thousand one hundred twenty dollars; sergeants shall
31 each receive an annual salary of five thousand nine hun-
32 dred sixteen dollars; corporals shall each receive an an-
33 nual salary of five thousand six hundred sixteen dollars;
34 each newly enlisted trooper shall receive a salary of three
35 hundred sixty-three dollars per month during the period
36 of his basic training, and upon the satisfactory comple-
37 tion of such training and assignment to active duty each
38 trooper shall receive during the remainder of his first
39 year's service a salary of four hundred thirteen dollars
40 monthly. During the second year of his service in the
41 department each trooper shall receive an annual salary
42 of five thousand seventy-six dollars; during the third
43 year of his service each trooper shall receive an annual
44 salary of five thousand one hundred ninety-six dollars;

45 and during the fourth and fifth years of his service and
46 for each year thereafter, each trooper shall receive an
47 annual salary of five thousand three hundred sixteen dol-
48 lars. Each member of the department entitled thereto
49 by the provisions hereof shall receive an increase in sal-
50 ary over that hereinbefore set forth in this section, for
51 grade and rank, based on length of service, including that
52 heretofore and hereafter served, with the department,
53 as follows: For each five-year period of service with the
54 department from the date of first enlistment, each mem-
55 ber of the department shall receive a salary increase of
56 one hundred twenty dollars per year to be effective dur-
57 ing his next five years of service, which increases shall
58 be successive and cumulative until a total of five such
59 increases shall be received.

60 In applying the foregoing salary schedule where salary
61 increases are provided for length of service, members of
62 the department in service at the time this article becomes
63 effective shall be given credit for prior service and shall
64 be paid such salaries as the same length of service will
65 entitle them to receive under the provisions hereof.

66 Each member of the department of public safety, except
67 the superintendent and civilian employees, shall, before
68 entering upon the discharge of his duties, execute a bond
69 with security in the sum of three thousand five hundred
70 dollars payable to the state of West Virginia, conditioned
71 for the faithful performance of his duties as such, and such
72 bond shall be approved as to form by the attorney gen-
73 eral, and as to sufficiency by the board of public works,
74 and the same shall be filed with the secretary of state and
75 preserved in his office.

CHAPTER 140

(House Bill No. 777—By Mr. Speaker, Mr. White,
and Mr. Bowling)

[Passed March 8, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections twenty-seven, twenty-
eight, twenty-eight-b, twenty-eight-c, twenty-eight-f,

twenty-eight-g and twenty-eight-h, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a retirement, awards and benefit system for members of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That sections twenty-seven, twenty-eight, twenty-eight-b, twenty-eight-c, twenty-eight-f, twenty-eight-g and twenty-eight-h, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted so as to read as follows:

Article 2. Department of Public Safety.

Section

- 27. Death, disability and retirement fund; fees to which members entitled for benefit of fund; retirement board.
- 28. Retirement; awards and benefits.
- 28-b. Disability incurred in performance of duty; awards and benefits.
- 28-c. Disability from other causes; awards and benefits.
- 28-f. Death of member in performance of duty; dependents; awards and benefits.
- 28-g. Death of member from non-service connected causes; dependents; awards and benefits.
- 28-h. Death of member after retirement, or after serving twenty years; dependents; awards and benefits.

Section 27. Death, Disability and Retirement Fund;

2 Fees to Which Members Entitled for Benefit of Fund;
3 Retirement Board.—There shall be continued the death,
4 disability and retirement fund heretofore created for the
5 benefit of members of the department of public safety,
6 and any dependent of a retired or deceased member
7 thereof. Into such fund shall be paid such amounts as
8 have heretofore been collected by the superintendent of
9 the department of public safety on account of fees for
10 arrest, court attendance and mileage, seizures, rewards,
11 or from any other source permitted by law. For official
12 services rendered in any criminal case, a member of the
13 department of public safety shall be entitled to receive
14 the same fees as a constable is entitled to receive for the
15 same services pursuant to section twelve, article seven-
16 teen, chapter fifty of this code, when such fees are actu-
17 ally paid by or for the defendant in such criminal case,
18 pursuant to the order made and entered therein, to the
19 justice of the peace, the clerk of the court, or other officer

20 for the services of such member: *Provided*, That (1) such
21 fees may be claimed and received by the member only for
22 the account of said department; (2) all fees collected by
23 a member pursuant to this section shall in every instance
24 be remitted by such member to the superintendent of
25 said department and deposited in the state treasury to
26 the credit of said death, disability and retirement fund;
27 and, (3) the superintendent of said department shall
28 promulgate regulations to assure disposition, in the man-
29 ner herein provided, of all fees received by members pur-
30 suant to this section: *Provided, however*, That under no
31 circumstances shall any member of the department of
32 public safety be entitled to any mileage fees for services
33 rendered in criminal cases and under no circumstances
34 shall any county court or municipal corporation be re-
35 quired to pay any fees or costs which the county court
36 would be required to pay were the services rendered by
37 a constable. There shall be paid into said death, disabil-
38 ity and retirement fund all amounts arising in the future
39 from the above-named sources and any other sources
40 that may be designated by the superintendent of said
41 department and permitted by law, except that no part
42 of any fine shall be paid into said death, disability and
43 retirement fund.

44 There shall be deducted from the monthly payroll of
45 each member of the department of public safety and paid
46 into such fund six per cent of the amount of his salary,
47 and an additional twelve per cent of the monthly salary
48 of each member of said department shall be paid by the
49 state of West Virginia monthly into such fund out of the
50 biennial appropriation for said department. All moneys
51 payable into such fund shall be deposited in the state
52 treasury, and the treasurer and auditor shall keep a sep-
53 arate account thereof on their respective books.

54 The moneys in this fund, and the right of a member to
55 a retirement allowance, to the return of contributions, or
56 to any benefit under the provisions of this article, are
57 hereby exempt from any state or municipal tax; shall not
58 be subject to execution, garnishment, attachment or any
59 other process whatsoever; and shall be unassignable ex-
60 cept as is provided in this article.

61 The death, disability and retirement fund shall be ad-
62 ministered by a retirement board which shall consist of
63 the attorney general, state treasurer, the superintendent
64 and two members in active service of the department of
65 public safety: *Provided*, That members of said retirement
66 board shall not be entitled to receive any compensation
67 in addition to the salary of their respective offices for any
68 service rendered as a member of said retirement board:
69 *Provided further*, That the superintendent may pay out
70 of funds appropriated for operation of said department
71 the reasonable expenses of members of said board neces-
72 sarily incurred in connection with dispatch of any busi-
73 ness properly before such board. The two members of
74 said department shall be elected to membership on the
75 retirement board by vote of the members of the depart-
76 ment of public safety; such election to be held on the first
77 Tuesday in June next following the passage of this act
78 and on the first Tuesday in June each two years thereafter.
79 The attorney general, state treasurer and the superin-
80 tendent of the department of public safety shall promul-
81 gate any and all necessary rules and regulations for hold-
82 ing in a fair and impartial manner the election on the
83 first Tuesday in June next following the passage of this
84 act and thereafter the retirement board consisting of the
85 attorney general, state treasurer, superintendent and the
86 two duly elected members of said department shall have
87 authority to promulgate and, from time to time, revise
88 rules and regulations for holding all subsequent elections
89 in a fair and impartial manner. All elections shall be
90 held under the direction of the superintendent of said
91 department in accordance with said rules and regulations.
92 The members of the department chosen to serve on said
93 retirement board shall hold office for a period of two years
94 commencing on the first day of July next following the
95 date of such election. When any member elected to the
96 retirement board shall die, resign from the board, resign
97 or be discharged from service in the department, make
98 application for retirement, be retired, or become disabled,
99 the office of such member of the retirement board shall
100 be declared vacant by the superintendent of said depart-
101 ment, and said superintendent, to fill such vacancy,

102 shall appoint the member in active service of said depart-
103 ment who as an unsuccessful candidate at the preceding
104 election of members to said retirement board received
105 the greatest number of votes. No member of the retire-
106 ment board shall participate in any hearing at which his
107 own petition for retirement or the petition of any mem-
108 ber of said department who is related to him by blood or
109 marriage shall be presented for consideration.

110 At its first meeting following each election of members
111 to the retirement board said board shall elect one of its
112 members to serve as chairman and a second member to
113 serve as secretary thereof. The retirement board shall
114 have the power to make rules and regulations, not incon-
115 sistent with the provisions hereof, governing procedure
116 and order and manner of business by and before such
117 board. The retirement board shall have the power to
118 make awards and to revise and terminate awards previ-
119 ously made for such times and under such terms and con-
120 ditions as are hereinafter provided. The votes of a ma-
121 jority of the five members of the board shall be neces-
122 sary to decision of any matter by the board. Decisions
123 made by the board shall be supreme and final and there
124 shall be no appeal therefrom.

125 It shall be the duty of the retirement board on or be-
126 fore the first day of July of each year to cause all future
127 awards from such fund to be valued and, to the extent
128 that moneys shall be available, reserves based on sound
129 actuarial principles for payment thereof to be carried on
130 the funds account as a liability against the reserve fund.
131 The board shall have the authority to employ an actuary
132 for such purpose. The board shall cause a system of ac-
133 counting to be installed and maintained to reflect cur-
134 rently and truly all transactions or developments pertain-
135 ing to age of members and eligible dependents surviving
136 deceased members, periods of service and aggregate earn-
137 ings of all members eligible to participate in said fund
138 and any other matter relating to maintenance of said fund
139 or administration thereof, and each year to cause to be
140 made and submitted to each member of said department
141 a statement of the condition of said fund. Costs and ex-
142 penses incurred in making actuarial studies, audits and

143 installations and maintenance of such accounting system
144 shall be paid by the superintendent from funds appropri-
145 ated for operation of the department of public safety.

146 All moneys paid into and accumulated in said death,
147 disability and retirement fund, except such amounts as
148 shall be designated or set aside by the retirement board
149 for payments of death, disability and retirement benefits
150 and awards, shall be invested by the state board of public
151 works in bonds of the government of the United States,
152 the state of West Virginia, or any political subdivision
153 thereof selected or approved by the retirement board.

Sec. 28. Retirement; Awards and Benefits.—(a) The
2 retirement board shall retire any member of the depart-
3 ment of public safety when such member

4 (1) Shall have attained the age of fifty-five years and
5 shall have completed twenty-five years of service as a
6 member of said department, or

7 (2) Has completed twenty-five years of service as a
8 member of said department and shall have attained the
9 age of fifty-five years, or

10 (3) Has attained the age of fifty-five years and shall
11 have completed twenty-five years of service as a member
12 of said department.

13 (b) The retirement board shall retire any member of
14 said department of public safety when such member shall
15 have lodged with the secretary of the retirement board
16 the voluntary petition in writing of such member for re-
17 tirement, and

18 (1) Has or shall have completed not less than twenty-
19 five years of service as a member of said department, or

20 (2) Has or shall have attained the age of fifty years
21 and has or shall have completed not less than twenty
22 years of service as a member of said department, or

23 (3) Being under the age of fifty years has or shall
24 have completed twenty years of service as a member of
25 said department.

26 (c) When the retirement board shall retire any mem-
27 ber under any of the foregoing provisions of this section,
28 said board shall, by order in writing, make an award

29 directing that such member shall be entitled to receive
30 annually and that there shall be paid to such member
31 from the death, disability and retirement fund in equal
32 monthly installments during the natural lifetime of such
33 member while in status of retirement one or the other
34 of two amounts, whichever shall be the greater, namely:

35 (1) Either an amount equal to four per cent of the
36 aggregate of salary paid to such member during the
37 whole period of service as a member of the department
38 of public safety; or

39 (2) When such period of service has or shall have
40 been more than

41 (a) Twenty years but less than twenty-one years, the
42 sum of nine hundred sixty dollars;

43 (b) Twenty-one years but less than twenty-two years,
44 the sum of one thousand eight dollars;

45 (c) Twenty-two years but less than twenty-three
46 years, the sum of one thousand fifty-six dollars;

47 (d) Twenty-three years but less than twenty-four
48 years, the sum of one thousand one hundred four dollars;

49 (e) Twenty-four years but less than twenty-five years,
50 the sum of one thousand one hundred fifty-two dollars;

51 (f) Twenty-five years, the sum of one thousand two
52 hundred dollars.

53 It is provided, however, that when a member has or
54 shall have served twenty years or longer but less than
55 twenty-five years as a member of said department and
56 shall be retired under any of the provisions of this section
57 before he shall have attained the age of fifty years, pay-
58 ment of monthly installments of the amount of retire-
59 ment award to such member shall commence on the date
60 such member shall attain the age of fifty years.

Sec. 28-b. Disability Incurred in Performance of Duty;
2 **Awards and Benefits.**—Any member of said department
3 who has been or shall become physically or mentally
4 permanently disabled by injury, illness or disease re-
5 sulting from any occupational risk or hazard inherent
6 in or peculiar to the services required of members of
7 said department and incurred pursuant to or while such
8 member was or shall be engaged in the performance of

9 his duties as a member of said department shall, if, in
10 the opinion of the retirement board, he is by reason of
11 such cause unable to perform adequately the duties re-
12 quired of him as a member of said department, be re-
13 tired from active service by the retirement board and
14 thereafter such member shall be entitled to receive an-
15 nually and there shall be paid to such member from the
16 death, disability and retirement fund in equal monthly
17 installments during the natural lifetime of such mem-
18 ber or until such disability shall sooner terminate, an
19 amount equal to five per cent of the total salary which
20 would have been earned by him during twenty-five years
21 of service in said department based on his average earn-
22 ings while employed as a member of said department.
23 If such disability shall be permanent and total to the
24 extent that such member is or shall be incapacitated ever
25 to engage in any gainful employment, such member shall
26 be entitled to receive annually and there shall be paid
27 to such member from the death, disability and retirement
28 fund in equal monthly installments during the natural
29 lifetime of such member or until such disability shall
30 sooner terminate, an amount equal to six per cent of
31 the total salary which would have been earned by him
32 during twenty-five years of service in said department
33 based on his average earnings while employed as a mem-
34 ber of said department.

35 The superintendent is authorized to expend moneys
36 from funds appropriated for the department of public
37 safety in payment of medical, surgical, laboratory, X-rays,
38 hospital, ambulance and dental expenses and fees, and
39 reasonable costs and expenses incurred in purchase of
40 artificial limbs and other approved appliances which may
41 be reasonably necessary for any member of said de-
42 partment who has or shall become temporarily, perma-
43 nently or totally disabled by injury, illness or disease
44 resulting from any occupational risk or hazard inherent
45 in or peculiar to the service required of members of
46 said department and incurred pursuant to or while such
47 member was or shall be engaged in the performance of
48 his duties as a member of said department. Whenever
49 the superintendent shall determine that any disabled

50 member is ineligible to receive any of the aforesaid bene-
51 fits at public expense the superintendent shall, at the
52 request of such disabled member, refer such matter to
53 the retirement board for hearing and final decision.

Sec. 28-c. Disability from Other Causes; Awards and
2 **Benefits.**—If any member while in active service of said
3 department has or shall, in the opinion of the retirement
4 board, become permanently disabled to the extent that
5 such member cannot adequately perform the duties re-
6 quired of a member of the department from any cause
7 other than those set forth in the next preceding section
8 and not due to vicious habits, intemperance or willful
9 misconduct on his part, such member shall be retired by
10 the retirement board and, if such member at the time
11 of such retirement under this section, shall have served
12 less than twenty years as a member of said department,
13 such member shall be entitled to receive annually and
14 there shall be paid to such member while in status of
15 retirement, from the death, disability and retirement
16 fund in equal monthly installments during a period
17 equal to one half the time such member has served as a
18 member of said department, a sum equal to four per
19 cent of the total salary which would have been earned by
20 him during twenty-five years of service in said depart-
21 ment based on his average earnings while employed as a
22 member of said department; but if such member, at the
23 time of such retirement under the terms of this section,
24 shall have served twenty years or longer as a member of
25 said department, such member shall be entitled to receive
26 annually and there shall be paid to such member from
27 the death, disability and retirement fund in equal monthly
28 installments, commencing on the date such member shall
29 be retired and continuing during the natural lifetime of
30 such member while in status of retirement, one or the
31 other of the two amounts, based upon either the aggre-
32 gate of salary paid to such member during the whole
33 period of service of such member or the period of twenty
34 years or longer during which such member at the time
35 of such retirement has, or shall have served as a member
36 of said department, whichever shall be the greater, to
37 be determined in the manner provided by paragraphs

38 (1) and (2) of subsection (c) of section twenty-eight
39 of this article.

Sec. 28-f. Death of Member in Performance of Duty; Dependents; Awards and Benefits.—The widow or the children under the age of eighteen years or dependent parent or parents of any member who has lost or shall lose his life by reason of injury, illness or disease resulting from an occupational risk or hazard inherent in or peculiar to the service required of members while such member was or shall be engaged in the performance of his duties as a member of said department or if said member shall die from any cause after having been retired pursuant to the provisions of section twenty-eight-b of this article, shall be entitled to receive and shall be paid from the death, disability and retirement fund benefits as follows: To the widow annually, in equal monthly installments during her lifetime or until her remarriage, an amount equal to two and one-half per cent of the total salary which would have been earned by said deceased member during twenty-five years of service in said department based on his average earnings while employed as a member of said department. In addition thereto such widow shall be entitled to receive and there shall be paid to her thirty dollars monthly for each child until such child shall attain the age of eighteen years. If such widow shall die or remarry or if there be no widow there shall be paid monthly to such child or children from the death, disability and retirement fund the sum of thirty dollars each until such child or children shall respectively attain the age of eighteen years. If there be no widow and no child or children, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a widow, without children, would have received: *Provided*, That when there shall be but one dependent parent surviving, such parent shall be entitled to receive during his or her lifetime one half the amount which both parents, if living, would have been entitled to receive.

Sec. 28-g. Death of Member from Nonservice Connected Causes; Dependents; Awards and Benefits.—In any case where a member while in active service of said department, before having completed twenty years of service as a member of said department, has died or shall die from any cause other than those specified in section twenty-eight-f of this article and not due to vicious habits, intemperance or willful misconduct on his part, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the widow of such member during her natural lifetime or until such time said widow remarries, a sum equal to two per cent of the total salary which would have been earned by said member during twenty-five years of service in said department based on his average earnings while employed as a member of said department. If there be no widow there shall be paid from said fund to each child of said deceased member the sum of thirty dollars monthly until such child or children respectively shall attain the age of eighteen years. If there be no widow and no child or children there shall be paid annually in equal monthly installments from said fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a widow would have been entitled to receive: *Provided*, That when there shall be but one dependent parent surviving then such dependent parent shall be entitled to receive during his or her lifetime one half the amount which both parents, if living, would have been entitled to receive.

Sec. 28-h. Death of Member after Retirement, or after Serving Twenty Years; Dependents; Awards and Benefits.—When any member of said department has heretofore completed or hereafter shall complete twenty years of service or longer as a member of said department and has died or shall die from any cause or causes other than those specified in section twenty-eight-b of this article before having been retired by the retirement board, and when a member in retirement status has died or shall die after having been retired by the retirement board under the provisions of section twenty-eight of this article, there

12 shall be paid annually in equal monthly installments
13 from said fund to the widow of said member, commenc-
14 ing on the date of the death of said member and continu-
15 ing during her lifetime or until her remarriage an amount
16 equal to one half the retirement benefits said deceased
17 member was receiving while in status of retirement, or
18 would have been entitled to receive to the same effect as
19 if such member had been retired under the provisions of
20 section twenty-eight of this article immediately prior to
21 the time of his death; and in addition thereto said widow
22 shall be entitled to receive and there shall be paid to her
23 from said fund the sum of twenty dollars monthly for
24 each child under the age of eighteen years until such
25 child or children respectively shall attain the age of eight-
26 teen years: *Provided*, That no widow of any member who
27 shall die after having been retired by the retirement
28 board shall be entitled to receive any benefits under the
29 terms of this section unless such widow shall have been
30 married to such member during at least one full year
31 prior to the date such member shall have been retired
32 by the retirement board: *And provided further*, That a
33 child born to said dependent wife after such member was
34 placed on retirement shall not be entitled to any benefits
35 nor shall such dependent wife be entitled to receive bene-
36 fits for such child. If such widow shall not be entitled to
37 benefits or shall die or remarry, or if there be no widow
38 there shall be paid monthly from said fund to each child
39 under the age of eighteen years of said deceased member
40 the sum of thirty dollars until such child or children re-
41 spectively attain the age of eighteen years. If there be no
42 widow or no widow eligible to receive benefits and no child
43 or children there shall be paid annually in equal monthly
44 installments from said fund to the dependent parents of
45 said deceased member during their joint lifetimes a sum
46 equal to the amount which a widow without children
47 would have been entitled to receive: *Provided*, That
48 when there shall be but one dependent parent surviving
49 such parent shall be entitled to receive during his or her
50 lifetime one half the amount which both parents, if liv-
51 ing, would have been entitled to receive.

CHAPTER 141

(Senate Bill No. 162—By Mr. Carson, Mr. President,
and Mr. Montgomery)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment of officer in charge of the criminal identification bureau of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Department of Public Safety.

Section

29. Criminal identification bureau; establishment; officer in charge; fingerprinting of persons arrested, etc.; duties of law enforcement officers to furnish information to bureau; failure to make report or perform duties; wilful removal or destruction of record; penalty.

Section 29. Criminal Identification Bureau; Establishment; Officer in Charge; Fingerprinting of Persons Arrested, etc.; Duties of Law Enforcement Officers to Furnish Information to Bureau; Failure to Make Report or Perform Duties; Wilful Removal or Destruction of Records; Penalty.—The superintendent of the department of public safety shall establish, equip, and maintain at the offices of the department located at Charleston, a criminal identification bureau, for the purpose of receiving and filing fingerprints, photographs and other records pertaining to the investigation of crime and the apprehension of criminals, as hereinafter provided. The superintendent shall appoint or designate a regularly enlisted member of the department as officer in charge of the criminal identification bureau and such officer shall be responsible to the

16 superintendent for the affairs of the bureau. Members of
17 the department assigned to the criminal identification
18 bureau shall classify and file fingerprints, compare the
19 fingerprints of persons arrested with those on file and
20 notify the arresting officer if it is found by comparison of
21 fingerprints that any person has a previous criminal
22 record, or is a fugitive from justice. They shall also co-
23 operate with other members of the department of public
24 safety, and all state, county and city law enforcement offi-
25 cials throughout the state in connection with the identifi-
26 cation and apprehension of criminals. Such members shall
27 cooperate with identification bureaus of other states and
28 of the United States to develop and carry on a complete
29 interstate, national and international system of criminal
30 identification. They may furnish copies of the fingerprints
31 of persons arrested in this state to the identification bu-
32 reau of the United States government and to other states
33 for the purpose of ascertaining if such persons have been
34 previously arrested or convicted of crime.

35 (1) Persons in charge of any penal or correctional
36 institution in this state shall take, or cause to be taken,
37 the fingerprints and description of all persons lawfully
38 committed thereto or confined therein and furnish the
39 same in duplicate to the criminal identification bureau,
40 department of public safety at Charleston. Such finger-
41 prints shall be taken on forms approved by the superin-
42 tendent of the department of public safety. All such
43 officials as herein named may, when possible to do so,
44 furnish photographs to the criminal identification bureau
45 of such persons so fingerprinted.

46 (2) Members of the department of public safety, and
47 all other state law enforcement officials, sheriffs, deputy
48 sheriffs, constables, and each and every peace offi-
49 cer in this state, shall take or cause to be taken the
50 fingerprints and description of all persons arrested
51 or detained by them, charged with any crime or offense
52 in this state, in which the penalty provided therefor is
53 confinement in any penal or correctional institution, or
54 of any person who they have reason to believe is a fugi-
55 tive from justice or an habitual criminal, and furnish

56 the same in duplicate to the criminal identification bu-
57 reau, department of public safety, Charleston, on forms
58 approved by the superintendent of said department of
59 public safety. All such officials as herein named may,
60 when possible to do so, furnish to the criminal identifi-
61 cation bureau, photographs of such person so finger-
62 printed. The arresting officer shall submit to the criminal
63 identification bureau, in duplicate, a report of final dispo-
64 sition concerning any case held for court, or in any case
65 in which the disposition thereof has not been previously
66 furnished to said bureau (on the fingerprint record of
67 the person arrested). Such report of final disposition shall
68 be made on forms furnished or approved by the super-
69 intendent of the department of public safety.

70 (3) Any person who has been fingerprinted or photo-
71 graphed in accordance with the provisions of this section,
72 who is acquitted of the charges upon which he or she was
73 arrested, and who has no previous criminal record, may,
74 upon the presentation of satisfactory proof to the super-
75 intendent of the department of public safety, have such
76 fingerprints or photographs, or both, returned to them.

77 (4) Neglect or refusal of any person mentioned in this
78 section to make the report required herein, or to do or
79 perform any act on his or her part to be done or performed
80 in connection with the operation of this section, shall con-
81 stitute a misdemeanor, and such person shall, upon con-
82 viction thereof, be punished by a fine of not less than
83 twenty-five nor more than two hundred dollars, or by
84 imprisonment in the county jail for a period of not ex-
85 ceeding sixty days, or both, in the discretion of the court.
86 Such neglect shall constitute misfeasance in office and
87 subject such person to removal from office. Any person
88 who wilfully removes, destroys, or mutilates any of the
89 records of the department of public safety, shall be guilty
90 of a misdemeanor, and such person shall, upon convic-
91 tion thereof, be punished by a fine not exceeding one hun-
92 dred dollars, or by imprisonment in the county jail for a
93 period of not exceeding six months, or by both, in the dis-
94 cretion of the court.

CHAPTER 142

(House Bill No. 657—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article one, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment, qualification and disqualification of members of the public service commission; the removal from office of such members; and their terms and salaries.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. General Provisions.

Section

2. Appointment, qualification and disqualification of commissioners; removal from office; terms of office; salaries.

Section 2. Appointment, Qualification and Disqualification of Commissioners; Removal from Office; Terms of Office; Salaries.—There shall be a public service commission of West Virginia which by that name may sue and be sued. The commission shall consist of three members who shall be appointed by the governor with the advice and consent of the senate. The commissioners shall be citizens and residents of this state and at least one of them shall be a lawyer of not less than ten years' actual experience at the bar. The terms of each of said commissioners in effect when this section becomes effective are hereby abolished. On said date the governor shall appoint a commissioner to serve for a period of two years, another commissioner to serve for a period of four years, and another commissioner to serve for a period of six years. Every appointment of a commissioner thereafter shall be for a period of six years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each commissioner shall, before entering upon the

20 duties of his office, take and subscribe to the oath provided
21 by section five, article four of the constitution, which oath
22 shall be filed in the office of the secretary of state. The
23 governor shall annually designate one of the commis-
24 sioners as chairman, and may remove any commissioner
25 only for incompetency, neglect of duty, gross immorality
26 or malfeasance in office.

27 No person while in the employ of, or holding any official
28 relation to, any public utility subject to the provisions of
29 this chapter, or holding any stocks or bonds thereof, or
30 who is pecuniarily interested therein, shall serve as a
31 member of the commission or as an employee thereof.
32 Nor shall any such commissioners be a candidate for
33 or hold public office, or be a member of any political com-
34 mittee, while acting as such commissioner; nor shall any
35 commissioner or employee of said commission receive
36 any pass, free transportation or other thing of value,
37 either directly or indirectly, from any public utility sub-
38 ject to the provisions of this chapter. In case any of such
39 commissioners shall become a candidate for any public
40 office or a member of any political committee, his office
41 as commissioner shall be ipso facto vacated.

42 For the administration of this chapter each commis-
43 sioner shall receive a salary of fourteen thousand dollars
44 per annum to be paid in monthly installments from the
45 special fund collected from public utilities under the pro-
46 visions of section six-a, article three, chapter twenty-four
47 of the code of West Virginia.

c

CHAPTER 143

(Senate Bill No. 11—By Mr. Tompos, by request)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article one, chapter thirty-nine of the code
of West Virginia, one thousand nine hundred thirty-one,

as amended, by adding thereto a new section, designated section two-a, relating to the recordation of instruments passing title to real estate or personal property or interest therein or lien thereon, prohibiting the recording of such instruments unless the name of the person preparing same appears on said instrument, and providing exceptions thereto.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section two-a, to read as follows:

Article 1. Authentication and Record of Writings.

Section

2-a. Other requirements for admission to record of certain instruments.

Section 2-a. Other Requirements for Admission to Record of Certain Instruments.—

In addition to the other requirements prescribed by law, no instrument by which the title to real estate or personal property, or any interest therein or lien thereon, is conveyed, created, encumbered, assigned or otherwise disposed of, shall be recorded or admitted to record, or filed by the county clerk unless the name of the person who, and governmental agency, if any, which, prepared such instrument appears at the conclusion of such instrument and such name is either printed, typewritten, stamped, or signed in a legible manner: *Provided*, That the recording or filing of any instrument in violation of the provisions of this section shall not invalidate or cloud the title passing by or under such instrument or affect the validity of such instrument in any respect whatever, and such recorded or filed instrument shall constitute notice with like effect as if such instrument fully complied with the provisions of this section. An instrument will be in compliance with this section if it contains a statement in the following form: "This instrument was prepared by (name)."

This section does not apply to any instrument executed prior to the effective date hereof; to any decree, order, judgment or writ of any court; to any will or death certificate; to any financing, continuation or termination

26 statement permitted to be filed under chapter forty-six
27 of this code; or to any instrument executed or acknowl-
28 edged outside of this state.

CHAPTER 144

(House Bill No. 654—By Mr. Speaker, Mr. White)

[Passed February 18, 1965: in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section two, article two, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to registration and certificates of recordation of labels, trade-marks, terms, designs, devices or forms of advertisement within the state of West Virginia, and authorizing the reservation of a label, trade-mark, term, design, device or form of advertisement for a period of time prior to the registration thereof.

Be it enacted by the Legislature of West Virginia:

That section two, article two, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Trade-marks in General.

Section

2. Registration; certificates of recordation.

Section 2. Registration; Certificates of Recordation.—

2 Every such person, firm, corporation, association or union
3 that has heretofore adopted or used, or shall hereafter
4 adopt or use, a label, trade-mark, term, design, device or
5 form of advertisement as provided in the preceding sec-
6 tion may register the same by filing the same for record
7 in the office of the secretary of state by leaving two copies,
8 counterparts or facsimiles thereof, with said secretary
9 and by filing therewith a sworn application specifying
10 the name or names of the person, firm, corporation, associ-

11 ation or union on whose behalf such label, trade-mark,
12 term, design, device or form of advertisement shall be
13 filed, the class of merchandise and a description of the
14 goods to which it has been or is intended to be appropri-
15 ated, stating that the party so filing, or on whose behalf
16 such label, trade-mark, term, design, device or form of
17 advertisement shall be filed, has the right to the use of the
18 same, that no other person, firm, association, union or cor-
19 poration has the right to such use, either in the identical
20 form or in any such near resemblance thereto as may be
21 calculated to deceive, and that the facsimiles or counter-
22 parts filed therewith are true and correct. The person,
23 firm, corporation, association or union may reserve such
24 label, trade-mark, term, design, device or form of adver-
25 tisement by making application in writing to the secre-
26 tary of state prior to the formal filing with the secretary
27 of state for a period of sixty days if the label, trade-mark,
28 term, design, device or form of advertisement has not
29 been previously reserved or registered. The aforesaid
30 sixty-day period may be extended for an additional thirty-
31 day period upon written application to the secretary of
32 state prior to the expiration of the original sixty-day
33 period. The secretary of state shall deliver to such per-
34 son, firm, corporation, association, or union, so filing or
35 causing to be filed any such label, trade-mark, term, de-
36 sign, device or form of advertisement, so many duly
37 attested certificates of the recording of the same as such
38 person, firm, corporation, association or union may apply
39 for, for each of which certificates said secretary shall re-
40 ceive a fee of five dollars. Any such certificates of record
41 shall in all suits and prosecutions under this article be
42 sufficient proof of the adoption and registry of such label,
43 trade-mark, term, design, device or form of advertisement.
44 The secretary of state shall not record for any person,
45 firm, corporation, union or association, any label, trade-
46 mark, term, design, device or form of advertisement, that
47 would probably be mistaken for any label, trade-mark,
48 term, design, device or form of advertisement theretofore
49 filed by or on behalf of any other person, firm, corpora-
50 tion, union or association.

CHAPTER 145

(Com. Sub. for House Bill No. 841—By Mr. Schupbach
and Mr. Lohr)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to repeal article fourteen, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article fourteen of said chapter, relating to the regulation of payments made under pre-need burial contracts.

Be it enacted by the Legislature of West Virginia:

That article fourteen, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article fourteen of said chapter be enacted in lieu thereof, to read as follows:

Article 14. Pre-Need Burial Contracts.

Section

1. Legislative finding.
2. Pre-need contracts; money paid thereunder to be deposited within ten days.
3. Funds shall remain on deposit unless withdrawn by purchaser.
4. Payment of funds by bank, trust company, or savings and loan association.
5. Expenses in custody and administration of funds.
6. Forfeiture of payments.
7. Provisions of this article cannot be waived by contract.
8. Examination of deposits.
9. Article not applicable to sale of lots, graves, mausoleums, or monuments.
10. Penalties; jurisdiction.
11. Additional remedies.
12. Constitutionality.

Section 1. Legislative Finding.—It is hereby determined and declared as a matter of legislative finding

2
3 (a) that the public has a vital interest in proper dis-
4 position of deceased persons; (b) that pre-need contracts
5 for furnishing of burial merchandise and services re-
6 lating to the embalming, cremation or other services
7 associated with the actual interment of dead human
8 bodies, wherein delivery or performance is not immedi-
9 ately required, is a proper subject for the exercise of

10 the police powers of this state; and (c) that the proper
11 exercise of such police powers is regulatory rather than
12 prohibitory.

Sec. 2. Pre-Need Contracts; Money Paid Thereunder
2 **to Be Deposited within Ten Days.**—Any person, associa-
3 tion, partnership, firm or corporation who shall receive
4 any money under any agreement, contract or plan en-
5 tered into after the effective date of this article, for the
6 final disposition of a deceased person, or for the embalm-
7 ing, cremation or other services relating to the actual in-
8 terment of a dead human body, or for funeral or burial
9 services, or for the furnishing of funeral or burial mer-
10 chandise, including vaults and other outside burial re-
11 ceptacles, wherein the said embalming, cremation or other
12 services or the delivery of funeral or burial merchandise
13 or the furnishing of professional services by a funeral
14 director or embalmer or both is not immediately required
15 but shall be required at an undetermined future time, is
16 hereby declared to be trustee thereof, and shall deposit
17 any and all such money paid thereunder in a bank, trust
18 company, or savings and loan association, insured by an
19 agency of the United States federal government, and
20 which is authorized to do business in this state, and sub-
21 ject to the terms of the said agreement, contract or plan
22 for the benefit of the purchaser of the same, or of a
23 third party beneficiary of the purchaser's designation,
24 which are not inconsistent with the provisions of this
25 article. Said agreement, contract or plan shall be re-
26 corded within ten days in the office of the clerk of the
27 county court in the county of residence of the purchaser.

28 All such money shall be so deposited within ten days
29 of payment, and shall be held by such bank, trust com-
30 pany or savings and loan association in a separate
31 interest-bearing account in the name of the trustee, as
32 trustee, and shall be held in trust subject to the provisions
33 of this article. The trustee at the time of making de-
34 posit shall furnish to the depository the name of each
35 payor, and the amount of payment on each such account
36 for which deposit is being so made. Said trustee shall file
37 with the clerk of the county court in which said county

38 the trustee is doing business a blanket corporate surety
39 bond on or before the tenth day of January of each year,
40 in an amount sufficient to cover all contracts then of
41 record.

Sec. 3. Funds Shall Remain on Deposit unless With-
2 **drawn by Purchaser.**—All payments made under said
3 agreement, contract or plan and any earnings or interest
4 thereon shall remain with such bank, trust company, or
5 savings and loan association until the death of the person
6 for whose funeral or burial the funds were paid:
7 *Provided*, That said funds shall be released to the pur-
8 chaser of the merchandise or services under said agree-
9 ment, contract or plan, who shall be entitled to receive
10 the same, or his or her legal representative, at any time,
11 upon written demand upon said bank, trust company,
12 or savings and loan association and upon ten days' notice,
13 in writing, to the other party to the agreement: *Pro-*
14 *vided further*, That if the agreement, contract or plan
15 provided for forfeiture and retention of any or all pay-
16 ments by reason of default in payment upon and accord-
17 ing to the terms thereof, then upon any such default
18 and forfeiture the trustee may withdraw such deposits:
19 *And provided further*, That nothing herein contained pro-
20 hibits the change of depository by the trustee and the
21 transfer of trust funds from one depository to another.

Sec. 4. Payment of Funds by Bank, Trust Company, or
2 **Savings and Loan Association.**—If any balance remains
3 in said account upon the death of the purchaser or third
4 party beneficiary, as the case may be, the same shall
5 not be paid by such bank, trust company or savings and
6 loan association, to the trustee until the expiration of at
7 least ten days after the death of the purchaser or other
8 beneficiary for whom such funds were deposited. Such
9 funds shall not be paid by said bank, trust company or
10 savings and loan association until a certified copy of the
11 death certificate of such person shall have been furnished
12 to said bank, trust company or savings and loan associ-
13 ation. The payment of such funds and accumulated inter-
14 est shall relieve the bank, trust company or savings and
15 loan association of any further liability for such funds

16 or interest. Any balance remaining in said fund after
17 payment for the merchandise and services as set forth
18 in said agreement, contract, or plan shall inure to the
19 benefit of the estate of the purchaser or other beneficiary,
20 as the case may be, under said agreement, contract, or
21 plan, and shall be paid over to the estate by the trustee,
22 aforesaid.

**Sec. 5. Expenses in Custody and Administration of
2 Funds.**—This shall not be construed to prohibit the
3 trustee and trustee's depository from being reimbursed
4 and receiving from such funds their reasonable expenses
5 in the custody and administration of such funds and the
6 usual and reasonable compensation for their services as
7 such trustee and trustee's depository: *Provided*, That the
8 combined expenses and compensation shall not exceed
9 the total of five per cent of the principal fund and five
10 per cent of the earnings of the fund so deposited under
11 each such agreement, contract or plan.

Sec. 6. Forfeiture of Payments.—It is unlawful for
2 any such agreement, contract or plan to provide for for-
3 feiture and retention of payments upon any such agree-
4 ment, contract or plan as and for liquidated damages for
5 default therein in excess of twenty-five per cent of the
6 payments made or thirty-five dollars whichever sum is
7 the larger.

**Sec. 7. Provisions of This Article Cannot Be Waived
2 by Contract.**—Any provision of any such agreement or
3 contract whereby a person who pays money under or in
4 connection therewith waives any provision of this article
5 shall be void.

Sec. 8. Examination of Deposits.—All accounts of
2 money deposited in any bank, trust company or savings
3 and loan association in accordance with the provision
4 of this article shall be subject to periodic examination
5 under the supervision of the department of banking of
6 this state.

**Sec. 9. Article Not Applicable to Sale of Lots, Graves,
2 Mausoleums, or Monuments.**—This article shall not ap-
3 ply to the sale of lots, graves, mausoleums, or monu-
4 ments.

Sec. 10. Penalties; Jurisdiction.—Every person who
2 shall violate any provision of this article shall be deemed
3 guilty of a misdemeanor, and, upon conviction, shall be
4 fined not less than one hundred dollars nor more than
5 five hundred dollars or shall be imprisoned for not less
6 than ten days nor more than ninety days, or both. There
7 shall be a separate fine and/or imprisonment for each
8 violation of this article. Justices of the peace shall have
9 concurrent jurisdiction with the circuit, criminal, and
10 intermediate courts to enforce the misdemeanor penalties
11 of this article.

Sec. 11. Additional Remedies.—In addition to other
2 remedies, an action of injunction may be brought and
3 maintained by the state of West Virginia to enjoin the
4 violation of this article.

Sec. 12. Constitutionality.—The provisions of this ar-
2 ticle shall be separable, and in case any provision or
3 part thereof shall be held to be unconstitutional or invalid
4 for any reason, the same shall not be held to affect any
5 other paragraph, provision or part of this article.

CHAPTER 146

(Senate Bill No. 151—By Mr. Carson, Mr. President,
and Mr. Moreland)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section four-a, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payment of moving expenses of certain state road commission employees and their families, and providing for the payment of reasonable travel expenses of prospective employees who are interviewed concerning possible employment.

Be it enacted by the Legislature of West Virginia:

That section four-a, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2-a. State Road Commissioner.**Section**

4-a. Payment of reasonable traveling expenses of prospective employees and moving expenses of new and transferred employees.

Section 4-a. Payment of Reasonable Traveling Expenses of Prospective Employees and Moving Expenses of New and Transferred Employees.—In addition to the other powers given and assigned to him in this chapter, the commissioner may authorize the payment of:

(1) The reasonable traveling expenses incurred by any person he requests to visit his office to be interviewed concerning the possible employment of such person by the state road commission;

(2) All or part of the reasonable expense incurred by a person newly employed by the commission in moving his household furniture, effects and immediate family to his place of employment;

(3) All or part of the reasonable expense incurred by a technical or supervisory employee of the commission, but excluding all employees at the county level, in moving his household furniture, effects and immediate family as a result of a reassignment of the employee which is considered desirable, advantageous to and in the best interests of the state: *Provided*, That no part of the moving expenses of any one such employee shall be paid more frequently than once in twelve months.

The expenditures for such payments shall be made from the state road fund, and shall be a cost of administration of said commission.

CHAPTER 147

(Senate Bill No. 26—By Mr. Carson, Mr. President,
and Mr. Barnett)

[Passed February 16, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article three, chapter seventeen of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, and to provide for inclusion in the state road fund of the proceeds derived from the issuance and sale of road bonds pursuant to the constitutional amendment adopted by the people at the general election held in the month of November, one thousand nine hundred sixty-four.

Be it enacted by the Legislature of West Virginia:

That section one, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. State Road Fund.

Section

1. State road fund.

Section 1. State Road Fund.—There shall be a state
2 road fund, which shall consist of the proceeds of all state
3 license taxes imposed upon automobiles or other motor
4 or steam driven vehicles; the registration fees imposed
5 upon all owners, chauffeurs, operators and dealers in
6 automobiles or other motor driven vehicles; all sums of
7 money which may be donated to such fund; all proceeds
8 derived from the sale of state bonds issued pursuant to
9 any resolution or act of the Legislature carrying into
10 effect the "Better Roads Amendment" to the constitu-
11 tion of this state, adopted in the month of November, one
12 thousand nine hundred sixty-four, except that the pro-
13 ceeds from the sale of these bonds shall be kept in a
14 separate and distinct account in the state road fund; all
15 moneys and funds appropriated to it by the Legislature;
16 and all moneys allotted or appropriated by the federal
17 government to this state for road construction and mainte-
18 nance pursuant to any act of the Congress of the United
19 States; the proceeds of all taxes imposed upon and col-
20 lected from any person, firm or corporation and of all
21 taxes or charges imposed upon and collected from any
22 county, district or municipality for the benefit of such
23 fund; the proceeds of all judgments, decrees or awards
24 recovered and collected from any person, firm or corpora-
25 tion for damages done to, or sustained by, any of the state
26 roads or parts thereof; all moneys recovered or received
27 by reason of the violation of any contract respecting the

28 building, construction or maintenance of any state road;
29 all penalties and forfeitures imposed, recovered or re-
30 ceived by reason thereof; and any and all other moneys
31 and funds appropriated to, imposed and collected for the
32 benefit of such fund, or collected by virtue of any statute
33 and payable to such fund.

34 When any money is collected from any of the sources
35 aforesaid, it shall be paid into the state treasury by the
36 officer whose duty it is to collect and account for the same,
37 and credited to the state road fund, and shall be used
38 only for the purposes named in this chapter, that is to
39 say: (a) To pay the principal and interest due on all state
40 bonds issued for the benefit of said fund, and set aside
41 and appropriated for that purpose; (b) to pay the ex-
42 penses of the administration of the road department; (c)
43 to pay the cost of maintenance, construction, reconstruc-
44 tion and improvement of all primary roads; (d) to pay
45 the cost, maintenance, construction, reconstruction and
46 improvement of all secondary roads.

c

CHAPTER 148

(Com. Sub. for Senate Bill No. 28—By Mr. Carson, Mr. President,
and Mr. Barnett)

[Passed February 26, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-a, to provide that the governor shall cause an annual audit to be made of the expenditures of revenue derived from the sale of road bonds issued under authority of the constitutional amendment adopted by the people in November, one thousand nine hundred sixty-four.

Be it enacted by the Legislature of West Virginia:

That article three, chapter seventeen of the code of West

Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one-a, to read as follows:

Article 3. State Road Fund.

Section

- 1-a. Annual audit of expenditure of funds derived from bonds issued under better roads amendment.

Section 1-a. Annual Audit of Expenditure of Funds

2 **Derived from Bonds Issued under Better Roads Amend-**
3 **ment.**—The governor shall cause an annual audit to be
4 made of the books, accounts and records relating to the
5 expenditures for the building and construction of state
6 roads and highways derived from the revenue of the two
7 hundred million dollar road bond issue, known as the
8 “Better Roads Amendment.” The state road commissioner
9 shall make available to the persons performing such audit
10 its books, accounts and records pertaining to funds ex-
11 pended or obligated for the building and construction of
12 state roads and highways wherein such building and con-
13 struction is programmed from the funds made available
14 under the two hundred million dollar road bond issue.
15 The persons performing such audit shall make available
16 annually the audit reports with copies thereof to the
17 Legislature, the state road commissioner, the secretary of
18 state, the state treasurer, the attorney general, and the
19 state auditor; and the audit report shall be available to the
20 public, in the office of the secretary of state.

21 The governor may obtain the services of a resident
22 certified public accountant or resident public accountant
23 for this purpose or may request that said audit be made
24 by the legislative auditor of the state of West Virginia, but
25 in no event shall the cost of said audit exceed the sum of
26 fifteen thousand dollars annually, which shall be payable
27 out of the state road fund, provided no such payment
28 shall be made to the legislative auditor for services
29 rendered hereunder.

CHAPTER 149

(Senate Bill No. 27—By Mr. Carson, Mr. President,
and Mr. Barnett)

[Passed February 16, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to provide for the re-evaluation of the state road commission's construction and reconstruction program for the fiscal year one thousand nine hundred sixty-four—sixty-five, and to change from the first day of July of each year to the first day of January of each year the time for the state road commissioner to ascertain and determine the total amount of funds available for road construction and reconstruction for the next succeeding fiscal year; and for the submission of a budget to the appropriate authority by the state road commissioner.

Be it enacted by the Legislature of West Virginia:

That section six, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. State Road Fund.

Section

6. Apportionment of state road fund for construction and reconstruction purposes; reserve fund; budget request; appropriation of funds.

Section 6. Apportionment of State Road Fund for Construction and Reconstruction Purposes; Reserve Fund; Budget Request; Appropriation of Funds.—On or before the first day of January of each year the state road commissioner shall ascertain and determine the total amount of available funds for expenditure in the whole state for the construction and reconstruction of state roads for the succeeding fiscal year, and shall also submit such determination of available funds together with the proposed expenditure thereof as a part of his budget request for such succeeding fiscal year: *Provided*, That for the fiscal year one thousand nine hundred sixty-four—sixty-five, the

13 commissioner may re-evaluate the funds available for ex-
14 penditure for the building and construction of state roads
15 and may present such re-evaluation to the board of public
16 works for inclusion in the budget of the state road com-
17 mission as a supplemental and deficiency appropriation.
18 Of the amount so ascertained the commissioner may set
19 aside as a "reserve fund" not to exceed twenty per cent
20 thereof, to be used and expended by him in his discretion
21 in making desirable connections or economizing in con-
22 struction.

23 All moneys received from the federal government for
24 road construction shall be expended as provided, or as
25 may hereafter be provided by act of Congress.

26 If at the end of any annual period, any money in the
27 reserve fund remains unexpended or unappropriated, it
28 shall be placed in the general fund for reserve and dis-
29 tribution during the next annual period.

30 The remaining eighty per cent, or, if such reserve fund
31 is not set aside, then all the funds shall be appropriated
32 in the following order and preference:

33 (1) For the construction, reconstruction, maintenance
34 of the primary roads, and to comply with the require-
35 ments for the receipt of aid from the federal government;

36 (2) For the maintenance of all secondary roads, as pro-
37 vided in section six-a of this article;

38 (3) For the construction and reconstruction of the sec-
39 ondary roads as prescribed in section six-a of this article.

— c —

CHAPTER 150

(Senate Bill No. 87—By Mr. Carson, Mr. President,
and Mr. Porter)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article three, chapter seventeen of the code
of West Virginia, one thousand nine hundred thirty-one,
as amended, by adding thereto a new section, designated
section six-b, relating to construction, reconstruction, re-

pair and maintenance of roads by the state road commissioner and the county courts on a matching fund basis.

Be it enacted by the Legislature of West Virginia:

That article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section six-b, to read as follows:

Article 3. State Road Fund.

Section

6-b. Matching funds with counties for construction, reconstruction, repair and maintenance of secondary roads, access and other roads.

Section 6-b. Matching Funds with Counties for Construction, Reconstruction, Repair and Maintenance of Secondary Roads, Access and Other Roads.—When the state road commissioner determines that there are funds available for the purpose of participating, on a matching fund basis, with the county court of one or more counties for the construction, reconstruction, repair and maintenance of any secondary roads within said county or counties, he shall in his discretion determine the amount the county court must deposit or place in escrow for matching purposes before the state road commissioner will commit any funds to a proposed project.

Nothing in this section shall be construed to alter or change in any way the allotment of funds for secondary roads as provided by section six-a of this article: *Provided, however,* That the secondary road fund of the county or counties participating under this section shall be charged with the amount advanced by the state road commissioner.

CHAPTER 151

(House Bill No. 755—By Mr. McCoy)

[Passed March 10, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article twenty-four, chapter seventeen of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, authorizing the West Virginia historic commission to publish a West Virginia highway marker booklet.

Be it enacted by the Legislature of West Virginia:

That section three, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 24. West Virginia Historic Commission.

Section

3. Powers and duties of commission; assistance of state road commissioner; acceptance of gifts, donations, contributions, bequests or devises; publishing marker booklet.

Section 3. Powers and Duties of Commission; Assistance of State Road Commissioner; Acceptance of Gifts, Donations, Contributions, Bequests or Devises; Publishing Marker Booklet.—The commission shall be authorized and empowered to purchase new road markers, replace old road markers, protect, preserve and display the Fairfax stones, purchase markers for new highways, and, with the consent of the West Virginia turnpike commission, for the West Virginia turnpike; and formulate and write appropriate copy for such markers. The commission is authorized to purchase markers from any commercial company dealing in or manufacturing such markers. The commission shall choose the location of such historic road markers, and the state road commissioner shall have the responsibility for the actual physical placement and repainting thereof. The cost of such placement and repainting shall be paid out of the appropriation of the commission.

The commission shall also be authorized and empowered, acting through its executive officer and with the consent of the governor, to accept and receive gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, or any interest in such property, and said commission may accept, receive and administer same subject to any terms, limitations, or restrictions placed thereupon by the donor.

The commission is further authorized to publish and revise from time to time a booklet entitled "West Vir-

29 ginia Historic and Scenic Highway Markers," or any other
30 document which the commission deems to be consistent
31 with their powers and duties. The commission may es-
32 tablish a reasonable price for, and distribute and/or sell
33 said booklet. Any moneys derived from the sale of said
34 booklet shall be deposited in the special fund hereinafter
35 created.

CHAPTER 152

(Senate Bill No. 30—By Mr. Carson, Mr. President,
and Mr. Barnett)

[Passed February 16, 1965; in effect from passage. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor of bonds of the state of West Virginia in an amount not exceeding twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-five, and in an amount not exceeding twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-six, for the sole purpose of raising funds for the building and construction of free state roads and highways as provided for by the constitution and the laws enacted thereunder; specifying the powers of and limitations upon the governor in the issuance and sale of such bonds; prescribing the duties of the auditor and treasurer with respect to such bonds; providing for transfer and registration fees with respect to registered bonds and the disposition of such fees; providing for places of payment of principal and interest on such bonds; exempting such bonds from taxation by the state, or by any county, district, or municipality thereof; setting forth the form of coupon and registered bonds and coupons; stating what moneys shall be paid into the state road sinking fund; providing for the disposition and investment of the state road sinking fund; providing a covenant between the state and the bondholders; providing that the proceeds from the sale of the bonds shall be paid into a separate and distinct account in the state road fund and for expenditures from such ac-

count; providing that the plates, etc., from which the bonds are produced or made shall be the property of the state; providing for interim certificates in lieu of permanent bonds; and declaring that all necessary expenses incurred in the execution of the act shall be paid out of the state road fund on warrants of the auditor drawn on the state treasurer.

Be it enacted by the Legislature of West Virginia:

Issuance and Sale of Road Bonds

Section

1. Road bonds; amount; when may issue.
2. Transfer fee; registration fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund sources used to pay bonds and interest; investment of remainder.
7. Covenants of state.
8. Sale by governor; minimum price.
9. Proceeds paid into separate account in state road fund; expenditures.
10. Plates, etc., property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Section 1. Road Bonds; Amount; When May Issue.—

2 Bonds of the state of West Virginia of the par value
 3 not to exceed twenty million dollars during the fiscal
 4 year ending June thirtieth, one thousand nine hundred
 5 sixty-five, and of the par value not to exceed twenty
 6 million dollars during the fiscal year ending June thir-
 7 tieth, one thousand nine hundred sixty-six, are hereby
 8 authorized to be issued and sold for the sole purpose of
 9 raising funds for the building and construction of free
 10 state roads and highways as provided for by the constitu-
 11 tion and the laws enacted thereunder. Such bonds may
 12 be issued by the governor in such amounts, in coupon or
 13 registered form, in such denominations, at such time and
 14 bearing such date or dates as the governor may deter-
 15 mine, based upon an examination of the state road com-
 16 mission's yearly program which justifies the issuance by
 17 the governor of said bonds, and shall become due and
 18 payable serially in equal amounts beginning one year
 19 and ending twenty-five years from the date thereof:
 20 *Provided*, That such bonds shall not be issued and sold

21 in any one fiscal year in an aggregate amount exceeding
22 twenty million dollars.

Sec. 2. Transfer Fee; Registration Fee; Where Payable; Interest Rate; Tax Exempt.—The auditor and the treasurer are hereby authorized to arrange for the transfer of registered bonds and for each such transfer a fee of fifty cents shall be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. Bonds taken in exchange shall be cancelled by the auditor and treasurer and be carefully preserved by the treasurer. The treasurer shall make provisions for registering “payable to bearer” bonds, and for each bond registered a fee of fifty cents shall likewise be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. All such bonds shall be payable at the office of the treasurer of the state of West Virginia, or, at the option of the holder, at some bank in the city of New York to be designated by the governor. The bonds shall bear interest at a rate not exceeding four and one-half per cent per annum, payable semi-annually, to bearer, at the office of the treasurer of the state of West Virginia, at the capitol of the state, or at the bank designated by the governor, upon presentation and surrender of interest coupons, then due, in the case of coupon bonds. For the payment of interest on registered bonds, the treasurer of the state of West Virginia shall requisition a warrant from the auditor of the state to be drawn on the state treasurer, and shall mail such warrant to the registered owner at the address as shown by the record of registration. Both the principal and interest of the bonds shall be payable in lawful money of the United States of America and the bonds shall be exempt from taxation by the state of West Virginia, or by any county, district, or municipality thereof, which facts shall appear on the face of the bonds as part of the contract with the holder thereof.

Sec. 3. Form of Bond.—The bonds shall be signed on behalf of the state of West Virginia, by the treasurer thereof, under the great seal of the state, and countersigned by the auditor of the state, and shall be in the

5 following form or to the following effect, as nearly as may
6 be, namely:

7 COUPON ROAD BOND
8 (Or registered road bond, as the case may be)
9 OF THE
10 STATE OF WEST VIRGINIA

11 \$..... No.....

12 The state of West Virginia, under and by virtue of
13 authority of an amendment to the constitution, which
14 was proposed by House Joint Resolution No. 10, adopted
15 the seventh day of March, one thousand nine hundred
16 sixty-three, and was ratified by a vote of the people at
17 the general election on the third day of November, one
18 thousand nine hundred sixty-four, which is hereby made
19 a part hereof as fully as if set forth at length herein,
20 acknowledges itself to be indebted to and hereby prom-
21 ises to pay to the bearer hereof (in case of a coupon bond)
22 or to or assigns (the owner of record, in
23 case of registered bonds) on the day of,
24 19....., in lawful money of the United States of America
25 at the office of the treasurer of the state of West Virginia
26 at the capitol of said state, or at the option of the holder
27 at, bank in the city of New York, the sum
28 of dollars, with interest thereon at percentum
29 per annum from the date, payable semi-annually in like
30 lawful money of the United States of America at the
31 treasurer's office or bank aforesaid, on the first day of
32 and the first day of of each year,
33 (and in the case of coupon bonds) according to the tenor
34 of the annexed coupons bearing the facsimile signature
35 of the treasurer of the state of West Virginia, upon sur-
36 render of such coupons. This bond (in case of a coupon
37 bond) may be exchanged for a registered bond of like
38 tenor upon application to the treasurer of the state of
39 West Virginia.

40 To secure the payment of the principal and interest of
41 this bond, the state of West Virginia covenants and agrees
42 with the holder as follows: (1) That this bond shall con-
43 stitute a direct and general obligation of the state of West
44 Virginia; (2) that the full faith and credit of the state is
45 pledged to secure the payment of the principal and inter-

46 est of this bond; (3) that an annual state tax shall be
 47 collected in an amount sufficient to pay as it may accrue
 48 the interest on this bond and the principal thereof; and
 49 (4) that such tax shall be levied in any year only to the
 50 extent that the moneys in the state road fund irrevocably
 51 set aside and appropriated for and applied to the payment
 52 of the interest on and principal of this bond becoming due
 53 and payable in such year are insufficient therefor.

54 This bond is hereby made exempt from any taxation
 55 by the state of West Virginia, or by any county, district,
 56 or municipal corporation thereof.

57 In testimony whereof, witness the signature of the
 58 treasurer of the state of West Virginia, and the counter-
 59 signature of the auditor of the state, hereto affixed accord-
 60 ing to law, dated the _____ day of _____, one
 61 thousand nine hundred _____, and the seal of the
 62 state of West Virginia.

63 (SEAL)

64

Treasurer of the State of West Virginia

65

66 Countersigned:

67

Auditor of the State of West Virginia

68

Sec. 4. Form of Coupon.—The form of coupon shall be
 2 substantially as follows, to-wit:

2

3

STATE OF WEST VIRGINIA

4

Bond No. _____ Coupon No. _____

5

6

7

8

9

10

11

12

13

Treasurer of the State of West Virginia

14

15

16

17

The signature of the treasurer to such coupon shall be
 by his facsimile signature and the coupons shall be
 numbered in the order of their maturity, from number
 one consecutively. The bonds and coupons may be signed

18 by the present treasurer and auditor, or by any of their
19 respective successors in office, and the bonds signed by
20 the persons now in the office may be sold by the governor
21 or his successor in office without being signed by the suc-
22 cessor in office of the present treasurer or auditor.

Sec. 5. Listing by Auditor.—All coupons and registered
2 bonds issued under this act shall be separately listed by
3 the auditor of the state in books provided for the purpose,
4 in each case giving the date, number, character and
5 amount of obligations issued, and in case of registered
6 bonds, the name and postoffice address of the person, firm
7 or corporation registered as the owner thereof.

**Sec. 6. State Road Sinking Fund Sources Used to Pay
2 Bonds and Interest; Investment of Remainder.**—Into the
3 state road sinking fund there shall be paid all money
4 from any and all appropriations made by the state from
5 the state road fund for the purpose of paying the interest
6 on such bonds or paying off and retiring the bonds, from
7 transfer and registration fees as herein provided, and from
8 any other source whatsoever which is made liable by law
9 for the payment of the principal of such bonds or the
10 interest thereon.

11 All such funds shall be kept by the treasurer in a
12 separate account, under the designation aforesaid, and all
13 money belonging to the fund shall be deposited in the
14 state treasury to the credit thereof.

15 Such fund shall be applied by the treasurer of the state
16 first to the payment of the semi-annual interest on such
17 bonds as it shall become due as herein provided. The
18 remainder of the fund shall be turned over by the state
19 treasurer to the state sinking fund commission, whose
20 duty it shall be to invest the same in obligations of the
21 government of the United States, bonds of the state of
22 West Virginia, or any political subdivision thereof: *Pro-*
23 *vided*, That bonds or other obligations so purchased by the
24 state sinking fund commission shall mature so as to pro-
25 vide sufficient money to pay off all bonds herein provided
26 to be issued as they become due; and the money so paid
27 into the state road sinking fund under the provisions of
28 this act shall be expended for the purpose of paying the

29 interest and principal of the bonds hereby provided for
30 as they severally become due and payable and for no
31 other purpose except that the fund may be invested until
32 needed, as herein provided.

Sec. 7. Covenants of State.—The state of West Virginia
2 covenants and agrees with the holders of the bonds issued
3 pursuant hereto as follows: (1) That such bonds shall con-
4 stitute direct and general obligation of the state of West
5 Virginia; (2) that the full faith and credit of the state
6 is hereby pledged to secure the payment of the principal
7 and interest of such bonds; (3) that an annual state tax
8 shall be collected in an amount sufficient to pay as it may
9 accrue the interest on such bonds and the principal
10 thereof; and (4) that such tax shall be levied in any year
11 only to the extent that the moneys in the state road fund
12 irrevocably set aside and appropriated for and applied
13 to the payment of the interest on and principal of said
14 bonds becoming due and payable in such year are insuffi-
15 cient therefor.

Sec. 8. Sale by Governor; Minimum Price.—The gov-
2 ernor shall sell the bonds herein authorized at such time
3 or times as he may determine necessary to provide funds
4 for the building and construction of free state roads and
5 highways, as herein provided, upon the recommendation of
6 the state road commissioner, and after reviewing the pro-
7 gram of the state road commission and subject to the
8 limitations contained in section one hereof. All sales shall
9 be at not less than par and accrued interest. All interest
10 coupons becoming payable prior to the sale date shall be
11 cancelled by the treasurer and rendered ineffective, be-
12 fore the delivery of the bonds so sold.

**Sec. 9. Proceeds Paid into Separate Account in State
2 Road Fund; Expenditures.**—The proceeds of all sales of
3 bonds herein authorized shall be paid into a separate and
4 distinct account in the state road fund, and shall be used
5 and appropriated solely for the building and construction
6 of free state roads and highways provided for by the state
7 constitution and the laws enacted thereunder. Except for
8 such sums necessary for current operating balances, such
9 account shall be invested and re-invested in short-term

10 obligations of the United States treasury: *Provided*, That
11 no such investment or re-investment shall adversely affect
12 the current operating balances of such account.

Sec. 10. Plates, etc., Property of State.—The plates,
2 casts, dies or other forms from which the bonds author-
3 ized by this act are produced or made shall be the prop-
4 erty of the state of West Virginia.

Sec. 11. Auditor to Be Custodian of Unsold Bonds.—
2 The state auditor shall be the custodian of all unsold
3 bonds issued pursuant to the provisions of this act.

Sec. 12. Interim Certificates.—The governor may au-
2 thorize the issuance of interim certificates to be issued
3 to the purchasers of such bonds to be held by them in
4 lieu of permanent bonds. When interim certificates are
5 so issued, they shall become full and legal obligations of
6 the state of West Virginia under all of the provisions of
7 this act just as fully and completely as the permanent
8 bonds.

Sec. 13. Payment of Expenses.—All necessary expenses
2 incurred in the execution of this act shall be paid out
3 of the state road fund on warrants of the auditor of the
4 state drawn on the state treasurer.

CHAPTER 153

(Senate Bill No. 78—By Mr. Davis)

[Passed February 17, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article eleven, chap-
ter eleven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the imposition
of inheritance and transfer taxes.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven, chapter eleven of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted to read as follows:

Article 11. Inheritance and Transfer Taxes.**Section**

1. When imposed.

Section 1. When Imposed.—A tax, payable into the treasury of the state, shall be imposed upon the transfer, in trust, or otherwise, of any property, or interest therein, real, personal, or mixed, if such transfer be: (a) By will or by laws of this state regulating descent and distribution from any person who is a resident of the state at the time of his death and who shall die seized or possessed of property; (b) by will or by laws regulating descent and distribution of property within the state, or within its taxing jurisdiction, and the decedent was a nonresident of the state at the time of his death; (c) by a resident, or by a nonresident owning taxable property within the state or within its jurisdiction, by deed, grant, sale or gifts, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, or where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor, or donor, by reason of any power reserved to, or conferred upon, the grantor, vendor, or donor, either solely or in conjunction with any person, or persons, to alter, or to amend, or to revoke any transfer, or any portion thereof, as to the portion remaining at the time of death of the grantor, vendor, or donor, thus subject to alteration, amendment or revocation. If any one of the transfers mentioned in this subdivision is made for valuable consideration, the portion of the transfer for which the grantor, or vendor receives equivalent monetary value is not taxable, but the remaining portion thereof is taxable. Every transfer by deed, grant, sale or gift, made within three years prior to the death of the grantor, vendor, or donor, without adequate valuable consideration, shall be presumed to have been made in contemplation of death within the meaning of this subdivision; (d) by any person who shall transfer any property which he owns, or shall cause any property to which he is absolutely entitled to be transferred to or vested in himself and any other person jointly, with

39 the right of survivorship, in whole or in part, in such
40 other person, a transfer shall be deemed to occur and
41 to be taxable under the provisions of this article upon
42 the vesting of such title in the survivor: *Provided, how-*
43 *ever,* That this subdivision shall not apply to bank
44 accounts and to shares or savings accounts in federal
45 savings and loan associations organized under the fed-
46 eral Home Owners' Loan Act of 1933, as amended, or
47 in building and loan associations organized under ar-
48 ticle six, chapter thirty-one of this code, payable to
49 the class designated in section two (a) in a total
50 amount of twenty-five hundred dollars or less: *Pro-*
51 *vided further,* That in the case of a surviving spouse,
52 not more than fifty per centum of the value of any trans-
53 fer mentioned in this subdivision (d) shall be included
54 and taxed in any such decedent's estate; (e) to any person
55 deriving an estate in property, coupled with a power of
56 appointment, in which event such estate shall be taxed
57 as other limited estates; and whenever any person shall
58 exercise a power of appointment derived from any dis-
59 position of property made, which appointment when made
60 shall be deemed a transfer taxable under the provisions of
61 this article, in the same manner as though the property to
62 which such appointment relates belonged absolutely to
63 the donee of such power and had been bequeathed or de-
64 vised by such donee by will; and whenever any person
65 possessing such a power of appointment so derived shall
66 omit or fail to exercise the same within the time provided
67 therefor in whole or in part, a transfer taxable under the
68 provisions of this article shall be deemed to take place to
69 the extent of such omission or failure, in the same manner
70 as though the person thereby becoming entitled to the
71 possession or enjoyment of the property to which such
72 power related had succeeded thereto by a will of the
73 donee of the power failing to exercise such power, and
74 shall take effect at the time of such omission or failure:
75 *Provided further,* That in either of which events the tax
76 commissioner, on the application of any person in interest
77 or upon his own motion, may, after due notice to the
78 known persons interested, apportion such taxes, first, as
79 to the interest of the donee of the power of appointment,

80 and second, to the remainder or reversionary interests of
81 others at the highest probable rate applicable thereto,
82 and shall make his certificate accordingly, which shall
83 be forwarded and disposed of in the same manner as other
84 certificates herein provided for. The portion of any such
85 taxes apportioned as to the remainder or reversionary
86 interest shall be paid out of the corpus of the estate in
87 like manner as other assessments as if such interest had
88 vested in possession; and, upon such assessment and pay-
89 ment of the tax the matter shall become a finality; (f) by
90 the terms of any annuity or investment contracts, or
91 similar type or form of contract or policy, and shall be
92 on the amount payable under any such contract or policy,
93 on account of a death, to named beneficiaries, to his estate
94 or in trust for the benefit of any individual or individ-
95 uals, including (1) all such policies or contracts hereafter
96 issued, and (2) all such policies or contracts now in force:
97 *Provided, however,* That there shall be exempt from the
98 provisions of this subdivision the proceeds of such con-
99 tracts or policies: (a) When the premiums on such
100 policies or contracts were paid by the beneficiary named
101 in such policy or contract, to the extent only of the ratio
102 of premiums paid by the beneficiary bear to the total
103 premiums paid; (b) when the proceeds of such policies
104 or contracts have been assigned by the decedent for a
105 valuable consideration either in form absolute or as col-
106 lateral security for the payment of a bona fide indebted-
107 ness of the decedent, to the extent that the proceeds
108 thereof shall be necessary to pay and satisfy such indebt-
109 edness. It is provided, however, that no annuity settle-
110 ment or arrangement accepted in lieu of cash settlement
111 of a life insurance policy, whereby the proceeds of such
112 policy are payable in installments, shall be subject to
113 taxation under the provisions of this article, nor shall
114 the provisions of this article apply to the proceeds of
115 any policy of life or accident insurance payable to a
116 named beneficiary or beneficiaries whether directly or
117 in trust or otherwise.

118 Where annuity or investment contracts or policies are
119 left by a decedent in such manner that the proceeds
120 thereof cannot be subjected to the payment of his debts,

121 and where the proceeds of such annuity or investment
122 contracts are received by beneficiaries thereof, the fact
123 that the decedent may have been insolvent and that a
124 portion of his debts may remain unpaid shall not affect
125 the liability for inheritance tax on such proceeds.

CHAPTER 154

(Com. Sub. for House Bill No. 944—By Mr. Bedell)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections three and fifteen, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to coin-operated merchandise, service, amusement or music devices and vending machines, and requiring decalcomania stamps thereon.

Be it enacted by the Legislature of West Virginia:

That sections three and fifteen, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 12. License Taxes.

Section

3. Owning and operating coin-operated merchandise, service, music and amusement devices, or vending machines.
15. Application for and issuance of licenses; evidences of licenses; fee.

Section 3. Owning and Operating Coin-operated Merchandise, Service, Music and Amusement Devices, or Vending Machines.—Persons owning and operating coin-operated merchandise, service, amusement or music devices or vending machines shall obtain annual licenses and pay the fees prescribed in this section on or before July one of each year.

8 The liability for the license to operate any type of coin-
9 operated merchandise, service, amusement or music de-
10 vices or vending machines shall be upon the owner of

11 the machine. The ownership shall be established by either
12 a bill of sale, paid invoice or a conditional sales contract
13 which has been recorded in the applicable county clerk's
14 office. The leasing of such a machine shall not be con-
15 sidered as a transfer of ownership of the machine and
16 where a lessor-lessee relationship exists, the lessor shall
17 be liable for the applicable license and fees.

18 The annual license fee to own and operate a coin-
19 operated baggage or parcel checking machine or device
20 which is used for the storage of baggage or parcels of any
21 character, shall be fifty cents for each section of any such
22 device which is operated on the coin-in-the-slot principle;
23 the annual license fee to own and operate any coin-
24 operated toilet locker or device, sanitary napkin device
25 or bed vibrator device shall be fifty cents for every such
26 locker or device. The state will not furnish decal stamps
27 for these devices; however, the owner shall identify each
28 machine by installing on each device an identification
29 label, plainly legible and visible, in such a manner that
30 the machine need not be moved to observe the identifica-
31 tion label, and the identification label shall contain the
32 name of the owner, his license number, his street address
33 and name of city and state.

34 The annual license fee to own and operate a total of
35 twenty or more coin-operated amusement or music de-
36 vices of the following types shall be: One cent devices—
37 fifty dollars; five cent devices—one hundred fifty dollars;
38 ten cent devices—two hundred twenty-five dollars; over
39 ten cent devices—three hundred dollars. The operator of
40 more than one type of such devices shall pay the highest
41 fee prescribed. The license fee to own and operate less
42 than twenty amusement or music devices shall be upon a
43 per device basis as follows: One cent devices—two dollars;
44 five cent devices—five dollars; ten cent devices—ten dol-
45 lars; over ten cent devices—twelve dollars and fifty cents.
46 Any device taking more than one denomination of coin
47 shall be licensed on the basis of the largest denomination
48 of coin taken or the total of the coins necessary to make
49 the device function or operate.

50 The annual license fee to own and operate a total of
51 twenty or more coin-operated merchandise or service

52 devices of the following types shall be: One cent devices—
53 fifty dollars; five cent devices—one hundred dollars; ten
54 cent devices—one hundred fifty dollars; over ten cent
55 devices—two hundred fifty dollars. The operator of more
56 than one type of such devices shall pay the highest fee
57 prescribed. The license fee to own and operate less than
58 twenty merchandise or service devices shall be upon a
59 per device basis as follows: One cent devices—two dollars;
60 five cent devices—five dollars; ten cent devices—ten dol-
61 lars; over ten cent devices—twelve dollars and fifty cents.
62 Any device taking more than one denomination of coin
63 shall be licensed on the basis of the largest denomination
64 of coin taken or the total of the coins necessary to make
65 the device function or operate.

66 The fees herein prescribed are on an annual basis, com-
67 mencing July one of each year, expiring on the following
68 June thirtieth, and are not proratable if taken out during
69 the license year nor shall fees paid be refundable if a
70 license is revoked, suspended or business ceased during
71 the license year.

72 No license fee shall be required of stores or businesses
73 owning and operating such machines or devices owned
74 by them in their own licensed stores: *Provided, however,*
75 *That where the principal business is the operation of the*
76 *machines or devices, then licenses shall be obtained as*
77 *outlined above: And provided further, That any person*
78 *exempt from or not liable for such license shall identify*
79 *each machine by installing on each device an identification*
80 *label, plainly legible and visible, in such a manner that*
81 *the machine need not be moved to observe the identi-*
82 *fication label, and the identification label shall contain*
83 *the name of the owner, his store license number, his street*
84 *address and name of city and state.*

85 The provisions of this section shall not be applicable to
86 any pay telephone, postage stamp vending machines or
87 currency changing machines operated on the coin-in-the-
88 slot principle.

89 Application for license required herein shall contain the
90 necessary information for the proper licensing under the
91 foregoing fee schedule for machines that are owned and
92 operated on location by the licensee within this state

93 during the ensuing license year or any part of a fiscal
94 year. Each vending machine operator shall make appli-
95 cation to the tax commissioner on forms provided by him,
96 and the applicant shall furnish such information as may
97 be required by the tax commissioner including a certified
98 statement of the total number of machines, by location,
99 of each coin denomination type in each classification, viz.,
100 service, music or amusement, and merchandise or service
101 machines: *Provided*, That vending machine operators
102 operating twenty or more machines are only required to
103 furnish the commissioner with a certified statement as to
104 the total number of machines on location in this state,
105 and the applicant shall be subject to the penalties of false
106 swearing for any untrue statements contained in his ap-
107 plication.

108 The tax commissioner shall assign each license issued
109 hereunder a number. It shall be the responsibility and
110 duty of the owners of all coin-operated devices subject
111 to the licenses herein provided to properly identify each
112 machine by installing on each device an identification
113 label, plainly legible and visible, in such a manner that
114 the machine need not be moved to observe the identi-
115 fication label, and the identification label shall contain
116 the name of the owner, his license number, his street
117 address and name of city and state.

118 In the event any coin-operated device is found on loca-
119 tion and not bearing the owner's address and current
120 license number as prescribed above, the tax commissioner,
121 or his agents, may seal the device in such a manner as
122 to make it inoperable. The seal shall state the date sealed
123 and bear the signature and title of the sealer. Anyone
124 other than the tax commissioner or his authorized agent
125 who shall break or tamper with such seals, or conceal or
126 move a sealed machine from its location shall be guilty
127 of a misdemeanor and subject to the criminal provisions
128 of this article.

129 The owner of a sealed machine may petition the tax
130 commissioner to remove seal(s) from the owners' ma-
131 chine(s) by filing a petition, on forms provided by the tax
132 commissioner, and paying to the tax commissioner a seal-
133 ing fee of ten dollars for each sealed machine. After re-

134 ceiving such petition and fee, and after the owner has
135 complied with all the provisions of this article, the tax
136 commissioner shall, within a reasonable time, cause such
137 petitioned seals to be removed by an agent of the tax
138 commissioner. If the owner of the sealed device has not,
139 within thirty days from the date the device was sealed,
140 paid a sealing fee of ten dollars to the tax commissioner as
141 well as having, to the satisfaction of the tax commissioner,
142 complied with all other provisions of this article, then
143 and in which event, the tax commissioner, or his agents,
144 shall take such sealed device into possession and deliver
145 the same to the sheriff of the county in which such ma-
146 chine or device is found, or the sheriff of such county upon
147 order or direction of the tax commissioner, or his agents,
148 shall take such sealed device into possession and forth-
149 with sell such sealed device in the manner provided by
150 law for the sale of personal property for taxes; and from
151 the proceeds of sale, including any currency found in the
152 sealed machine and removed prior to sale, shall pay his
153 costs, including drayage, storage, penalties and other fees
154 due the state and sheriff; and the balance, if any there
155 be, shall be paid to the tax commissioner for deposit and
156 credit in the same manner as are the license fees collected
157 under this section.

158 Every person subject to the provisions of this article
159 shall make such reports and keep such records as may
160 be required by the rules and regulations of the commis-
161 sioner and shall permit him to inspect such records and
162 the stocks and supplies on hand at any time. Every such
163 person shall be required to make his records available
164 for inspection by the tax commissioner or his authorized
165 agents.

166 The commissioner is hereby authorized to make and
167 promulgate such reasonable rules and regulations as may
168 be necessary to administer the provisions of this article
169 and article thirteen-a of chapter eleven, to insure the
170 collection of the taxes imposed thereby: *Provided, how-*
171 *ever,* That nothing in this section shall affect the licensing
172 power of a municipality as authorized by a particular
173 municipal charter, general law or municipal ordinance.

Sec. 15. Application for and Issuance of Licenses;

2 **Evidence of Licenses; Fee.**—The licenses provided for in
3 this article shall be issued in the form of a certificate by
4 the tax commissioner to any person making proper ap-
5 plication therefor on forms to be prescribed and furnished
6 by the tax commissioner and tendering the license tax
7 and a filing tax fee of fifty cents for each license certificate
8 requested. The tax commissioner shall collect in full the
9 proper taxes and fees and determine to his satisfaction
10 that all the conditions precedent to the granting of such
11 license have been fulfilled by the applicant before issuing
12 a certificate of license.

CHAPTER 155

(Senate Bill No. 93—By Mr. Carson, Mr. President,
and Mr. McCourt)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section eighty, article twelve,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to license
tax on foreign corporations.

Be it enacted by the Legislature of West Virginia:

That section eighty, article twelve, chapter eleven of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted to read as follows:

Article 12. License Taxes.

Section

80. License tax on foreign corporations.

Section 80. License Tax on Foreign Corporations.—Ev-
2 ery foreign corporation which has qualified to hold prop-
3 erty or to do business in this state shall make a report
4 to the auditor annually in the third month preceding the
5 beginning of the license tax year, in which report shall
6 be set out: (a) The name of each corporation, the name
7 of the state or country by which incorporated, the date
8 of the incorporation, the date of the certificate of the
9 secretary of state authorizing it to do business in this

10 state, the place of its principal office, the names and post-
11 office addresses of its president, secretary and its officers,
12 if any, charged with the duty of making returns of its
13 property for taxation and the name and postoffice address
14 of its attorney of record in this state; (b) the number of
15 shares of its authorized capital stock having a par value
16 and the par value of each share, and the number of its
17 issued and outstanding shares and the par value of each
18 share; (c) the number of shares of its authorized capital
19 stock having no par value, the number of shares of such
20 stock authorized to be issued and the considerations fixed
21 for the issue of each share of the same by its charter or
22 board of directors, and the number of shares thereof issued
23 and outstanding; (d) the value of the property owned and
24 used by such corporation within this state, where situate,
25 of what it consists, and the number of acres of land it
26 holds in this state, and the value of its property owned
27 and used without this state; and (e) the proportion of
28 its capital stock which is represented by property owned
29 and used in the state of West Virginia. Such report shall
30 be verified by the affidavit of the president, secretary or
31 other executive officers of such corporation.

32 It shall be the duty of the auditor to assess and fix the
33 license tax of such corporation according to the propor-
34 tion of its issued and outstanding capital stock which is
35 represented by its property owned and used in this state,
36 which license tax shall be at the rate prescribed in sec-
37 tion seventy-eight of this article, plus seventy-five per
38 cent of such tax: *Provided*, That no such corporation shall
39 pay an annual license tax of less than two hundred fifty
40 dollars, which shall be in addition to the fee of the auditor
41 as statutory attorney in fact. The auditor may in any case
42 require such additional information as he may deem nec-
43 essary to enable him to assess and fix the just amount of
44 license tax of such corporation; and it shall be his duty
45 to notify every such corporation of the amount so assessed
46 by him and it shall be the duty of the corporation to pay
47 the same to the auditor of the state within thirty days
48 thereafter, and if it fail to do so it shall be liable to the
49 penalties prescribed in sections eighty-six and eighty-
50 seven of this article.

CHAPTER 156

(House Bill No. 953—By Mr. Bailey)

[Passed March 11, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section sixteen, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to business and occupation tax on contracts on behalf of the state of West Virginia or any political subdivision.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 13. Business and Occupation Tax.

Section

16. Prerequisite to final settlement with state or political subdivision contractor; penalty.

Section 16. Prerequisite to Final Settlement with
2 **State or Political Subdivision Contractor; Penalty.**—All
3 state, county, district and municipal officers and agents
4 making contracts on behalf of the state of West Virginia
5 or any political subdivision thereof shall withhold pay-
6 ment in the final settlement of such contracts until the
7 receipt of a certificate from the tax commissioner to the
8 effect that all taxes levied or accrued under this article
9 against the contractor have been paid, and if the trans-
10 action embodied in such contract or the subject matter
11 of the contract is subject to county or municipal business
12 and occupation tax, then such payment shall be withheld
13 until the receipt of a release from such county or munic-
14 ipality to the effect that all county or municipal business
15 and occupation taxes levied or accrued against the con-
16 tractor have been paid. Any official violating this section
17 shall be guilty of a misdemeanor, and, on conviction
18 thereof, shall be fined not more than one thousand dollars
19 or imprisoned not exceeding one year in the county jail,
20 or shall be subject to both said fine and imprisonment,
21 in the discretion of the court.

CHAPTER 157

(Com. Sub. for House Bill No. 501—By Mr. Speaker,
Mr. White)

[Passed February 3, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections three and five, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the amount of consumers sales tax and the total amount to be remitted.

Be it enacted by the Legislature of West Virginia:

That sections three and five, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 15. Consumers Sales Tax.

Section

3. Amount of tax.

5. Total amount collected to be remitted.

Section 3. Amount of Tax.—For the privilege of selling tangible personal property and of dispensing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article, and shall pay the amount of tax to the tax commissioner in accordance with the provisions of this article.

There shall be no tax on sales where the monetary consideration is five cents or less. The amount of the tax shall be computed as follows:

(1) On each sale, where the monetary consideration is from six cents to thirty-five cents, both inclusive, one cent.

(2) On each sale, where the monetary consideration is from thirty-six cents to seventy cents, both inclusive, two cents.

(3) On each sale, where the monetary consideration is from seventy-one cents to one dollar, both inclusive, three cents.

20 (4) If the sale price is in excess of one dollar, three
21 cents on each whole dollar of sale price, and upon any
22 fractional part of a dollar in excess of whole dollars, as
23 follows: One cent on the fractional part of the dollar if
24 less than thirty-six cents; two cents on the fractional
25 part of the dollar if in excess of thirty-five cents but less
26 than seventy-one cents; and three cents on the fractional
27 part of the dollar if in excess of seventy cents. For ex-
28 ample, the tax on sales from one dollar and one cent to
29 one dollar and thirty-five cents, both inclusive, four
30 cents; on sales from one dollar and thirty-six cents to one
31 dollar and seventy cents, both inclusive, five cents; on
32 sales from one dollar and seventy-one cents to two dol-
33 lars, both inclusive, six cents.

34 Separate sales, such as daily or weekly deliveries, shall
35 not be aggregated for the purpose of computation of the
36 tax even though such sales are aggregated in the billing
37 or payment therefor.

Sec. 5. Total Amount Collected to Be Remitted.—No
2 profit shall accrue to any person as a result of the collec-
3 tion of the tax levied by this article notwithstanding
4 the total amount of such taxes collected may be in excess
5 of the amount for which such person would be liable by
6 the application of the levy of three per cent to the gross
7 proceeds of his sales, and the total of all taxes collected
8 by any such person shall be returned and remitted to the
9 tax commissioner as hereinafter provided.

CHAPTER 158

(Com. Sub. for House Bill No. 502—By Mr. Speaker,
Mr. White)

[Passed February 3, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections two and ten, article fifteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to imposition of use tax and payment to the tax commissioner.

Be it enacted by the Legislature of West Virginia:

That sections two and ten, article fifteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 15-a. Use Tax.

Section

2. Imposition of tax.
10. Payment to tax commissioner.

Section 2. Imposition of Tax.—An excise tax is hereby
2 imposed on the use in this state of tangible personal
3 property furnished or delivered within this state to con-
4 sumers or users within this state on or after the effective
5 date of this article, at the rate of three per cent of the
6 purchase price of such property. Said tax is hereby im-
7 posed upon every person using such property within this
8 state until such tax has been paid directly to a retailer,
9 or to the state tax commissioner as hereinafter provided.

10 Purchases of tangible personal property made from the
11 government of the United States or any of its agencies by
12 ultimate consumers shall be subject to the tax imposed by
13 this section. Industrial materials and equipment owned
14 by the federal government within the state of West Vir-
15 ginia of a character not ordinarily readily obtainable
16 within the state, shall not be subject to use tax when
17 sold, if such industrial materials and equipment would
18 not be subject to use tax if such were sold outside of the
19 state for use in West Virginia.

20 This article shall not apply to purchases made by coun-
21 ties or municipal corporations.

Sec. 10. Payment to Tax Commissioner.—Each retailer
2 required or authorized, pursuant to sections six or seven,
3 to collect the tax herein imposed, shall be required to
4 pay to the tax commissioner the amount of such tax on
5 or before the fifteenth day of the month next succeeding
6 each quarterly period, the first such quarterly period
7 being the period commencing on the first day of July,
8 one thousand nine hundred fifty-one, and ending on the
9 thirtieth day of September, one thousand nine hundred
10 fifty-one. At such time, each retailer shall file with the
11 tax commissioner a return for the preceding quarterly

12 period in such form as may be prescribed by the tax
13 commissioner showing the sales price of any or all tan-
14 gible personal property sold by the retailer during such
15 preceding quarterly period, the use of which is subject to
16 the tax imposed by this article, and such other infor-
17 mation as the tax commissioner may deem necessary
18 for the proper administration of this article. The return
19 shall be accompanied by a remittance of the amount of
20 such tax, for the period covered by the return, provided
21 that where such tangible personal property is sold under
22 a conditional sales contract, or under any other form of
23 sale wherein the payment of the principal sum, or a part
24 thereof, is extended over a period longer than sixty days
25 from the date of the sale thereof, the retailer may collect
26 and remit each quarterly period that portion of the tax
27 equal to three per cent of that portion of the purchase
28 price actually received during such quarterly period. The
29 tax commissioner, if he deems it necessary in order to
30 insure payment to the state of the amount of such tax,
31 may in any or all cases require returns and payments
32 of such amount to be made for other than quarterly
33 periods. The tax commissioner may, upon request and
34 a proper showing of the necessity therefor, grant an ex-
35 tension of time not to exceed thirty days for making any
36 return and payment. Returns shall be signed by the
37 retailer or his duly authorized agent, and must be certi-
38 fied by him to be correct.

C

CHAPTER 159

(House Bill No. 603—By Mr. Speaker, Mr. White, and
Mr. Christian)

[Passed February 9, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, desig-

nated section forty-one, relating to a special case in which a nonresident need not file a West Virginia income tax return.

Be it enacted by the Legislature of West Virginia:

That article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section forty-one, to read as follows:

Article 21. Personal Income Tax.

Section

41. Special case in which a nonresident need not file a West Virginia income tax return.

Section 41. Special Case in Which a Nonresident Need

2 **Not File a West Virginia Income Tax Return.**—A non-
3 resident individual, who at no time during the taxable
4 year was a resident of this state, is hereby relieved of
5 filing an income tax return to this state for that taxable
6 year provided:

7 (1) His only income from sources within this state
8 was from salaries, wages, or compensation for personal
9 services performed within this state, and

10 (2) Such salaries, wages or compensation for personal
11 services were subject to income taxation by the state of
12 his residence under a net income tax law substantially
13 similar in principle to this article, and

14 (3) The laws of such other state contain a provision
15 substantially similar in effect to that contained in section
16 forty of this article and applicable to residents of this
17 state, and

18 (4) The laws of such other state afford like treatment
19 to a resident of this state who earned salaries, wages or
20 compensation for personal services in such other state.

21 This section shall apply with respect to taxable years
22 beginning after December thirty-one, one thousand nine
23 hundred sixty-three.

CHAPTER 160

(Senate Bill No. 168—By Mr. Carson, Mr. President)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, four, five and twenty-two, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sheriffs' lists of lands delinquent for nonpayment of taxes and notices of sales of such lands, the time and manner of holding and making sheriffs' sales of such lands; to require that each unredeemed tract or lot, and each part thereof and interest therein, be sold in entirety as such tract or lot, or part thereof or interest therein, is described and constituted as a unit or entity in any such list and notice of sale, and that no part or interest in any such tract or lot that is less than the entirety of such tract or lot, or part thereof or interest therein, as the same is described and constituted as a unit or entity in any such list and notice, shall be sold at any such sale; and, relating to suspensions of land from such sales, and to surveys when part of a tract was purchased at any such sale held before October, one thousand nine hundred sixty-five.

Be it enacted by the Legislature of West Virginia:

That sections two, four, five and twenty-two, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Sale of Land for Taxes.

Section

2. Second publication and posting of list of delinquent real estate; notice.
4. Sale by sheriff.
5. Suspension from sale; amended delinquent lists; subsequent sale.
22. Survey when part of tract was purchased at sheriff's sale before October, one thousand nine hundred sixty-five.

**Section 2. Second Publication and Posting of List of
2 Delinquent Real Estate; Notice.—On or before Septem-**

ber tenth of each year, the sheriff shall prepare a second list of delinquent lands, which shall include all real estate in his county remaining delinquent as of September first, together with a notice of sale, in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land or undivided interests therein in the County of _____, which are delinquent for the nonpayment of taxes for the year (or years) 19_____, will be offered for sale by the undersigned sheriff (or collector) at public auction at the front door of the courthouse of the county, between the hours of ten in the morning and four in the afternoon, on the _____ day of _____, 19_____.

Each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, will be sold at public auction to the highest bidder for cash in an amount which shall not be less than the taxes, interest and charges which shall be due thereon to the date of sale, as set forth in the following table:

Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date of sale
-----------------------------------	------------------	-------------------	---

Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be redeemed by the payment to the undersigned sheriff (or collector) before sale, of the total amount of taxes, interest and charges due thereon up to the date of redemption.

Given under my hand this _____ day of _____, 19_____.

Sheriff (or collector)

The sheriff shall publish the list and notice, once a week for four successive weeks prior to the sale date fixed in the notice, in two newspapers of opposite politics, if such there be in the county, and the costs of printing, not to exceed forty cents per item for each insertion in each newspaper, shall be paid out of the county treasury.

38 He shall also post a copy of such list and notice at the
39 front door of the courthouse at least four weeks before the
40 sale. If there is no newspaper published in the county, or
41 if no such newspaper will publish the list and notice for
42 the compensation provided by law, then the sheriff shall
43 also post a copy of the notice, but not of the delinquent
44 list, at some public place in each magisterial district at
45 least twenty days before the sale. In such case, the notice
46 shall also state that the delinquent list has been posted
47 at the front door of the courthouse.

48 To cover the costs of preparing, publishing and posting
49 the delinquent list, a charge of two dollars and fifty cents
50 shall be added to the taxes, interest and charges already
51 due on each item listed. The sum of the taxes, interest to
52 the date of sale, and other charges shall be stated in the
53 list as the total amount due.

54 Any person, whose taxes were delinquent on September
55 first, may have his name removed from the delinquent
56 list prior to the time the same is delivered to the news-
57 paper or newspapers for publication by paying to the
58 sheriff the full amount of taxes and costs owed by such
59 person at the date of such redemption. In such case, the
60 sheriff shall include but fifty cents of the costs provided
61 in this section in making such redemption. Costs collected
62 by the sheriff hereunder which are not expended for pub-
63 lication shall be paid into the general county fund.

Sec. 4. Sale by Sheriff.—Each unredeemed tract or lot,
2 or each unredeemed part thereof or undivided interest
3 therein, shall be sold by the sheriff at public auction to the
4 highest bidder for cash, between the hours of ten in the
5 morning and four in the afternoon on any Monday after
6 the fourteenth day of October and before the twenty-
7 third day of November: *Provided*, That no such unre-
8 deemed tract or lot, or any unredeemed part thereof or
9 undivided interest therein, shall be sold upon any bid or
10 for any sum less than the total amount of taxes, interest
11 and charges then due: *Provided, however*, That at any
12 such sale held after the thirtieth day of June, one thou-
13 sand nine hundred sixty-five, each unredeemed tract or
14 lot, and each unredeemed part of a tract or lot or interest
15 therein, shall be offered for sale and sold in entirety as

16 such tract or part thereof or interest therein is described
17 and constituted as a unit or entity in the list and notice
18 prescribed in section two of this article: *Provided further*,
19 That no part or interest in any unredeemed tract or lot,
20 or any part thereof or interest therein, that is less than
21 the entirety of such unredeemed tract, lot or part or
22 interest, as the same is described and constituted as a
23 unit or entity in said list and notice, shall be offered for
24 sale or sold at such sale. If the sale shall not be completed
25 on the day designated in the notice for the holding of such
26 sale, it shall be continued from day to day between the
27 same hours until disposition shall have been made of all
28 the land.

**Sec. 5. Suspension from Sale; Amended Delinquent
2 Lists; Subsequent Sale.**—Whenever it shall appear to the
3 sheriff that any real estate included in the list has been
4 sold previously for taxes and not redeemed, or ought not
5 to be sold for the amount stated therein, he shall suspend
6 the sale thereof and report his reasons therefor to the
7 county court. If the court finds that the real estate ought
8 not to be sold, it shall so order; but if the court finds that
9 the real estate ought to be sold for the amount stated, or
10 for a greater or less amount, it shall order the sheriff to
11 include such real estate in his next September list, unless
12 sooner redeemed.

13 In the event the list and notice of sale prescribed in sec-
14 tion two of this article, shall not be published, posted and
15 completed in the manner provided by said section two,
16 so that it is impossible for that reason, or by reason of
17 omission of any necessary procedural act, for the sheriff to
18 make sale of the real estate embraced in said list pursuant
19 to the provisions of this chapter, then and in that event
20 the sheriff shall certify to the auditor, on or before the
21 second day of December following the month in which
22 such sale should have been held, an amended list or lists
23 of such taxes which then remain delinquent. After certifi-
24 cation to the auditor, the auditor shall have the right to
25 receive collection of any such taxes. The sheriff shall in-
26 clude the real estate in the last-mentioned amended list
27 or lists in his next September list, unless sooner redeemed.

Sec. 22. Survey When Part of Tract Was Purchased at Sheriff's Sale before October, One Thousand Nine Hundred Sixty-five.—Whenever at any sale of delinquent lands held before October of the year one thousand nine hundred sixty-five, only part of a tract was sold for the taxes due on the entire tract, the purchaser of such part, his heirs or assigns, must, at his or their expense, have the part so purchased surveyed and laid off by metes and bounds. The area so laid off shall be bounded in part by some one or more of the lines of the tract, to be selected by the purchaser, his heirs or assigns. The part chosen shall not include any of the improvements on the tract, if this can be avoided, and shall be in one body, the length of which shall, whenever practicable, be not more than twice the breadth. A plat of the part so laid off and a description thereof, to be prepared by the surveyor, mentioned in the preceding section, must be filed with the clerk of the county court within the time specified in section twenty of this article. The fact and time of such filing shall be endorsed by the clerk on the plat and description.

CHAPTER 161

(House Bill No. 904—By Mr. Speaker, Mr. White)

[Passed March 6, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections one, three and four, article three, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, creating an advisory council in the department of employment security, fixing terms of office and prescribing qualifications for the members thereof.

Be it enacted by the Legislature of West Virginia:

That sections one, three and four, article three, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Advisory Council.**Section**

1. Creation.
3. Term of office.
4. Qualifications.

Section 1. Creation.—There is hereby created in the department of employment security a “state advisory council” composed of nine members.

Sec. 3. Term of Office.—The term of office of the members of the council shall be six years.

In case of a vacancy, the governor shall make an appointment for the remainder of the unexpired term.

Members shall be subject to removal at the will and pleasure of the governor.

Sec. 4. Qualifications.—The members of the council shall be selected with special reference to their ability and fitness to effectuate the purposes of this chapter.

Three members of the council shall be selected as representatives of employer interests; three members shall be selected as representatives of employee interests; and three members shall represent the interests of the general public.

CHAPTER 162

(Senate Bill No. 20—By Mr. Carson, Mr. President)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, and sections three and six, article four, all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to workmen's compensation.

Be it enacted by the Legislature of West Virginia:

That section one, article one, and sections three and six, article four, chapter twenty-three of the code of West Virginia,

one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

Article

1. General Administrative Provisions.

4. Disability and Death Benefits.

Article 1. General Administrative Provisions.

Section

1. Workmen's compensation commissioner; appointment; oath; bond; compensation; official seal; legal services; references to director deemed to mean commissioner.

Section 1. Workmen's Compensation Commissioner; Appointment; Oath; Bond; Compensation; Official Seal; Legal Services; References to Director Deemed to Mean Commissioner.—There shall be a state workmen's compensation commissioner who shall be appointed by the governor by and with the advice and consent of the senate and who shall serve at the will and pleasure of the governor during the term for which the governor was elected and until the commissioner's successor has been appointed and qualified. An appointment may be made to fill a vacancy or otherwise when the senate is not in session, but shall be acted upon at the next session thereof. The person so appointed shall take the oath or affirmation prescribed by section five of article four of the constitution, and such oath shall be certified by the person who administers the same and shall be filed in the office of the secretary of state. He shall give bond in the penalty of twenty-five thousand dollars conditioned for the faithful performance of the duties of his office, which bond shall be approved by the attorney general as to form, and by the governor as to sufficiency. The surety of such bond may be a bonding or surety company, in which case the premiums shall be paid out of the appropriation made for the administration of this chapter. The commissioner shall hold no position of trust or profit, or engage in any occupation or business, interfering or inconsistent with his duties as such commissioner. The commissioner shall receive an annual salary of fourteen thousand dollars, payable out of the workmen's compensation fund. The commissioner shall have an official seal for the authentication of his orders and proceedings, upon which seal shall be engraved the words, "West

32 Virginia Workmen's Compensation Commissioner," and
33 such other design as the commissioner may prescribe. The
34 courts in this state shall take judicial notice of the seal of
35 the commissioner and in all cases copies of orders, pro-
36 ceedings, or records in the office of the West Virginia com-
37 pensation commissioner shall be equal to the original in
38 evidence.

39 The attorney general shall perform all legal services
40 required by the commissioner under the provisions of
41 this chapter: *Provided*, That in any case in which an
42 application for review is prosecuted from any final deci-
43 sion of the workmen's compensation appeal board to the
44 supreme court of appeals, as provided by section four,
45 article five of this chapter, or in any court proceeding
46 before the workmen's compensation appeal board, in
47 which such representation shall appear to the commis-
48 sioner to be desirable, he may designate a regular em-
49 ployee of his office, qualified to practice before such court,
50 to represent him upon such appeal or proceeding, and
51 in no case shall the person so appearing for the commis-
52 sioner before the court receive remuneration therefor
53 other than his regular salary.

54 Wherever in this chapter or elsewhere in law refer-
55 ence is made to "State Director of Workmen's Compensa-
56 tion" or "compensation commissioner" such reference
57 shall henceforth be construed and understood to mean
58 "State Workmen's Compensation Commissioner."

Article 4. Disability and Death Benefits.

Section

3. Disbursements for medicine, hospital treatment, artificial limbs and other appliances; contract by employer with hospital prohibited.
6. Classification of disability benefits.

Section 3. Disbursements for Medicine, Hospital Treatment, Artificial Limbs and Other Appliances; Contract by Employer with Hospital Prohibited.—Except in case of silicosis, the commissioner shall disburse and pay from the fund for such personal injuries to such employees as may be entitled thereto hereunder as follows:

- 7 (a) Such sums for medicines, medical, surgical, dental
8 and hospital treatment, crutches, artificial limbs and such

9 other and additional approved mechanical appliances and
10 devices, as may be reasonably required, but not in
11 excess of three thousand dollars: *Provided*, That in
12 special cases where the treatment required, in the opinion
13 of competent medical authority, is such as to necessitate
14 an expenditure in excess of such amount, the commis-
15 sioner may pay out of any available funds such additional
16 sum as may be necessary, but such additional sum shall
17 not be charged to the account of the employer.

18 (b) Payment for such medicine, medical, surgical,
19 dental and hospital treatment, crutches, artificial limbs
20 and such other and additional approved mechanical appli-
21 ances and devices authorized under subdivision (a) here-
22 of may be made to the injured employee, or to the person
23 or persons who have furnished such service, or who have
24 advanced payment for same, as the commissioner may
25 deem proper, but no such payments or disbursements
26 shall be made or awarded by him unless duly verified
27 statements on forms prescribed by the commissioner shall
28 be filed with the commissioner within six months after
29 the cessation of such treatment or the delivery of such
30 appliances: *Provided, however*, That no payment here-
31 under shall be made unless such verified statement shows
32 no other or additional charge for such treatment, appli-
33 ance or device has been or will be made against any per-
34 son, firm or corporation. Failure on the part of the doctor
35 or hospital to submit to the commissioner within such six
36 months' period bills for services rendered to an injured
37 employee shall preclude collection thereof from the in-
38 jured employee.

39 (c) No employer shall enter into any contracts with
40 any hospital, its physicians, officers, agents or employees
41 to render medical, dental or hospital service or to give
42 medical or surgical attention therein to any employee for
43 injury compensable within the purview of this chapter,
44 and no employer shall permit or require any employee
45 to contribute, directly or indirectly, to any fund for the
46 payment of such medical, surgical, dental, or hospital
47 service within such hospital for such compensable injury.
48 Any employer violating this section shall be liable in
49 damages to his or its employees and shall not avail him-

50 self of any of the common-law defenses mentioned in
51 section eight, article two of this chapter, and any em-
52 ployer or hospital or agent or employee thereof violating
53 the provisions of this section shall be guilty of a misde-
54 meanor, and, upon conviction thereof, shall be sentenced
55 to pay a fine not exceeding one thousand dollars or to
56 undergo imprisonment not exceeding one year, or both.

Sec. 6. Classification of Disability Benefits.—Where
2 compensation is due an employee under the provisions of
3 this chapter for a personal injury other than first stage
4 silicosis, such compensation shall be as provided in the fol-
5 lowing schedule:

6 (a) If the injury causes temporary total disability, the
7 employee shall receive during the continuance thereof
8 sixty-six and two-thirds per cent of his average weekly
9 earnings, not to exceed a maximum of forty-two dollars
10 a week nor to be less than a minimum of twenty-two
11 dollars a week.

12 (b) Subdivision (a) shall be limited as follows: Aggre-
13 gate award for a single injury causing temporary dis-
14 ability shall be for a period not exceeding two hundred
15 eight weeks.

16 (c) If the injury causes permanent disability, the per-
17 centage of disability to total disability shall be determined
18 and the award computed and allowed as follows:

19 For permanent disability of from one per cent to eighty-
20 four per cent, inclusive, sixty-six and two-thirds per cent
21 of the average weekly earnings for a period to be com-
22 puted on the basis of four weeks' compensation for each
23 per cent of disability determined.

24 For a disability of eighty-five to one hundred per cent,
25 sixty-six and two-thirds per cent of the average weekly
26 earnings during the remainder of life.

27 (d) If the injury results in the total loss by severance
28 of any of the members named in this subdivision, the per-
29 centage of disability shall be determined in accordance
30 with the following table, and award made as provided in
31 subdivision (c) of this section:

32 The loss of a great toe shall be considered a ten percent
33 disability.

- 34 The loss of a great toe (one phalanx) shall be considered
35 a five percent disability.
- 36 The loss of other toes shall be considered a four percent
37 disability.
- 38 The loss of other toes (one phalanx) shall be considered
39 a two percent disability.
- 40 The loss of all toes shall be considered a twenty-five per-
41 cent disability.
- 42 The loss of fore part of foot shall be considered a thirty
43 percent disability.
- 44 The loss of foot shall be considered a thirty-five percent
45 disability.
- 46 The loss of a leg shall be considered a forty-five percent
47 disability.
- 48 The loss of thigh shall be considered a fifty percent
49 disability.
- 50 The loss of thigh at hip joint shall be considered a sixty
51 percent disability.
- 52 The loss of little or fourth finger (one phalanx) shall
53 be considered a three percent disability.
- 54 The loss of little or fourth finger shall be considered a
55 five percent disability.
- 56 The loss of ring or third finger (one phalanx) shall be
57 considered a three percent disability.
- 58 The loss of ring or third finger shall be considered a
59 five percent disability.
- 60 The loss of middle or second finger (one phalanx) shall
61 be considered a three percent disability.
- 62 The loss of middle or second finger shall be considered
63 a seven percent disability.
- 64 The loss of index or first finger (one phalanx) shall be
65 considered a six percent disability.
- 66 The loss of index or first finger shall be considered a ten
67 percent disability.
- 68 The loss of thumb (one phalanx) shall be considered a
69 twelve percent disability.
- 70 The loss of thumb shall be considered a twenty percent
71 disability.

72 The loss of thumb and index finger shall be considered
73 a thirty-two percent disability.

74 The loss of index and middle finger shall be considered
75 a twenty percent disability.

76 The loss of middle and ring finger shall be considered
77 a fifteen percent disability.

78 The loss of ring and little finger shall be considered a
79 ten percent disability.

80 The loss of thumb, index, and middle finger shall be
81 considered a forty percent disability.

82 The loss of index, middle and ring finger shall be con-
83 sidered a thirty percent disability.

84 The loss of middle, ring and little finger shall be con-
85 sidered a twenty percent disability.

86 The loss of four fingers shall be considered a thirty-two
87 percent disability.

88 The loss of hand shall be considered a fifty percent
89 disability.

90 The loss of forearm shall be considered a fifty-five per-
91 cent disability.

92 The loss of arm shall be considered a sixty percent
93 disability.

94 The total and irrecoverable loss of the sight of one eye
95 shall be considered a thirty-three percent disability, and
96 the injured employee shall be entitled to compensation for
97 a period of one hundred thirty-two weeks.

98 For the partial loss of vision in one, or both eyes, the
99 percentage of disability shall be determined by the com-
100 missioner, using as a basis the total loss of one eye.

101 The total and irrecoverable loss of the hearing of one
102 ear shall be considered a fifteen percent disability, and
103 the injured employee shall be entitled to compensation
104 for a period of sixty weeks. The total and irrecoverable
105 loss of the hearing of both ears shall be considered a forty-
106 five percent disability, and the injured employee shall be
107 entitled to compensation for a period of one hundred
108 eighty weeks.

109 For the partial loss of hearing in one, or both ears, the
110 percentage of disability shall be determined by the com-

111 missioner, using as a basis the total loss of hearing in both
112 ears.

113 (e) Should a claimant to whom has been made a per-
114 manent partial award of from one per cent to eighty-four
115 per cent, both inclusive, die from sickness or noncom-
116 pensable injury, the unpaid balance of such award shall
117 be paid to claimant's dependents as defined in this chap-
118 ter, if any; such payment to be made in the same install-
119 ments that would have been paid to claimant if living:
120 *Provided, however,* That no payment shall be made to any
121 widow of such claimant after her remarriage, and that this
122 liability shall not accrue to the estate of such claimant
123 and shall not be subject to any debts of, or charges against,
124 such estate.

125 (f) The award for permanent disabilities intermediate
126 to those fixed by the foregoing schedule and permanent
127 disability of from one per cent to eighty-four per cent
128 shall be in the same proportion and shall be computed and
129 allowed by the commissioner.

130 (g) The percentage of all permanent disabilities other
131 than those enumerated in subdivisions (c), (d), (e), and
132 (f) of this section shall be determined by the commis-
133 sioner, and award made in accordance with the provisions
134 of subdivision (c).

135 (h) Compensation payable under any subdivision of
136 this section shall be limited as follows: Not to exceed a
137 maximum of forty-two dollars a week nor to be less than
138 a minimum of twenty-two dollars a week.

139 (i) Where an injury results in temporary total dis-
140 ability for which compensation is awarded under sub-
141 division (a) of this section and such injury is later de-
142 termined permanent partial disability under subdivision
143 (c), the amount of compensation so paid shall be con-
144 sidered as payment of the compensation payable for such
145 injury in accordance with the schedule in subdivision (c):
146 *Provided further,* That in cases where the amount of
147 permanent partial disability is specifically provided for
148 under subdivision (d) of this section, payments made
149 under subdivision (a) shall not be considered as payment
150 of the compensation for such injury. Compensation, either

151 total temporary or permanent partial, under this section
152 shall be payable only to the injured employee and the
153 right thereto shall not vest in his or her estate, except that
154 any unpaid compensation which would have been paid or
155 payable to the employee up to the time of his death, if
156 he had lived, shall be paid to the dependents of such
157 injured employee if there be such dependents at the time
158 of death.

159 (j) The following permanent disabilities shall be con-
160 clusively presumed to be total in character:

161 Loss of both eyes or the sight thereof.

162 Loss of both hands or the use thereof.

163 Loss of both feet or the use thereof.

164 Loss of one hand and one foot or the use thereof.

165 In all other cases permanent disability shall be deter-
166 mined by the commissioner in accordance with the facts
167 in the case, and award made in accordance with the pro-
168 visions of subdivision (c).

CHAPTER 163

(Senate Bill No. 262—By Mr. Smith and Mr. McKown)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT authorizing the clerk of the circuit court of Cabell
county to transfer specified moneys to the general fund
of Cabell county.

Be it enacted by the Legislature of West Virginia:

Cabell County

Section

1. Circuit clerk authorized to transfer funds.

Section 1. Circuit Clerk Authorized to Transfer Funds.

- 2 —The clerk of the circuit court of Cabell county is hereby
3 authorized and empowered to transfer to the general fund
4 of Cabell county those certain moneys, amounting to
5 eleven thousand one hundred twenty-four dollars and

6 fifty-seven cents, on deposit in the name of said clerk,
7 as such clerk, in savings account no. 17812, in the Guaranty
8 National Bank of Huntington, Huntington, West Virginia,
9 for sundry items which are not identified and therefore
10 cannot be disbursed.

CHAPTER 164

(House Bill No. 701—By Mr. Smith and Mrs. Paul)

[Passed February 22, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred sixty-three; to amend and reenact section twenty-four, chapter ninety, acts of the Legislature, regular session, one thousand nine hundred seventeen, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred sixty-three; and to repeal section four, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred five, defining the jurisdiction of the court of common pleas of Cabell county and fixing the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That section four, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred five, be repealed; that section two, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular

session, one thousand nine hundred sixty-three; and that section twenty-four, chapter ninety, acts of the Legislature, regular session, one thousand nine hundred seventeen, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred sixty-three, be amended and reenacted to read as follows:

Court of Common Pleas of Cabell County.

Section

2. Jurisdiction; supervision, etc., of criminal and civil cases before justices, etc.
24. Salary of judge.

Section 2. Jurisdiction; Supervision, etc., of Criminal and Civil Cases before Justices, etc.—That said court shall have jurisdiction within said county, common and concurrent with the circuit court, of all felonies and misdemeanors committed within said county, and shall have the supervision and control of criminal and civil proceedings before justices of said county, the police judge or mayor of any incorporated city, town or village therein, by appeal, mandamus, prohibition and certiorari; the said court shall have original jurisdiction within said county concurrent with the circuit court of Cabell county of all suits and proceedings, and of all civil actions or proceedings at law, except where it shall appear from the pleadings that the matter in controversy exceeds the value of fifty thousand dollars; and also appellate jurisdiction in all cases, civil and criminal, from judgments of justices of the peace in said county, police judge or mayor of any incorporated city, town or village, or of any inferior tribunal therein, wherein an appeal, writ of error, supersedeas or writ of certiorari may be allowed; subject to the right to proceed by appeal, writ of error, supersedeas or certiorari in all matters to the circuit court of Cabell county, as provided in section fifteen, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, and section twenty-six, chapter ninety, acts of the Legislature, regular session, one thousand nine hundred seventeen.

Sec. 24. Salary of Judge.—The judge of the common pleas court of Cabell county shall receive for his services

3 fifteen thousand five hundred dollars annually, payable
4 monthly in installments beginning on the first day of July,
5 one thousand nine hundred sixty-five, which amount shall
6 be provided for and paid by the county court, out of the
7 treasury of said county, which provision as to salary shall
8 not repeal the existing provision until the said first day of
9 July, one thousand nine hundred sixty-five.

10 All acts or parts of acts inconsistent or in conflict with
11 this act are hereby repealed.

CHAPTER 165

(House Bill No. 702—By Mr. Smith and Mrs. Paul)

[Passed February 22, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two and four, chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as amended by chapter one hundred fifty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, as amended by chapter one hundred forty, acts of the Legislature, regular session, one thousand nine hundred forty-nine, as amended by chapter one hundred eighty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-three, as amended by chapter one hundred eighty, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, as amended by chapter one hundred ninety-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-three, relating to the creation and establishment in the county of Cabell of a court to be known as the "Domestic Relations Court," the jurisdiction of said court, and the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That sections one, two and four, chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as amended by chapter one hundred

fifty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, as amended by chapter one hundred forty, acts of the Legislature, regular session, one thousand nine hundred forty-nine, as amended by chapter one hundred eighty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-three, as amended by chapter one hundred eighty, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, as amended by chapter one hundred ninety-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-three, be amended and reenacted to read as follows:

Domestic Relations Court of Cabell County.

Section

1. Court of limited jurisdiction created; purposes.
2. Jurisdiction.
4. Salary of judge.

Section 1. Court of Limited Judisdiction Created; Purposes.—There is hereby created and established in and for the county of Cabell, with authority and jurisdiction coextensive with the county, a court to be known as the “Domestic Relations Court” of Cabell county, for the trial of annulment of marriages, separate maintenance suits, divorces, alimony causes, the care and disposition of delinquent, defective, neglected and dependent children, and desertion and nonsupport of wives and legitimate and illegitimate children, reciprocal dependency, adoption, change of name, the approval of the compromising of infants’ claims for damages, the issuance of a marriage license in case of emergency or extraordinary circumstances, the approval of the sale, lease or mortgage of infants’ lands, and for the enforcement of the general school laws, arising within the said county or coming within the jurisdiction of the court as provided by the general laws of this state and as hereinafter provided; and independent of the foregoing for the trial of certain causes heretofore recognized as being in chancery and as hereinafter limited and defined, it being the intent and purpose of this act to create a court of limited jurisdiction for the purposes herein set forth.

Sec. 2. Jurisdiction.—The said domestic relations court shall have jurisdiction within the said county of Cabell,

3 concurrent with the circuit court, of all matters and
4 causes arising out of or pertaining to annulment of mar-
5 riages, separate maintenance suits, divorce, alimony, the
6 custody and maintenance of children of litigants and
7 the adjudication of property rights arising out of the
8 same, and all other matters and causes coming within the
9 purview of chapter forty-eight of the code of West Vir-
10 ginia, one thousand nine hundred thirty-one, and all
11 amendments and reenactments thereof concerning do-
12 mestic relations; of all matters and causes coming within
13 the purview of chapter forty-nine of the code of West
14 Virginia, one thousand nine hundred thirty-one, as en-
15 acted by chapter one, acts of the Legislature of West
16 Virginia, one thousand nine hundred thirty-six, and of
17 all amendments and reenactments thereof commonly
18 known as the child welfare law; of all matters and causes
19 coming within the purview of chapter eighteen of the
20 code of West Virginia, one thousand nine hundred thirty-
21 one, and all amendments and reenactments thereof, com-
22 monly called the general school law; of all matters and
23 causes coming within the purview of chapter forty-eight
24 of the code of West Virginia, one thousand nine hundred
25 thirty-one, and of all amendments and reenactments
26 thereof, commonly known as the reciprocal dependency
27 law; of all matters and causes coming within the purview
28 of chapter forty-eight of the code of West Virginia, one
29 thousand nine hundred thirty-one, and all amendments
30 and reenactments thereof commonly known as the adop-
31 tion law; and of all matters and causes coming within
32 the purview of chapter forty-eight of the code of West
33 Virginia, one thousand nine hundred thirty-one, and of
34 all amendments and reenactments thereof, commonly
35 known as the change of name law; and of all matters and
36 causes coming within the purview of chapter forty-eight
37 of the code of West Virginia, one thousand nine hundred
38 thirty-one, and of all amendments and reenactments
39 thereof, commonly known as the maintenance of illegiti-
40 mate children law; and of all matters and causes coming
41 within the purview of chapter forty-four, article ten, sec-
42 tion fourteen of the code of West Virginia, one thousand
43 nine hundred thirty-one, and of all amendments and re-

44 enactments thereof commonly known as the approval of
45 the compromising of infants' claims for damages; and of
46 all matters and causes coming within the purview of
47 chapter forty-eight, article one, section six-c of the code
48 of West Virginia, one thousand nine hundred thirty-one,
49 and of all amendments and reenactments thereof com-
50 monly known as the issuance of marriage license in case
51 of emergency or extraordinary circumstances, and of all
52 matters and causes coming within the purview of chapter
53 thirty-seven of the code of West Virginia, one thousand
54 nine hundred thirty-one, and of all amendments and re-
55 enactments thereof commonly known as the approval of
56 the sale, lease or mortgage of infants' lands, and of all
57 matters and causes coming within the purview of all
58 other or future acts of the Legislature touching the sub-
59 ject matter of any and all said laws and acts and the
60 amendments and reenactments thereof, and of the
61 common law of said state relating to the subject matter
62 thereof. Independently of any of the foregoing matters,
63 the said domestic relations court shall also have and is
64 hereby given what was heretofore recognized as general
65 equity jurisdiction concurrent with the circuit court, ex-
66 cepting in cases involving the enforcement of criminal
67 laws and labor disputes, and excepting cases where it
68 shall appear from the pleadings that matter or thing in
69 controversy exceeds in value the sum of one hundred
70 fifty thousand dollars. The proceedings and modes of
71 procedure and power and jurisdiction conferred by law
72 upon the circuit court or the common pleas court in any
73 and all of said matters and causes are hereby conferred
74 upon and shall be exercised by said domestic relations
75 court.

Sec. 4. Salary of Judge.—The judge of the domestic
2 relations court of Cabell county shall receive for his serv-
3 ices fifteen thousand five hundred dollars, annually, pay-
4 able monthly in installments beginning on the first day
5 of July, one thousand nine hundred sixty-five, which
6 amount shall be provided for and paid by the county
7 court, out of the treasury of said county, which provision
8 as to salary shall not repeal the existing provision until

9 the said first day of July, one thousand nine hundred
10 sixty-five.

11 All acts or parts of acts inconsistent or in conflict with
12 this act are hereby repealed.

CHAPTER 166

(House Bill No. 933—By Mr. Kincaid)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred sixty, relating to the powers of the Cabell-Wayne development commission.

Be it enacted by the Legislature of West Virginia:

That section seven, chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred sixty, be amended and reenacted to read as follows:

Cabell-Wayne Development Commission

Section

7. Powers.

Section 7. Powers.—The Cabell-Wayne development
2 commission is hereby given power and authority as
3 follows: (1) To make and adopt all necessary by-laws,
4 rules and regulations for its organization and operations
5 not inconsistent with law; (2) to elect its own officers, to
6 appoint committees and to employ and fix compensation
7 for personnel necessary for its operation; (3) to enter
8 into contracts with any persons, agency, governmental
9 department, firm or corporation, including both public
10 and private corporations, and generally to do any and all
11 things necessary or convenient for the purpose of pro-
12 moting, developing and advancing the business prosperity
13 and economic welfare of Cabell and Wayne counties,
14 West Virginia, their citizens and industrial complex; (4)
15 to delegate any authority given to it by law to any of its
16 officers, committees, agents or employees; (5) to apply for,

17 receive and use grants-in-aid, donations and contributions
18 from any source or sources, and to accept and use be-
19 quests, devises, gifts and donations from any person, firm
20 or corporation; (6) to acquire lands and hold title thereto
21 in its own name; (7) to purchase, own, hold, sell and
22 dispose of personal property and to sell, lease or other-
23 wise dispose of any real estate which it may own; (8)
24 to borrow money and execute and deliver negotiable
25 notes, mortgage bonds, other bonds, debentures, and other
26 evidences of indebtedness therefor, and give such security
27 therefor as shall be requisite, including giving a mort-
28 gage or deed of trust on its real or personal property and
29 facilities in connection with the issuance of mortgage
30 bonds; and (9) to raise funds by the issuance and sale of
31 revenue bonds in the manner provided by the applicable
32 provisions of article four-a, chapter eight of the code of
33 West Virginia, one thousand nine hundred thirty-one, as
34 amended, being chapter sixty-eight, acts of the Legis-
35 lature, regular session, one thousand nine hundred thirty-
36 five, as amended, it being hereby expressly provided
37 that the Cabell-Wayne development commission is a
38 "municipal authority," within the definition of that term
39 as used in said article four-a, chapter eight of the code.
40 The commission is also hereby given power and author-
41 ity to raise funds by the issuance and sale of revenue
42 bonds for construction of industrial plants and leasing
43 such plants in the manner provided by the applicable
44 provisions of article two-c, chapter thirteen, code of West
45 Virginia, one thousand nine hundred thirty-one, as
46 amended, being chapter seventy-eight, acts of the Legis-
47 lature, regular session, one thousand nine hundred sixty-
48 three. Any such revenue bonds issued by the Cabell-
49 Wayne development commission shall be in the manner as
50 provided by article two-c, chapter thirteen, code of West
51 Virginia, one thousand nine hundred thirty-one, as
52 amended, and to otherwise exercise all powers which are
53 granted to county courts and municipalities by such acts.
54 The bonds issued pursuant to this act by the Cabell-
55 Wayne development commission shall be signed by the
56 president and attested by the secretary of the commission
57 under the seal of the commission. The coupons attached

58 thereto shall bear the facsimile signature of the president
59 of the commission. In case any of the officials whose
60 signatures appear on the bonds or coupons shall cease to
61 be such officers before the delivery of such bonds, such
62 signatures shall, nevertheless, be valid and sufficient for
63 all purposes to the same extent as if they had remained
64 in office until such delivery. If the proceeds of such
65 bonds by error of calculation or otherwise, shall be less
66 than the cost of the industrial plant, additional bonds
67 may in like manner be issued to provide the amount of
68 the deficiency, and unless otherwise provided for in the
69 trust agreement, mortgage, or deed of trust shall be
70 deemed to be of the same issue, and shall be entitled to
71 payment from the same fund, without preference or
72 priority, and shall be of equal priority as to any security.
73 Any industrial plant acquired by the Cabell-Wayne de-
74 velopment commission, by construction and purchase,
75 or by either, shall be located in either Cabell county or
76 Wayne county, or in both counties.

77 The commission is hereby given power and authority
78 to expend its funds in the execution of the powers and
79 authority herein given.

CHAPTER 167

(House Bill No. 735—By Mr. Neal and Mr. Stewart)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county of Clay and to authorize the expenditure of moneys received by such board from county funds and from private grants and donations.

Be it enacted by the Legislature of West Virginia:

Clay County Park and Recreation Board.

Section

1. Clay county court authorized to create a park and recreation board.
2. Board a body corporate; perpetual existence; right to receive and expend moneys.
3. Members; appointment; term; residence; vacancy.
4. Oath of members; election of officers; quorum; place of business.
5. Contracts; legal actions; general powers; rules and regulations.

Section 1. Clay County Court Authorized to Create a Park and Recreation Board.—The county court of Clay county is hereby authorized and empowered to, by order entered of record, create and establish a park and recreation board, for the county of Clay, West Virginia.

Sec. 2. Board a Body Corporate; Perpetual Existence; Right to Receive and Expend Moneys.—The board as created by the county court of Clay county shall be a public corporate board, with perpetual existence and a corporate seal. It shall have the power to receive moneys from said county court out of general or special county funds, and to expend the same for the purposes hereinafter enumerated. It shall additionally have the power to receive and expend for said purposes any gift, grant, donation, bequest or devise from sources other than the public funds of Clay county.

Sec. 3. Members; Appointment; Term; Residence; Vacancy.—The board shall consist of five members who shall be appointed by the county court of Clay county. The term of office of each member of the board shall be for four years and until their successors have been appointed and qualified, and said county court shall by order fix the date on which the term of office of board membership shall commence. No one shall be appointed a member of said board who is not a bona fide resident of Clay county. Any member of the board who shall cease to be a bona fide resident of said county shall thereby be disqualified and his office shall become vacant. When a vacancy occurs on said board by reason of the change of residence, resignation, or death of a member thereof, said county court shall appoint a successor who shall fill out the unexpired term of such member.

Sec. 4. Oath of Members; Election of Officers; Quorum; Place of Business.—After appointment the members of the board shall qualify by taking and filing with the clerk of the county court of Clay county the oath prescribed by law for public officials. One of the members of the board shall be elected as president, another as vice president, and another as secretary. A majority of the board shall constitute a quorum for the transaction of

9 business. The board shall maintain an office at any place
10 in said county which it may designate.

**Sec. 5. Contracts; Legal Actions; General Powers;
2 Rules and Regulations.**—The board shall have the right to
3 enter into contracts; to bring any and all necessary legal
4 actions; to exercise all the necessary powers and authority
5 to manage and control park and recreation areas in Clay
6 county, including the right to make rules and regulations
7 concerning the management and control of such parks
8 and recreation areas and to enforce any such rules and
9 regulations so promulgated.

CHAPTER 168

(House Bill No. 756—By Mr. Black and Mr. Kessinger)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section nine, chapter ninety-four, acts of the Legislature, regular session, one thousand nine hundred twenty-seven, as last amended by chapter one hundred eighty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, relating to the salary of the judge of the intermediate court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter ninety-four, acts of the Legislature, regular session, one thousand nine hundred twenty-seven, as last amended by chapter one hundred eighty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, be amended and reenacted to read as follows:

Intermediate Court of Kanawha County.

Section

9. Salary of the judge of the intermediate court of Kanawha county, West Virginia.

**Section 9. Salary of the Judge of the Intermediate
2 Court of Kanawha County, West Virginia.**—The judge of

3 the intermediate court of Kanawha county, West Virginia,
4 shall, from and after the first day of January, one thou-
5 sand nine hundred sixty-seven, receive for his services
6 a salary in the amount of fifteen thousand dollars
7 per annum, to be paid in monthly installments out of
8 the county treasury of Kanawha county, out of funds
9 of said treasury, in the manner provided by statute. The
10 salary of said judge shall continue as provided in chapter
11 one hundred eighty-three, acts of the Legislature, regular
12 session, one thousand nine hundred fifty-seven, until the
13 first day of January, one thousand nine hundred sixty-
14 seven.

CHAPTER 169

(House Bill No. 817—By Mr. Anderson and Mr. Ghiz)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the county court of Logan county, West Virginia, to transfer a certain parcel of land owned by the county court of Logan county to the board of education of the county of Logan.

Be it enacted by the Legislature of West Virginia:
County Court of Logan County.

Section

1. County court of Logan county authorized to transfer certain owned real property to the board of education of the county of Logan.

Section 1. County Court of Logan County Authorized to Transfer Certain Owned Real Property to the Board of Education of the County of Logan.—The county court of Logan county, West Virginia, is hereby authorized and empowered to sell and transfer to the board of education of the county of Logan, West Virginia, a public corporation, all or any part of its right, title, and interest in and to a certain tract or parcel of real property owned by the said county court of Logan county, West Virginia, a corporation of West Virginia, being that certain parcel of real property situate on Hatfield Island (also known as Midel-

12 burg island), in the city of Logan, Logan district, Logan
13 county, West Virginia, which parcel is bounded and de-
14 scribed as follows:

15 Beginning at a stake, which stake is located N. 5°
16 18' E. a distance of 167.78 feet from the northeast corner
17 of Logan Senior High School; thence N. 72° 00' E. a
18 distance of 160.16 feet to a stake; thence S. 26° 05' E. a
19 distance of 215.69 feet to a stake; thence S. 20° 18' E.
20 a distance of 214.37 feet to a stake; thence S. 5° 54' E.
21 a distance of 336.70 feet to a stake; thence N. 73° 07' W.
22 a distance of 156.59 feet to a stake; thence N. 18° 00' W.
23 a distance of 667.46 feet to the beginning, containing ap-
24 proximately 2.92 acres; and being part of parcel No. 2 set
25 forth and described in that certain deed between the
26 court and board, which deed is dated April 5, 1955, and
27 is of record in the office of the clerk of the county court
28 of Logan county, West Virginia, in Deed Book No. 239,
29 at page 227.

30 Inasmuch as said board intends to erect upon said prop-
31 erty public school facilities, and the same is to be used
32 for public purposes, the said county court is authorized
33 to make such transfer without monetary consideration
34 being paid by the said board to the said county court.

CHAPTER 170

(House Bill No. 721—By Mr. Dawson)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county
of Marion and to authorize the expenditure of moneys
received by such board from county funds and from pri-
vate grants and donations.

Be it enacted by the Legislature of West Virginia:

Marion County Park and Recreation Board.

Section

1. Marion county court authorized to create a park and recreation board.

2. Board a body corporate; perpetual existence; right to receive and expend moneys.
3. Members; appointment; terms; residence; vacancy.
4. Oath of members; election of officers; quorum; place of business.
5. Contracts; legal actions; general powers; rules and regulations.

Section 1. Marion County Court Authorized to Create a Park and Recreation Board.—The county court of Marion county is hereby authorized and empowered to, by order entered of record, create and establish a park and recreation board, to be known as the “Marion County Park and Recreation Board.”

Sec. 2. Board a Body Corporate; Perpetual Existence; Right to Receive and Expend Moneys.—The board as created by the county court of Marion county shall be a public corporate board, with perpetual existence and a corporate seal. It shall have the power to receive moneys from said county court out of general or special county funds, and to expend the same for the purposes herein-after enumerated. It shall additionally have the power to receive and expend for said purposes any gift, grant, donation, bequest or devise from sources other than the public funds of Marion county.

Sec. 3. Members; Appointment; Terms; Residence; Vacancy.—The board shall consist of five members who shall be appointed by the county court of Marion county. The term of office of each member of the board shall be for four years and until their successors have been appointed and qualified, and said county court shall by order fix the date on which the term of office of board membership shall commence. No one shall be appointed a member of said board who is not a bona fide resident of Marion county. Any member of the board who shall cease to be a bona fide resident of said county shall thereby be disqualified and his office shall become vacant. When a vacancy occurs on said board by reason of the change of residence, resignation, or death of a member thereof, said county court shall appoint a successor who shall fill out the unexpired term of such member.

Sec. 4. Oath of Members; Election of Officers; Quorum; Place of Business.—After appointment the members of the board shall qualify by taking and filing with the clerk

4 of the county court of Marion county the oath prescribed
5 by law for public officials. One of the members of the
6 board shall be elected as president, another as vice
7 president, and another as secretary. A majority of the
8 board shall constitute a quorum for the transaction of
9 business. The board shall maintain an office at any place
10 in said county which it may designate.

**Sec. 5. Contracts; Legal Actions; General Powers;
2 Rules and Regulations.**—The board shall have the right
3 to enter into contracts; to bring any and all necessary
4 legal actions; to exercise all the necessary powers and
5 authority to manage and control park and recreation
6 areas in Marion county, including the right to make rules
7 and regulations concerning the management and control
8 of such parks and recreation areas and to enforce any
9 such rules and regulations so promulgated.

CHAPTER 171

(House Bill No. 532—By Mr. Stewart)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county
of Marshall and to authorize the expenditure of moneys
received by such board from county funds and from private
grants and donations.

Be it enacted by the Legislature of West Virginia:

Marshall County Park and Recreation Board.

Section

1. Marshall county court authorized to create a park and recreation board.
2. Board a body corporate; perpetual existence; right to receive and expend moneys.
3. Members; appointment; terms; residency; vacancy.
4. Oath of members; election of officers; quorum; place of business.
5. Contracts; legal actions; general powers; rules and regulations.

**Section 1. Marshall County Court Authorized to Create
2 a Park and Recreation Board.**—The county court of Mar-
3 shall county is hereby authorized and empowered to, by
4 order entered of record, create and establish a park and

5 recreation board, to be known as the "Marshall County
6 Park and Recreation Board."

**Sec. 2. Board a Body Corporate; Perpetual Existence;
2 Right to Receive and Expend Moneys.**—The board as
3 created by the county court of Marshall county shall be
4 a public corporate board, with perpetual existence and a
5 corporate seal. It shall have the power to receive
6 moneys from said county court out of general or special
7 county funds, and to expend the same for the purposes
8 hereinafter enumerated. It shall additionally have the
9 power to receive and expend for said purposes any gift,
10 grant, donation, bequest or devise from sources other than
11 the public funds of Marshall county.

**Sec. 3. Members; Appointment; Term; Residency;
2 Vacancy.**—The board shall consist of five members who
3 shall be appointed by the county court of Marshall county.
4 The term of office of each member of the board shall be
5 for four years and until their successors have been ap-
6 pointed and qualified, and said county court shall by
7 order fix the date on which the term of office of board
8 membership shall commence. No one shall be appointed a
9 member of said board who is not a bona fide resident of
10 Marshall county. Any member of the board who shall
11 cease to be a bona fide resident of said county shall
12 thereby be disqualified and his office shall become vacant.
13 When a vacancy occurs on said board by reason of the
14 change of residence, resignation, or death of a member
15 thereof, said county court shall appoint a successor who
16 shall fill out the unexpired term of such member.

**Sec. 4. Oath of Members; Election of Officers; Quorum;
2 Place of Business.**—After appointment the members of
3 the board shall qualify by taking and filing with the clerk
4 of the county court of Marshall county the oath prescribed
5 by law for public officials. One of the members of the
6 board shall be elected as president, another as vice
7 president, and another as secretary. A majority of the
8 board shall constitute a quorum for the transaction of
9 business. The board shall maintain an office at any place
10 in said county which it may designate.

Sec. 5. Contracts; Legal Actions; General Powers; Rules and Regulations.—The board shall have the right to enter into contracts; to bring any and all necessary legal actions; to exercise all the necessary powers and authority to manage and control park and recreation areas in Marshall county, including the right to make rules and regulations concerning the management and control of such parks and recreation areas and to enforce any such rules and regulations so promulgated.

CHAPTER 172

(Senate Bill No. 285—By Mr. Montgomery and Mr. Carrigan)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and six, chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred sixty-four, and to further amend said chapter by adding thereto a new section, designated section fourteen, relating to the common pleas court of Marshall county, which provides for the enlargement of its jurisdiction and for a probation officer; salary of clerk.

Be it enacted by the Legislature of West Virginia:

That sections two and six, chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred sixty-four, be amended and reenacted; and that said chapter be further amended by adding thereto a new section, designated section fourteen, all to read as follows:

Common Pleas Court of Marshall County.

Section

2. Jurisdiction.
6. Clerk; powers, duties and compensation.
14. Probation officer same as circuit court.

Section 2. Jurisdiction.—The court shall have jurisdiction within Marshall county, concurrent with the circuit court of said county of causes, matters, proceedings and suits relating to (a) affirmation of marriages, annulment

5 of marriages, separate maintenance, divorce, alimony, the
6 care, custody, maintenance and education of children of
7 litigants and the adjudication of property rights arising
8 out of same, and all other causes and matters arising
9 within the provisions of chapter forty-eight, article two
10 of the official code of West Virginia, commonly known as
11 "the divorce law," and of all amendments and reenact-
12 ments thereof; (b) adoption proceedings arising out of
13 article four of the chapter last aforesaid, and of all amend-
14 ments and reenactments thereof; (c) proceedings for a
15 change of name arising out of article five of the chapter
16 last aforesaid, and of all amendments and reenactments
17 thereof; (d) the enforcement of support of dependents
18 arising out of article nine of the chapter last aforesaid,
19 and of all amendments and reenactments thereof; (e) of
20 all civil actions or proceedings at law, except where it
21 shall appear from the pleadings that the matter in con-
22 troversy exceeds the value of one hundred thousand
23 dollars; (f) of all proceedings of eminent domain arising
24 out of chapter fifty-four of the official code of West Vir-
25 ginia and all amendments and reenactments thereof; (g)
26 of all cases arising under chapter forty-nine, articles five,
27 six and seven of the official code of West Virginia and all
28 amendments and reenactments thereof; (h) appellate
29 jurisdiction in all cases, civil and criminal, from judg-
30 ments of justices of the peace in said county, police judges
31 or mayors of any incorporated city, town or village, or of
32 any inferior tribunal therein, wherein an appeal, writ of
33 error, supersedeas or writ of certiorari may be allowed;
34 (i) all proceedings under article one, chapter thirty-seven
35 of the official code of West Virginia and all amendments
36 and reenactments thereof; (j) all proceedings by prohibi-
37 tion, mandamus, quo warranto habeas corpus or certio-
38 rari; (k) proceeding under section six-c article one, chap-
39 ter forty-eight of the official code of West Virginia, as
40 amended; (l) all proceedings under article seven, chapter
41 forty-eight of the official code of West Virginia, as amend-
42 ed; (m) all proceedings under section four, article ten, chap-
43 ter fifty-six and sections eight through fifteen, inclusive,
44 article ten, chapter forty-four of the official code of West
45 Virginia, as amended; (n) any and all other matters aris-

46 ing under the present and future laws of the state of
47 West Virginia, common or statutory, incidental to the
48 foregoing, including, but not limited to, the disposition of
49 property and property interests involved in any such
50 matters, and, as well, the adjudication of any and all
51 rights, titles and interests necessary or incidental to a
52 full determination of all such matters pending in said
53 court.

54 Said court shall have general equity jurisdiction in
55 causes, matters, proceedings and suits before it within its
56 jurisdiction with power to grant injunctions and to re-
57 quire and take recognizances.

58 The proceedings, modes of procedures, power and juris-
59 diction conferred by law upon the circuit court of Mar-
60 shall county in any and all said causes, matters, pro-
61 ceedings and suits, are hereby conferred upon and shall
62 be exercised by said court.

63 The judge of said court shall have the same powers in
64 vacation as to any and all of said causes, matters, pro-
65 ceedings and suits that are conferred upon the judge of
66 the circuit court of said county.

67 It shall not be necessary in any such causes or pro-
68 ceedings to set forth upon the record the facts author-
69 izing said court to take jurisdiction thereof, but jurisdic-
70 tion shall be presumed unless the contrary plainly appears
71 from the record.

Sec. 6. Clerk; Powers, Duties and Compensation.—The
2 clerk of the circuit court of Marshall county shall, ex
3 officio, be, act as and perform the duties of the clerk of
4 the said court and shall exercise the same power and
5 duties arising within the jurisdiction of said court as are
6 performed by him as clerk of the circuit court. All
7 processes, rules and orders of the court, in the exercise of
8 its jurisdiction, shall be signed by the clerk thereof to be
9 directed to the sheriffs of the proper counties wherein
10 the same are to be executed in like manner and with the
11 same effect as processes issuing from the circuit court of
12 Marshall county. For his services under and pursuant to
13 this act, said clerk shall receive an annual salary of

14 twelve hundred dollars payable in equal monthly pay-
15 ments of one hundred dollars each.

Sec. 14. Probation Officer Same as Circuit Court.—The
2 probation officer for the circuit court shall also be and
3 act as the probation officer for the common pleas court
4 for which he shall receive no additional compensation.

CHAPTER 173

(Senate Bill No. 263—By Mr. Hatcher)

[Passed March 5, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section nine, chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred seven, as amended, to increase the salary of the judge of the criminal court of McDowell county from eight thousand one hundred dollars per annum to ten thousand five hundred dollars per annum, effective on the first day of January, one thousand nine hundred sixty-seven.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred seven, as amended, be amended and reenacted to read as follows:

Criminal Court of McDowell County.

Section

9. Salary of judge.

Section 9. Salary of Judge.—The judge of the criminal
2 court of McDowell county shall receive an annual sal-
3 ary of eight thousand one hundred dollars to and includ-
4 ing the thirty-first day of December, one thousand nine
5 hundred sixty-six, and an annual salary of ten thousand
6 five hundred dollars on and after the first day of January,
7 one thousand nine hundred sixty-seven. The annual sal-
8 ary herein provided for shall be paid out of the McDowell
9 county treasury in twelve equal monthly installments.

CHAPTER 174

(House Bill No. 590—By Mr. Holroyd)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and four, chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-four, relating to the jurisdiction of the intermediate court of Mercer county and the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That sections two and four, chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-four, be amended and reenacted to read as follows:

Intermediate Court of Mercer County.

Section

2. Jurisdiction concurrent with circuit court.
4. Salary of judge; payment thereof.

Section 2. Jurisdiction Concurrent with Circuit Court.—The said court, which is the same court originally established by chapter eighteen, acts of the Legislature, regular session, one thousand eight hundred ninety-three, but with its name and jurisdiction changed as in this act provided, shall continue to have jurisdiction within the county of Mercer, concurrent with the circuit court of said county, of all felonies, misdemeanors and offenses committed or which may be committed within the said county of Mercer, and shall also have, concurrent with the circuit court of said county, jurisdiction, supervision and control by appeal, mandamus, prohibition and certiorari of all proceedings before justices of the peace of said county or the police court, mayor or other constituted tribunal, board or commission of any city, town or village in said county. The said court shall likewise have jurisdiction within said county of Mercer, concurrent with the circuit court of said county, of all suits and proceedings in equity, in all actions of ejectment, and in all civil actions or proceedings

21 at law, except where it shall appear from the pleadings
22 that the matter or thing in controversy in any such suit,
23 proceeding or action, exclusive of interest and costs,
24 exceeds in value the sum of ten thousand dollars, and
25 all summary proceedings at law and any other manner
26 of action or proceeding at law authorized by the general
27 laws of West Virginia, as well as of appeals from judg-
28 ments of the justices of said county when such appeals
29 shall lie to the said court in the same manner and under
30 the same regulations as provided in the general laws
31 for appeals from justices. The said court shall likewise
32 have jurisdiction within said county of Mercer, con-
33 current with the circuit court of said county, of suits for
34 divorce, annulment of marriage and separate mainte-
35 nance, of bastardy proceedings and actions for mainte-
36 nance of illegitimate children as provided by the general
37 laws of West Virginia, and the said court shall continue
38 to have jurisdiction within said county of proceedings
39 for adoption and all juvenile and other matters of which
40 the aforesaid criminal court of Mercer county was given
41 jurisdiction by the general laws of West Virginia or of
42 which the court hereby established may be given juris-
43 diction by such general laws.

Sec. 4. Salary of Judge; Payment Thereof.—The judge
2 of said intermediate court shall receive for his services
3 the sum of thirteen thousand five hundred dollars per
4 annum to be paid out of the county treasury of said
5 county of Mercer.

CHAPTER 175

(House Bill No. 919—By Mr. Varney and Mr. Simpkins)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to authorize and empower the county court of Mingo county to establish a county coordinating council.

Be it enacted by the Legislature of West Virginia:

Mingo County Coordinating Council.

Section

1. County court authorized to establish.
2. Purpose.
3. Council in advisory capacity only.
4. County clerk to be secretary to council; duties of clerk.
5. Compensation of county clerk.

Section 1. County Court Authorized to Establish.—The
2 county court of Mingo county is hereby authorized and
3 empowered to establish a county coordinating council for
4 the purpose of coordinating county improvement pro-
5 grams with state and federal programs designed for
6 this purpose.

Sec. 2. Purpose.—The purpose for which this council
2 is created is to better enable the county court to take ad-
3 vantage of federal and state programs designed to im-
4 prove local services.

Sec. 3. Council in Advisory Capacity Only.—The council
2 hereby created shall gather necessary facts and data and
3 formulate needed local programs. The council shall sub-
4 mit the foregoing facts, data and plans to the county court
5 for its guidance. The council shall act only in an advi-
6 sory capacity.

**Sec. 4. County Clerk to Be Secretary to Council;
2 Duties of Clerk.**—The county clerk is hereby designated
3 the secretary of the council. The clerk shall attend all
4 meetings of the council. He shall keep record of all pro-
5 ceedings and shall transmit a copy of all such proceedings
6 to the county court. The clerk shall also perform such
7 other reasonable duties as may be required of him by the
8 council.

Sec. 5. Compensation of County Clerk.—By reason of
2 additional duties imposed under the provisions of this bill
3 the annual compensation of the county clerk shall on and
4 after the first day of July, one thousand nine hundred
5 sixty-five, be in the amount of seven thousand two hun-
6 dred dollars, which sum shall include the fee in the prepa-
7 ration of the financial statement of the county.

CHAPTER 176

(House Bill No. 920—By Mr. Varney and Mr. Simpkins)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to authorize and empower the county court of Mingo county to establish a Mingo county law library.

Be it enacted by the Legislature of West Virginia:

Mingo County Law Library.

Section

1. Created; control and management.
2. Mingo county court authorized to expend funds.
3. Compensation of circuit clerk.

Section 1. Created; Control and Management.—There is hereby created the Mingo county law library which shall be wholly under the control and management of the circuit clerk of Mingo county, under rules and regulations promulgated by the judge of the twenty-fourth judicial circuit.

Sec. 2. Mingo County Court Authorized to Expend Funds.—The county court of Mingo county is hereby authorized to and may expend funds for the purchase of books or other expense necessary to the purpose of this act.

Sec. 3. Compensation of Circuit Clerk.—By reason of additional duties imposed under the provisions of this act the annual compensation of the circuit clerk shall on and after the first day of July, one thousand nine hundred sixty-five, be in the amount of seven thousand two hundred dollars.

CHAPTER 177

(House Bill No. 602—By Mr. Hovermale)

[Passed February 19, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand

nine hundred twenty-nine, empowering the county court of Morgan county to appropriate and contribute county funds toward the support and maintenance of the "Morgan County Library," located on state property at Berkeley Springs in the county of Morgan.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand nine hundred twenty-nine, be amended and reenacted to read as follows:

Morgan County Library.

Section

1. Morgan county court authorized to contribute county funds for support and maintenance of library.

Section 1. Morgan County Court Authorized to Contribute County Funds for Support and Maintenance of Library.—The county court of Morgan county, West Virginia, as an aid to education in said county, is hereby authorized and empowered to appropriate and pay out of the general county fund, a sum not to exceed one thousand dollars annually toward the support and maintenance of the Morgan county library, located at Berkeley Springs in said county.

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CHAPTER 178

(House Bill No. 737—By Mr. Dusci)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the board of commissioners of the county of Ohio to transfer a certain parcel of land owned by the county of Ohio to the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Board of Commissioners of Ohio County.

Section

1. Authorized to transfer certain real property to the state of West Virginia.

Section 1. Authorized to Transfer Certain Real Property to the State of West Virginia.—The board of commissioners of the county of Ohio is hereby authorized and empowered to sell and transfer to the state of West Virginia, a certain tract or parcel of land owned by the county of Ohio, located on Roney's Point in Triadelphia district of said county, commonly known as the Ohio county sanitarium, being approximately three hundred seventy-six acres: *Provided*, That the conveyance and transfer be conditioned upon an agreement with the state that the said property will be used for mental health purposes by the establishment of a comprehensive community mental center: *And provided further*, That the instrument conveying and transferring the property contain therein a provision that unless the property is used for the purposes set forth above, it shall revert to the board of commissioners of the county of Ohio.

CHAPTER 179

(House Bill No. 949—By Mr. Seabright)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact chapter two hundred, acts of the Legislature, regular session, one thousand nine hundred fifty-five, as last amended by chapter one hundred ninety-four, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, relating to the authority of the board of commissioners of the county of Ohio to use all or part of debt levies, not required for bonded indebtedness, for the purpose of the construction, equipment and maintenance of an airport, and for the construction, equipment and maintenance of any county building.

Be it enacted by the Legislature of West Virginia:

That chapter two hundred, acts of the Legislature, regular session, one thousand nine hundred fifty-five, as last amended

and reenacted by chapter one hundred ninety-four, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, be amended and reenacted to read as follows:

Ohio County

Section

1. Board of commissioners of the county of Ohio authorized to lay an additional levy, and to use proceeds therefrom for construction and maintenance of an airport and a county building.
2. Inconsistent acts repealed.

Section 1. Board of Commissioners of the County of Ohio Authorized to Lay an Additional Levy, and to Use Proceeds Therefrom for Construction and Maintenance of an Airport and a County Building.—For a period of five years commencing with the fiscal year one thousand nine hundred sixty-five—one thousand nine hundred sixty-six, in addition to the levies heretofore authorized to be laid by county courts for general county current expense, and for the payment of interest and sinking fund requirements on bonded indebtedness incurred subsequent to the passage of the tax levy limitation amendment, the board of commissioners of the county of Ohio is hereby authorized and empowered to lay such additional levy as may not be required for bonded indebtedness, on all of the property in Ohio county, but not to exceed four and nine-tenths cents on each one hundred dollars' assessed valuation on class I property; nine and eight-tenths cents on class II property, and nineteen and six-tenths cents on classes III and IV property. The proceeds of said levy shall be placed in a separate fund designated "public improvement fund," to be used solely for the construction, equipment, and maintenance of an airport, and for the construction, equipment and maintenance of any county building.

Sec. 2. Inconsistent Acts Repealed.—All acts and parts of acts inconsistent or in conflict herewith, insofar as the same may be applicable to the county of Ohio, or the said board of commissioners of the county of Ohio, are hereby repealed.

CHAPTER 180

(House Bill No. 692—By Mr. Dusci)

[Passed February 27, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred twenty-five, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred sixty, relating to the salary of the judge of the intermediate court of Ohio county.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred twenty-five, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred sixty, be amended and reenacted to read as follows:

Intermediate Court of Ohio County.

Section

9. Salary of judge.

Section 9. Salary of Judge.—The said judge shall, 2 from and after the first day of January, one thousand 3 nine hundred sixty-seven, for his services receive fifteen 4 thousand dollars per annum, to be paid out of the county 5 treasury of said county of Ohio. For the remainder of 6 the current term, the judge shall receive twelve thousand 7 dollars per annum for his services, payable as herein- 8 before provided.

CHAPTER 181

(Senate Bill No. 291—By Mr. Knapp and Mr. Taylor,
of Mason)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT authorizing the county court of Putnam county to create a special airport fund, to be known as the "Putnam

County Airport Fund," to be used for acquiring, constructing, maintaining and operating an airport in the county of Putnam; to transfer into the special fund so created from year to year funds raised by levy and unexpended funds or surpluses from the county general fund; and to accept grants, gifts, donations and financial assistance from governmental agencies, persons, firms and corporations.

Be it enacted by the Legislature of West Virginia:

Putnam County Airport Fund.

Section

1. County court authorized to create special airport fund.
2. Expenditure of special fund authorized.

Section 1. County Court Authorized to Create Special Airport Fund.—The county court of Putnam county is hereby authorized to create and establish a special airport fund, to be known as the "Putnam County Airport Fund," to be used for establishing, maintaining and operating an airport within the county of Putnam.

The said county court is authorized and empowered to transfer into said special fund from year to year funds raised by levy and such amounts as it shall deem proper from unexpended or surpluses from the county general fund. It is also authorized to accept grants, gifts, donations and financial assistance made to said fund or airport established from the state of West Virginia, the United States government, or any person, firm or corporation.

Sec. 2. Expenditure of Special Fund Authorized.—The county court of Putnam county is authorized and empowered to expend such part or all of the special fund from time to time for the purposes of acquiring, construction, maintenance, improving and operation of an airport.

CHAPTER 182

(House Bill No. 947—By Mr. Buck)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the board of education of the county of Tyler, West Virginia, to transfer a certain

parcel of land, owned by said board of education, to the Friendly community activities association, inc., a non-profit, public benefit corporation.

Be it enacted by the Legislature of West Virginia:

Tyler County Board of Education.

Section

1. The board of education of the county of Tyler authorized to transfer a certain parcel of its real property to the Friendly community activities association, inc.

Section 1. The Board of Education of the County of Tyler Authorized to Transfer a Certain Parcel of its Real Property to the Friendly Community Activities Association, Inc.—Inasmuch as the Parent-Teacher Association of the Friendly school at Friendly, Union district, Tyler county, West Virginia, caused to be erected at the expense of said association a gymnasium building upon real property owned by the board of education of the county of Tyler, West Virginia, with the consent and understanding of said board of education that the said building would be used for both public school functions and community functions and there has been formed the Friendly community activities association, inc., a non-profit, public benefit corporation, which has among its declared purposes the power to hold title to real property to be used for community and other public purposes, and both the said board of education and the said parent-teacher association are desirous of transferring and conveying the real property upon which said gymnasium building is situate to the said Friendly community activities association, inc., to be used for community activities, for public education uses and other public purposes, the board of education of the county of Tyler, state of West Virginia, is hereby authorized and empowered to convey and transfer to the Friendly community activities association, inc., a nonprofit, public benefit corporation, of Friendly, West Virginia, to be used for community activities, public education and other public purposes, a certain tract or parcel of real estate, together with all improvements thereon, and rights and appurtenances thereunto belonging, situate in the town of Friendly, Union district, Tyler county, West Virginia, and bounded and described as follows, to wit: Beginning at a point in the

34 east right-of-way line of West Virginia State Route 2
35 at a concrete marker designated FCAA-1, which said
36 beginning point is also the westerly line of the property
37 of the board of education of Tyler county; thence with
38 the easterly right-of-way line of said State Route 2 in a
39 southwesterly direction a distance of 61.5 feet to a con-
40 crete marker designated FCAA-2, located at the corner
41 of the property owned by said board of education; thence
42 leaving said State Route 2 and with the line of the prop-
43 erty of said board of education south 38 degrees 45
44 minutes east 146.7 feet to a concrete marker designated
45 FCAA-3; thence north 40 degrees 0 minutes east 68.5 feet
46 to a concrete marker designated FCAA-4; thence north
47 41 degrees 0 minutes west 146.5 feet to the place of begin-
48 ning, containing nine thousand five hundred twenty-nine
49 (9,529) square feet or .219 acres, more or less.

50 Inasmuch as the building on said property was erected
51 without cost to said board of education and said board of
52 education retains the right to use said building and real
53 property for public education purposes and said property
54 is to be used for community activities and other public
55 purposes in addition to public education, the said board
56 of education is authorized to make such conveyance and
57 transfer without monetary consideration being paid by
58 the Friendly community activities association, inc., to
59 the said board of education.

CHAPTER 183

(House Bill No. 690—By Mr. Davidson and Mr. Mathis)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT authorizing the expenditure of surplus funds by the
Wayne county court.

Be it enacted by the Legislature of West Virginia:

Wayne County Health Center and Clinic.

Section

1. County court authorized to create special fund for a health center and clinic.

Section 1. County Court Authorized to Create Special Fund for a Health Center and Clinic.—The county court of Wayne county is hereby authorized and empowered to use any unexpended sums and surpluses, presently or hereafter existing, in the general fund or in any special fund of said county, for the purpose of creating a special fund for the purchase of land for a health center and medical clinic in Wayne county and for the construction, maintenance and equipping of such health center and medical clinic.

CHAPTER 184

(House Bill No. 855—By Mr. Nicely and Mr. Knotts)

[Passed March 1, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections two and five, chapter one hundred ninety-nine, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, relating to the jurisdiction of the intermediate court of Wood county and the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That sections two and five, chapter one hundred ninety-nine, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, be amended and reenacted to read as follows:

Intermediate Court of Wood County.

Section

2. Jurisdiction.
5. Salary of judge.

Section 2. Jurisdiction.—The court shall have jurisdiction within Wood county, concurrent with the circuit court of said county, of actions, causes, matters, proceedings and suits relating to (a) those matters within the purview of chapter forty-eight, article one of the official code of West Virginia, and of all amendments and reenactments thereof, of which the circuit court now has

8 exclusive jurisdiction, including the issuance of a mar-
9 riage license in an emergency or under extraordinary
10 circumstances as now provided in section six-c of said
11 chapter and article; (b) affirmation of marriages, annul-
12 ment of marriages, separate maintenance, divorce, ali-
13 mony, the care, custody, maintenance and education of
14 children of litigants and the adjudication of property
15 rights arising out of same, and all other causes and mat-
16 ters arising within the provisions of chapter forty-eight,
17 article two of the official code of West Virginia, commonly
18 known as "the divorce law," and of all amendments and
19 reenactments thereof; (c) adoption proceedings arising
20 out of article four of the chapter last aforesaid, and of
21 all amendments and reenactments thereof; (d) proceed-
22 ings for a change of name arising out of article five of
23 the chapter last aforesaid, and of all amendments and re-
24 enactments thereof; (e) the enforcement of support of
25 dependents arising out of article nine of the chapter last
26 aforesaid, and of all amendments and reenactments
27 thereof; (f) the care and disposition of delinquent, de-
28 fective, neglected and dependent children and juvenile
29 offenders arising out of chapter forty-nine, articles five,
30 six, and seven of the official code of West Virginia, and
31 of all amendments and reenactments thereof; (g) all
32 proceedings arising out of chapter forty-nine, article eight
33 of the official code of West Virginia, known as the "Inter-
34 state Compact on Juveniles," and of all amendments and
35 reenactments thereof; (h) compulsory school attendance
36 and truancy arising out of chapter eighteen, article eight
37 of the official code of West Virginia, and of all amend-
38 ments and reenactments thereof; (i) habeas corpus pro-
39 ceedings involving the award and custody of children
40 under the age of twenty-one years; (j) the collection
41 of recognizances and bonds taken by said court, or of
42 bonds taken by the clerk thereof in vacation, to secure
43 the payment of judgments for fines and costs rendered
44 by said court; (k) the approval of the compromising of
45 infants' claims for damages in accordance with the pro-
46 visions of chapter forty-four, article ten, section fourteen
47 of the official code of West Virginia, and all amendments
48 and reenactments thereof; (l) the approval of the sale,

49 lease, mortgage or deeding in trust of infants' lands in
50 accordance with the provisions of chapter thirty-seven,
51 article one of the official code of West Virginia, and all
52 amendments and reenactments thereof; and (m) any and
53 all other matters arising under the present and future
54 laws of the state of West Virginia, common or statutory,
55 incidental to the foregoing, including, but not limited to,
56 the disposition of property and property interests in-
57 volved in any such matters, and, as well, the adjudication
58 of any and all rights, titles and interests necessary or
59 incidental to a full determination of all such matters
60 pending in said court.

61 Said court shall have general equity jurisdiction in
62 actions, causes, matters, proceedings and suits before it
63 within its jurisdiction with power to grant injunctions
64 and to require and take recognizances.

65 The proceedings, modes of procedures, power and juris-
66 diction conferred by law upon the circuit court of Wood
67 county in any and all said actions, causes, matters, pro-
68 ceedings and suits, are hereby conferred upon and shall
69 be exercised by said court.

70 The judge of said court shall have the same powers in
71 vacation as to any and all of said actions, causes, matters,
72 proceedings and suits that are conferred upon the judge
73 of the circuit court of said county.

74 It shall not be necessary in any such actions, causes,
75 matters, proceedings or suits to set forth upon the record
76 the facts authorizing said court to take jurisdiction there-
77 of, but jurisdiction shall be presumed unless the contrary
78 plainly appears from the record.

Sec. 5. Salary of Judge.—The judge of said court shall,
2 for his services, receive the sum of twelve thousand dollars
3 per annum, payable monthly in installments, beginning on
4 the first day of July, one thousand nine hundred sixty-
5 five, which amount shall be provided for and paid by
6 the county court, out of the treasury of Wood county,
7 which provision as to salary shall not repeal the existing
8 provision until the said first day of July, one thousand
9 nine hundred sixty-five. The county court shall annually
10 make provision by appropriate levy and appropriation for
11 the payment of said salary.

RESOLUTIONS

(Only resolutions of general interest adopted by the Legislature are included in this volume.)

HOUSE CONCURRENT RESOLUTION NO. 6

(By Mr. Steptoe and Mr. Slonaker)

[Adopted March 8, 1965.]

Requesting the Congress of the United States to investigate experimentation in the field of artificial nucleation, or interference by artificial means with the natural precipitation of rain, hail, snow, moisture, or water in any form in the atmosphere.

WHEREAS, Experimentation in the field of interference by artificial means with natural precipitation is being conducted in several states, including the State of West Virginia; and

WHEREAS, The public interest, health, safety and welfare require that the effects of such experimentation be analyzed and evaluated by competent scientific investigation; and

WHEREAS, Evaluation of the gain or loss occurring from such activities is in the national interest as well as in the interest of the people of the State of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Congress of the United States investigate experimentation in the field of artificial nucleation, or interference by artificial means with the natural precipitation of rain, hail, snow, moisture, or water in any form in the atmosphere; and, be it

Further Resolved, That the Clerk of the House of Delegates is hereby directed to forward attested copies of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the House of Representatives, and to each member of the West Virginia delegation in the Congress of the United States.

HOUSE CONCURRENT RESOLUTION NO. 9

(By Mr. Bedell)

[Adopted January 26, 1965.]

Expressing sadness on the death of Sir Winston Churchill.

WHEREAS, On Sunday morning January 24, 1965, death ended the mortal journey of Sir Winston Churchill, the great and extraordinary man of the Century; and

WHEREAS, By action of this Legislature and by the Congress, Sir Winston was an honorary citizen of the State of West Virginia and of the United States; and

WHEREAS, This grand titanic figure belonged to the World; had throughout his long and eventful life led the British Empire in peace and war, and inspired the World with his brilliance and courage; valiantly lent his strength and wisdom to the betterment of humanity and unceasingly strove for world peace; and was eternally the champion of liberty and the challenger of tyranny; and

WHEREAS, Realizing that no encomiums we may express can adequately describe the works and life of this child of history, or enrich his name and magnificent career, and that what he said and what he did will never die; therefore, be it

Resolved by the Legislature of West Virginia:

That the members of the 57th Legislature of West Virginia do hereby express their genuine sadness on the passing of this great leader of the Free World, courageous, tolerant and humanitarian statesman, who was in fact the captain of all freedom-loving men; and that we further acknowledge our gratitude for a life so fully lived.

HOUSE CONCURRENT RESOLUTION NO. 23

(Originating in the House Committee on the Judiciary)

[Adopted March 13, 1965.]

Directing the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to make a

study of applicable and appropriate conflict of interest legislation for the State of West Virginia and to make recommendations with respect thereto, and to provide for a report thereon to the Legislature.

WHEREAS, Governor Hulett C. Smith has appointed a Task Force, consisting of outstanding West Virginia citizens, to investigate and recommend appropriate conflict of interest legislation applicable to the employees and officials of the State of West Virginia in the discharge of their official duties; and

WHEREAS, Pending a report of said Task Force, Governor Hulett C. Smith, by executive order No. 1, set a certain code of conduct for all executive appointees in regard to conflict of interest in the performance of their official duties; and

WHEREAS, Said Task Force has subsequently recommended to His Excellency, the Governor, that the Legislature of West Virginia appoint a Legislative Committee to also examine the field of conflict of interest legislation and to make recommendations pertaining thereto; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation are hereby directed to review, examine, and study appropriate and applicable conflict of interest legislation to govern the conduct of officials and employees of the State of West Virginia in the discharge of their official duties and responsibilities, and to recommend to the Legislature specific legislation for their consideration; and, be it

Further Resolved, That the said Joint Committee on Government and Finance and the Commission on Interstate Cooperation report their findings and recommendations to the said Legislature on the first day of the regular session, 1966, and that the expenses necessary to make such study, prepare such legislation, and to submit such report, be paid from the legislative appropriations, made to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation.

HOUSE CONCURRENT RESOLUTION NO. 26
(Originating in the House Committee on the Judiciary)

[Adopted March 13, 1965.]

Directing the Joint Committee on Government and Finance to make a study of the Uniform Fiduciaries' Powers Act and to make recommendations with respect thereto and to provide for a report thereon to the Legislature.

WHEREAS, The Uniform Fiduciaries' Powers Act has been adopted by many states and authorities believe that its adoption by the State of West Virginia may be desirable; and

WHEREAS, Said Uniform Fiduciaries' Powers Act has been introduced in the House of Delegates at this regular session of the West Virginia Legislature and designated as House Bill No. 790; and

WHEREAS, The Committee on the Judiciary of this body has had an opportunity to make a superficial examination of the Uniform Fiduciaries' Powers Act but is of opinion that said act is too far reaching and has too many ramifications to be adequately considered for enactment by this session of the Legislature; and

WHEREAS, The Committee on the Judiciary of this body has recommended that the Uniform Fiduciaries' Powers Act be referred to a proper interim committee for further study and evaluation and to make recommendations to the Legislature pertaining thereto; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to review, examine and study the Uniform Fiduciaries' Powers Act and to recommend to the Legislature specific legislation with respect thereto for consideration; and, be it

Further Resolved, That said Joint Committee on Government and Finance report its findings and recommendations to the Legislature at the 1967 regular session of the Legislature and that said interim committee is hereby authorized to expend such funds as may be necessary, to defer the expenses incurred in making such study and preparation of appropriate

legislation, be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 30

(Originating in the House Committee on the Judiciary)

[Adopted March 13, 1965.]

Directing the Joint Committee on Government and Finance to study the problem of abandoned property and make recommendations for legislation governing the disposition thereof, and providing for a report to the Legislature of its findings and recommendations.

WHEREAS, It has been the experience of many jurisdictions that with each passing year there is more and more property and money accumulating in the hands of banks, insurance companies, trustees and others which remains unclaimed and presumably abandoned; and

WHEREAS, The owners or legal claimants of such property and money are unknown and unascertainable; and

WHEREAS, Existing laws relating to the escheat of property to the sovereign state does not apply to such property; and

WHEREAS, Many jurisdictions have enacted so-called abandoned property statutes, which have resulted in providing a substantial source of revenue to the State; and

WHEREAS, It is believed that such a law, with proper safeguards incorporated therein, would be beneficial to the State of West Virginia and its citizens; and

WHEREAS, Many technical and legal questions arise in considering the drafting of abandoned property legislation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to review, examine and study the problems of abandoned property and recommend appropriate legislation to govern the disposition of such property; and, be it

Further Resolved, That the said Joint Committee on Government and Finance report its findings and recommendations to the Legislature on or before the convening of its regular session in the year 1966, and that the expenses necessary to make such study, prepare such legislation, and to submit such report, be paid from the legislative appropriations, made to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 33

(By Mr. Speaker, Mr. White, and Mr. Cann)

[Adopted March 13, 1965.]

To memorialize the Congress of the United States, the United States Secretary of Defense and the Panama Canal Company that Panama Canal tolls be re-examined at once with a view to a significant reduction of tolls applicable to such bulk cargoes as coal produced in West Virginia and shipped to Japan via the Panama Canal.

WHEREAS, Japan today imports annually upwards of six million net tons of American low-volatile coals, principally mined in West Virginia, shipped out of Hampton Roads, Virginia, and transported through the Panama Canal; and

WHEREAS, The Robert R. Nathan Associates report to the office of Coal Research of the United States Department of the Interior projects that Japanese use of American coking coals could easily rise to fourteen million tons by the year 1970; and

WHEREAS, Japanese steel company users have given a serious warning that such massive use of superior and preferred American and West Virginia coking coals is severely threatened by high transportation costs, including Panama Canal tolls; and

WHEREAS, Already foreign sources of inferior coals represent a dangerously growing proportion of Japanese coking coal imports because of the high transportation costs, including Panama Canal tolls, applicable to West Virginia coals; and

WHEREAS, The West Virginia coking coals passing through the Panama Canal constitute the largest single category of dry-bulk cargoes passing through that canal and make up a

substantial part of the Panama Canal Company's toll revenues and the elimination of such traffic could cause fiscal disaster to the Panama Canal Company; and

WHEREAS, The St. Lawrence Seaway Authority recognizes the important distinction between bulk and general cargoes and provides for bulk cargo such as coal to move economically under a tariff approximately one half of the tariff applicable to general cargo; and

WHEREAS, The welfare of the citizens of West Virginia engaged in the production of coking coals exported to Japan would greatly suffer if, because of high transportation costs, including Panama Canal tolls, American coking coal, now an important raw material for the Japanese steel industry, is replaced by coking coals from other countries because of high transportation costs, including Panama Canal tolls, even though Japanese steel technologists greatly prefer American coking coals for the production of the coke used in their blast furnaces; and

WHEREAS, This problem also affects the welfare of the coal industry, one of our principal employers, as noted by Eastern Associated Coal Corporation, a member of that industry; and

WHEREAS, The welfare of West Virginia and the national interest of the United States with respect to its balance of payments program requires that American coking coal exports to Japan reach the highest possible levels; therefore, be it

Resolved by the Legislature of West Virginia:

That it is the sense of this Legislature that the Congress of the United States, the Secretary of Defense and the Panama Canal Company should be and hereby are memorialized to cause immediate studies to be undertaken to explore the relation of Panama Canal tolls to the volume of shipment of bulk commodities, such as West Virginia coking coal, with a view to a reduction of such dry-bulk cargo tolls in order to preserve for the American coal industry and the State of West Virginia this important market for superior coking coals and in order to prevent the replacement of American coals by admittedly inferior foreign coals bearing lower transportation costs.

HOUSE CONCURRENT RESOLUTION NO. 37

(By Mr. Cann and Mr. Boiarsky)

[Adopted March 13, 1965.]

Requesting the Joint Committee on Government and Finance to make a comprehensive study of the laws relating to the removal of abandoned, unoccupied and dilapidated buildings which are detrimental and inimical to the general welfare and the advisability of legislation which would provide for the removal of such buildings.

WHEREAS, There are in many sections of this State numerous abandoned, unoccupied, and dilapidated buildings which serve no useful economic or social purpose and which are generally deemed to be inimical or dangerous to the health, safety, morality and general welfare of the citizenry by reason of unsafe structural condition, availability to vagrants and immoral persons, susceptibility to fire and as nuisances attractive to school children; and

WHEREAS, The general welfare of this State would be better served by the removal of such abandoned, unoccupied and dilapidated buildings, by public action if necessary; and

WHEREAS, The present law is in some cases inadequate to deal with the removal of such abandoned, unoccupied and dilapidated buildings; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance make a comprehensive study of the adequacy of existing laws of West Virginia and the laws and methods of other states relating to the removal of abandoned, unoccupied and dilapidated buildings; and, be it

Further Resolved, That the Joint Committee on Government and Finance make a comprehensive study of the problem of abandoned, unoccupied and dilapidated buildings as well as the advisability of legislation dealing with such buildings; and, be it

Further Resolved, That the Committee shall make its report of its study to the Legislature on or before the convening of its regular session in the year 1966; and, be it

Further Resolved, That the expenses necessary to make such study and to submit such report be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 44
(By Mr. Speaker, Mr. White, and Mr. Boiarsky)

[Adopted March 12, 1965.]

Requesting the Joint Committee on Government and Finance to make a study and recommendations on a long-range program of taxation and state revenue.

WHEREAS, For the past several years the unsettled condition of sources of state revenue resulting from placing specific expiration dates on tax statutes, and the difficulty in estimating income from certain taxes on businesses and sales have caused the Board of Public Works and the Legislature great difficulty in preparing the annual budget and making appropriations for governmental functions; and

WHEREAS, Many functions of State Government are financed through special funds and special fees which are not considered by the Legislature in the overall cost of governmental operations; and

WHEREAS, The 1965 Legislature has passed a comprehensive educational program which calls for additional future financing; and

WHEREAS, With the view of achieving a more stable and settled tax structure so as to provide better fiscal management and planning, it is believed a thorough study should be made of the State's entire tax structure and other sources of income; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to forthwith undertake a comprehensive study of the State's tax structure, including all sources of income to the State, for the purpose of determining what steps may be taken by the Legislature toward obtaining a more dependable, stable and reliable revenue structure for financing

normal governmental functions and to provide for advanced long-range financial planning for all functions of government, and to make recommendations with respect thereto to the 1966 regular session of the Legislature.

HOUSE CONCURRENT RESOLUTION NO. 49

(By Mr. Bedell and Mr. Boiarsky)

[Adopted March 13, 1965.]

Requesting the Joint Committee on Government and Finance to make a study of family planning and child spacing program.

WHEREAS, Bills to establish a program of family planning and child spacing within the Maternal and Child Health Division of the State Department of Health have been introduced in both Houses of the Legislature during this session; and it being obvious that at this late date no action will be taken on this proposed legislation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to make a study of the general subject of family planning and child spacing and report their recommendations to the regular session of the Legislature to be held in the year 1966.

HOUSE CONCURRENT RESOLUTION NO. 51

(By Mr. Speaker, Mr. White)

[Adopted March 13, 1965.]

Providing for a study of allocation of function and fields of graduate study as between state colleges and universities to be performed by a committee composed of members of the Board of Governors of West Virginia University, members of the State Board of Education, and members of the Association of Presidents of Colleges and Universities of West Virginia.

WHEREAS, Allocation of educational function and graduate fields of study present increasing budgetary and administrative

problems as between the state-supported colleges and universities of West Virginia; and

WHEREAS, There are existing governing boards of West Virginia's colleges and universities, as well as a voluntary Association of Presidents of Colleges and Universities of West Virginia; and

WHEREAS, It would appear that the members of said respective governing boards and the members of said Association of College and University Presidents of West Virginia constitute the most informed and competent group to study and make recommendations in regard to the allocation of function and fields of graduate study as between the state-supported colleges and universities of this State; therefore, be it

Resolved by the Legislature of West Virginia:

That His Excellency, the Governor of West Virginia, is requested to place before a committee consisting of the members of the Board of Governors of West Virginia University, the members of the State Board of Education, and the members of the University Presidents, the study of allocation of function of the Association of West Virginia College and University Presidents, the study of allocation of function and fields of graduate study, as between state-supported institutions of higher learning, with special emphasis upon the most efficient and economical use of all academic and staff facilities available at all said educational institutions; and, be it

Further Resolved, That the Governor further request said select committee to report its findings and recommendations resulting from such study to him on or before December 20th, 1965, so that he may consider including any suggested legislation required to implement same in his Proclamation and Call for the 1966 Budget Session of this Legislature.

HOUSE CONCURRENT RESOLUTION NO. 52

(By Mr. Watson)

[Adopted March 13, 1965.]

Continuing studies by the Joint Committee on Government and Finance.

WHEREAS, Certain studies have been referred to the Joint Committee on Government and Finance by the 55th and 56th Legislatures which have not been completed; therefore, be it

Resolved by the Legislature of West Virginia:

That the subjects heretofore committed to the Joint Committee on Government and Finance for study and recommendation are hereby recommitted with the request that they be further studied, and reports thereon made to the next regular session of the Legislature.

HOUSE JOINT RESOLUTION NO. 9

(By Mr. Boiarsky)

[Adopted March 10, 1965.]

Proposing an amendment to the Constitution of the State of West Virginia, repealing section fifty-one, article six, and amending section fifteen, article seven thereof, relating to the Governor's budget estimate.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That section fifty-one, article six of the Constitution of the State be repealed, and that section fifteen, article seven be amended to read as follows:

Article VII. Executive Department.

Section 15. Budget System.—The Governor shall submit to the Legislature, in such form and at such time as shall be designated by the Legislature, a budget estimate for the next fiscal year, setting forth all proposed expenditures and anticipated revenues of all departments and agencies of the State, a budget bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues, if any.

The Legislature shall not amend the budget bill so as to create a deficit. The budget bill, when and as passed by both Houses, shall be a law immediately without further action by the Governor. Any appropriation bill, other than the budget bill, shall, before it becomes a law, be presented to the Governor; if he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval with his reasons therefor to the House in which the bill originated; but all items not disapproved shall have the force and effect of law according to the original provisions of the bill. Any item or items so disapproved shall be void, unless repassed by a majority of each House according to the rules and limitations prescribed in the preceding section in reference to other bills.

HOUSE JOINT RESOLUTION NO. 14

(By Mr. Armistead)

[Adopted March 12, 1965.]

Proposing an amendment to the Constitution of the State, amending section two, article fourteen thereof, relating to making amendments to the Constitution.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia shall be submitted to the voters at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That section two, article fourteen of the Constitution of the State of West Virginia be amended so as to read as follows:

Article XIV. Amendments.

Section 2. Any amendment to the Constitution of the State may be proposed in either House of the Legislature at any regular or extraordinary session thereof; and if the same, being read on three several days in each House, be agreed to on its third reading by two thirds of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be

entered on the journals, and it shall be the duty of the Legislature to provide by law for submitting the same to the voters of the State for ratification or rejection, at a special election, or at the next general election thereafter, and cause the same to be published, at least three months before such election in some newspaper in every county in which a newspaper is printed. And if a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Constitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment. The Legislature may provide by law for the submission of all such amendments on a single ballot whereon each amendment shall be listed separately and distinctly so as to provide a clear choice of ratification or rejection with respect to each proposal. Any ballot submitting proposed constitutional change shall include no other type of question or issue.

HOUSE JOINT RESOLUTION NO. 17

(By Mr. Speaker, Mr. White)

[Adopted March 13, 1965.]

Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article seven thereof, relating to the eligibility of the Governor to serve.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That section four, article seven of the Constitution of the State of West Virginia be amended so as to read as follows:

Article VII. Executive Department.

Section 4. Eligibility.—None of the executive officers mentioned in this article shall hold any other office during the term of his service. A person who has been elected or has served as Governor during all or any part of two consecutive terms, shall be ineligible for the office of Governor during any part of the term immediately following the second of the two consecutive terms.

SENATE CONCURRENT RESOLUTION NO. 4

(By Mr. Moreland and Mr. Carrigan)

[Adopted March 9, 1965.]

Requesting the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to prepare a recodification of the laws of West Virginia relating to municipal corporations.

WHEREAS, Chapters eight and eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal corporations, contain many duplications and ambiguities as well as many obsolete provisions, all of which has led to uncertainty among municipal governing bodies and attorneys as to whether, in the exercise of municipal powers, they are governed by chapter eight, chapter eight-a, or by special charter; and

WHEREAS, A need has arisen for consolidating chapters eight and eight-a to eliminate inconsistencies and contradictions, and which consolidation likely will reduce litigation involving municipalities; and

WHEREAS, It has become increasingly difficult for the members of this Legislature to determine the effect of proposed legislation relating to municipal corporations because of the uncertainty of the meaning and effect of much of the existing law; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be hereby requested

to prepare a recodification of the laws relating to municipal corporations; and, be it

Resolved further, That the joint committee request the President of The West Virginia State Bar to appoint an advisory committee of five members of said State Bar, having experience in the field of municipal law, to advise and work with the joint committee in such recodification; and, be it

Resolved further, That the proposed recodification be submitted to the regular session of the Legislature, 1967; and, be it

Resolved further, That the expenses necessary to prepare such recodification be paid from the legislative appropriations made to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation.

SENATE CONCURRENT RESOLUTION NO. 9

(By Mr. Gainer)

[Adopted March 13, 1965.]

Urging federal agencies to establish a "Wild River Area" along one or more specified state rivers and urging the U. S. Army Corps of Engineers to exclude such rivers from consideration in planning high level dams and reservoirs.

WHEREAS, A "Wild River Study" is now being made by a team of persons composed of a representative from each of the following federal agencies: Bureau of Outdoor Recreation, Forest Service, National Park Service, and Bureau of Sports Fisheries and Wildlife; and

WHEREAS, The following streams have been selected for study by this group: Cacapon, Lost River, Shavers Fork of Cheat, Dry Fork of Cheat, Blackwater, Potomac and Greenbrier Rivers; and

WHEREAS, Control and management planned by the U. S. Army Corps of Engineers and other federal agencies may cause the elimination of any or all of these streams from consideration for a "Wild River Area"; and

WHEREAS, Wild river areas are needed to provide varied recreation to tourists and the people of West Virginia; and

WHEREAS, With an exploding population and expanding development, undisturbed areas along our streams will soon be non-existent; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature urge the Federal Bureau of Outdoor Recreation and the National Recreation Advisory Council to give serious consideration to the establishment of a "Wild River Area" on one or more of the following rivers: Cacapon, Lost River, Shavers Fork of Cheat, Dry Fork of Cheat, Blackwater, Potomac and Greenbrier Rivers; and, be it

Resolved further, That the U. S. Army Corps of Engineers in planning high level dams and reservoirs exclude from consideration those rivers and streams abovementioned so that their natural characteristics and wilderness-like environment may be maintained for the enjoyment of the people of the State of West Virginia and out-of-state visitors.

SENATE CONCURRENT RESOLUTION NO. 10

(By Mr. Gainer)

[Adopted March 5, 1965.]

Opposing the construction by the U. S. Army Corps of Engineers of any high level dam and water reservoir on the South Branch of the Potomac River for the purpose of water augmentation.

WHEREAS, The U. S. Army Corps of Engineers has under consideration the construction of a high level dam and water reservoir on the South Branch of the Potomac River; and

WHEREAS, Construction of such dam will result in a fluctuating shore line, thus creating unsightly mud flats along the shore line; and

WHEREAS, Other solutions have been suggested for the drinking water problem of downstream populations, as well as problems associated with flooding; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia oppose the construction by the U. S. Army Corps of Engineers of any high level dam and water reservoir on the South Branch of the Potomac River for the purpose of water augmentation; and, be it

Resolved further, That the Clerk of the Senate transmit a copy of this resolution to the U. S. Army Corps of Engineers.

SENATE CONCURRENT RESOLUTION NO. 15
(Originating in the Senate Committee on the Judiciary)

[Adopted March 8, 1965.]

Directing the Joint Committee on Government and Finance to make a comprehensive study of the need for legislation, commonly known as an "implied consent law," providing that persons operating motor vehicles upon the streets and highways of the State of West Virginia impliedly consent to submit to certain chemical or medical tests for the purpose of determining whether they are under the influence of alcoholic beverages; and, if such need is determined to exist, to review the implied consent statutes of other states, confer with interested persons and prepare drafts of such legislation.

WHEREAS, Traffic accidents resulting in death, personal injury and loss or damage to property continue at an alarming rate; and

WHEREAS, Experience has proved that all too often many persons involved in such accidents are under the influence of alcoholic beverages; and

WHEREAS, It is often alleged that it is difficult because of a lack of scientific evidence, to obtain convictions for driving under the influence of intoxicating liquors; and

WHEREAS, It is often contended that the present law providing for the testing of blood for the alcoholic content thereof is inadequate; and

WHEREAS, Senate Bill No. 82 and House Bill No. 537, pro-

viding for the adoption of an implied consent law, are presently pending before this session of the Legislature; and

WHEREAS, Many members of the Legislature are in sympathy with the aims and purposes of these bills but have considerable and substantial doubt concerning their specific provisions; and

WHEREAS, A review of the most recent version of the implied consent law adopted by the State of Virginia discloses it to vary materially from the provisions of said bills; and

WHEREAS, It is believed that there is a need to review carefully the implied consent statutes of the thirteen or so states which have enacted such legislation with a view to drafting a bill incorporating the most desirable features of all of these statutes; and

WHEREAS, In drafting any such proposed legislation, consideration must be given to the problem of adequate facilities and qualified personnel in some of the rural areas of the State for the taking of blood or other samples upon which such chemical or medical tests are to be performed; and

WHEREAS, Any such proposed legislation should be drafted in close cooperation with law enforcement personnel and persons in the chemical and medical professions; and

WHEREAS, Any such proposed legislation must be carefully prepared so as to incorporate the recommendations, observations and comments embodied in the opinion rendered by the Honorable C. Donald Robertson, Attorney General of the State of West Virginia, under date of January 28, 1965, with respect to the constitutionality of implied consent laws generally and of the provisions of said Senate Bill No. 82 and House Bill No. 537 specifically; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be directed to conduct a comprehensive study of the need for an implied consent law, and, if it is determined that a need for such legislation exists, to review carefully the implied consent statutes of the other states which have enacted same, to confer with law enforcement personnel and persons in the chemical

and medical professions for their comments and recommendations and to prepare drafts of proposed legislation; and, be it

Resolved further, That a final report containing the conclusions and recommendations of the Committee and any drafts of proposed legislation to carry such conclusions and recommendations into effect be submitted to the Legislature prior to the convening of its regular session, 1966; and, be it

Resolved further, That the expenses necessary to conduct such study, review such statutes, hold such conferences and prepare any such drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 19

(By Mr. Carson, Mr. President)

[Adopted March 13, 1965.]

Amending and adopting Joint Rules for the Senate and House of Delegates.

Resolved by the Senate, the House of Delegates concurring therein:

That Joint Rule No. 11 of the Joint Rules of the Senate and House of Delegates be amended to read as follows:

11. Joint standing committees of the Senate and House shall be appointed as follows:

(1) *Joint Committee on Enrolled Bills*—To consist of five members from each House.

(2) *Committee on Joint Rules*—To consist of the presiding officers and two members of each House, to be appointed by the presiding officers.

(3) Such other joint committees as may be provided for by concurrent resolution. A bill or resolution referred to a joint committee may be recalled from such committee by the House in which it originated.

SENATE CONCURRENT RESOLUTION NO. 24

(By Mr. Floyd and Mr. Hatcher)

[Adopted March 6, 1965.]

Memorializing the Congress of the United States to take action on the Knox Creek Dam, in Pike County, Kentucky, to assist in providing flood control in the Valley of the Tug Fork of the Big Sandy River in West Virginia.

WHEREAS, The Valley of the Tug Fork of the Big Sandy River in the State of West Virginia has recently been visited by a flood disaster, which might have been averted to a marked degree by a proper system of flood control; and

WHEREAS, The recent flood has caused damage to the extent of at least thirteen million dollars in the Valley of the Tug Fork of the Big Sandy River; and

WHEREAS, Other floods have occurred at great frequency during the past few years in said valley, resulting in damages to the extent of many millions of dollars; and

WHEREAS, The distressing conditions due to a flood tell a more powerful story than any that might be calculated in terms of the cost of a proper flood control system; and

WHEREAS, The U. S. Army Corps of Engineers recently issued a flood control report on the Big Sandy River and included therein information that the construction of the Knox Creek Dam in Pike County, Kentucky, would reduce the flood level of the Tug Fork of the Big Sandy River, and at the City of Williamson, West Virginia, the reduction would be six feet or more; and

WHEREAS, The construction of said Knox Creek Dam would avert or reduce future flood damage along the Tug Fork of the Big Sandy River in West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Congress of the United States is hereby requested to take such action as will bring about the immediate construction of the Knox Creek Dam in Pike County, Kentucky, in order to avert or lessen the consequences of another such

disaster in the Valley of the Tug Fork of the Big Sandy River; and, be it

Resolved further, That the Clerk of the Senate is instructed to send copies of this resolution to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each member of Congress from this State.

SENATE CONCURRENT RESOLUTION NO. 27

(By Mr. Carson, Mr. President)

[Adopted March 9, 1965.]

Directing the Joint Committee on Government and Finance to conduct a study of the statutes relating to publication and posting of legal notices and the costs thereof and to make recommendations with respect thereto.

WHEREAS, Due process of law and the public interest require that the public receive notice by publication or posting of many matters affecting the rights and legitimate interests of persons affected; and

WHEREAS, There are numerous statutes requiring the publication of legal notices at varying costs; and

WHEREAS, There may be many instances in which the number or length of legal publications may be eliminated or reduced within the requirements of due process and the public interest, while at the same time there may be other instances in which additional or more informative publications should be required within the requirements of due process and the public interest; and

WHEREAS, Rates paid for legal publications should be reviewed and studied to ascertain what revisions are necessary in order for such rates to be fair to the publisher and to the governmental unit or persons paying for the same; and

WHEREAS, Pursuant to Senate Concurrent Resolution No. 36 adopted by the Legislature, regular session, 1963, the Joint

Committee on Government and Finance has caused to be compiled a list of statutes of this State requiring the publication and posting of legal notices and has begun but has not completed the study necessary to make the recommendations hereinafter provided for; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be directed to conduct, or cause to be conducted, a study of the various statutes of this State requiring the publication and posting of legal notices, with a view to determining whether there may be instances in which: (1) Such publication and posting may be eliminated within the requirements of due process and the public interest; (2) the number of times a notice is required to be published may be reduced; (3) publication and posting, not now required, should be required in the interest of due process or the public interest; (4) the number of times a notice is required to be published should be increased; (5) the forms of such notices should be shortened or otherwise altered so as to reduce the cost of publication thereof, as well as whether some forms of such notices should be lengthened or otherwise altered so as to meet the requirements of due process and the public interest; (6) the rates and charges provided to be paid for legal publications should be revised in order that they be fair to the newspaper in which they are published and to the governmental unit or such person as may be required by law to pay the cost of publication; and, be it

Resolved further, That a final report containing the conclusions and recommendations of the committee and any drafts of proposed legislation to carry such conclusions and recommendations into effect be submitted to the Legislature prior to the convening of its regular session, 1966; and, be it

Resolved further, That the expenses necessary to conduct such study and to prepare any such drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 30

(By Mr. Carson, Mr. President)

[Adopted March 13, 1965.]

Directing the Joint Committee on Government and Finance to make a study of the state statutes providing for the regulating and licensing of various professions, occupations and businesses for the purpose of determining whether such statutes should be revised and to make a study for the purpose of determining what additional professions, occupations and businesses, if any, should be regulated and licensed by the State of West Virginia in the interest of the health and welfare of its people and to make recommendations with respect thereto.

WHEREAS, Chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, provides for the regulating and licensing of attorneys at law, physicians and surgeons, dentists and dental hygienists, pharmacists, embalmers and funeral directors, nurses, practical nurses, optometrists, accountants, veterinarians, chiropodists, architects, engineers, osteopathic physicians and surgeons, midwives, chiropractors, sanitarians, private detectives and investigators, foresters and physical therapists; and

WHEREAS, Article fourteen, chapter sixteen of said code makes it unlawful to practice or offer to practice barbering, beauty culture or manicuring within this State without first obtaining a license; and

WHEREAS, Article seven, chapter seventeen-a of said code provides for the licensing of motor car dealers and wreckers; and

WHEREAS, Bills have been introduced in this session of the Legislature to provide for the regulating and licensing of plumbing and heating contractors and journeymen, land surveyors, landscape architects, barber supplies dealers, barber supplies dealers' agents, and itinerant barber supplies agents, motor vehicles dealers and motor vehicles salesmen, and auctioneers; and

WHEREAS, Bills have been introduced in this session of the Legislature to amend and revise provisions of the law relating

to the regulating and licensing of embalmers and funeral directors, chiropodists-podiatrists, registered professional nurses and chiropractors and pharmacists; and

WHEREAS, In each odd-year session of the Legislature, the Legislature has before it a number of bills whereby various professions, occupations and businesses seek legislation providing for or revising regulatory and licensing requirements; and

WHEREAS, A study should be made for the purpose of providing the Legislature some guidelines to follow in considering an increasing number of requests for the establishment of or revisions in regulatory and licensing requirements for various professions, occupations and businesses by the State; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance make a study of the state statutes providing for the regulating and licensing of various professions, occupations and businesses for the purpose of determining whether such statutes should be revised, and make a study for the purpose of determining what additional professions, occupations and businesses, if any, should be regulated and licensed by the State of West Virginia in the interest of the health and welfare of its people, each study to be for the purpose of determining and recommending to the Legislature whether such provisions of state law should be revised and whether additional professions, occupations and businesses should be regulated and licensed in the interest of the health and welfare of the people of the State; and, be it

Resolved further, That the committee shall make its report to the Legislature not later than the 12th day of January, 1966, and shall include in its report its findings and recommendations and drafts of any proposed legislation that shall be necessary to carry the recommendations of the committee into effect; and, be it

Resolved further, That the expenses necessary to conduct such study and to prepare any such drafts of legislation be paid

from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 31

(By Mr. McCourt)

[Adopted March 13, 1965.]

Requesting and directing the Joint Committee on Government and Finance to make a study of all special revenue fund accounts of the State and to submit a report and its recommendations thereon.

WHEREAS, Over the years numerous special revenue fund accounts have been established; and

WHEREAS, There appears to be considerable idle capital in these special revenue fund accounts; and

WHEREAS, Both the legislative and the executive branches of the government have lost a measure of control over such accounts, in that only a blanket appropriation has been made of such funds, in most instances, and balances have been allowed to accumulate in sizable sums; and

WHEREAS, To accumulate balances in this manner without specific authority is not in keeping with the principles of budgeting in our government which aims at a balance of expenditures with receipts for each appropriation period and does not contemplate accumulation; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be hereby requested and directed to make a thorough study of all special revenue fund accounts and report all such accounts in existence during the current fiscal year; the balance in each of such accounts as of the end of the preceding fiscal year; the receipts and disbursements respecting each of such accounts during the current fiscal year; the balances therein as of the end of the current fiscal year; a detailed statement respecting the sources of such funds and the purposes for which sums were expended therefrom during the current fiscal year, together with its recommendation as to whether such accounts, or any

of them, should be altered, eliminated, or transferred to general revenue; and, be it

Resolved further, That the committee shall make its report to the Legislature not later than the 12th day of January, 1966, and shall include in its report its findings and recommendations and drafts of any proposed legislation that shall be necessary to carry the recommendations of the committee into effect; and, be it

Resolved further, That the expenses necessary to conduct such study and to prepare any such drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 32

(By Mr. Carson, Mr. President)

[Adopted March 13, 1965.]

Approving the plans and specifications for and the location of a new state office building as proposed by the State Office Building Commission of West Virginia, and providing that all bonds to be issued to secure funds for the construction of such office building and purchase of the lands needed therefor shall be offered at public bidding.

WHEREAS, Section seven, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, provides, in part, that no bonds or other obligations shall be issued or incurred by the State Office Building Commission of West Virginia, and that no contracts for the erection of any new project shall be entered into by such Commission, unless and until the plans and specifications of any new or additional project are first submitted to the Legislature for its approval; and

WHEREAS, The State Office Building Commission of West Virginia has caused to be prepared plans and specifications, and has a proposed location, for a new state office building and has requested that the Legislature review said plans, specifications and proposed location and approve same; and

WHEREAS, Under Senate Concurrent Resolution No. 25, adopted in this session of the Legislature, a committee of ten mem-

bers of the Legislature was appointed to inspect the plans and specifications, and the location, for a new state office building as proposed and submitted by the State Office Building Commission of West Virginia; and

WHEREAS, The Committee appointed under said Senate Concurrent Resolution has inspected such plans and specifications and the proposed location and has made its report to the Legislature, which report is attached to, made a part hereof, and is identified as "Legislative Committee Report on Inspection of Plans and Specifications, and Proposed Location, for a new State Office Building"; and

WHEREAS, Said legislative committee has reported that it met with the State Office Building Commission of West Virginia, that it inspected the said plans and specifications, and proposed location, for a new state office building, and that it recommends to the Legislature that such plans and specifications, and proposed location, for a new state office building be approved by the Legislature; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the recommendations of the legislative committee appointed under the provisions of Senate Concurrent Resolution No. 25, adopted in this session, be accepted, and that the plans and specifications, and the location, for a new office building as prepared, proposed and submitted by the State Office Building Commission of West Virginia be, and the same are hereby, approved by the Legislature; and, be it

Resolved further, That all bonds to be issued to secure funds for the construction of the aforesaid office building and purchase of the lands needed therefor shall be offered at public bidding.

SENATE CONCURRENT RESOLUTION NO. 33

(By Mr. Carson, Mr. President)

[Adopted March 13, 1965.]

Extending the time within which the Joint Committee on Government and Finance and the Commission on Interstate Cooperation and a special interim committee may conduct

certain studies and make the reports heretofore referred to and required of said committees and commission by the Legislature.

WHEREAS, Senate Concurrent Resolution No. 11, adopted by the Legislature in regular session, 1957, directed the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to make a thorough study of our institutions of higher education for the purpose of gathering information which will reflect the following:

(a) The present needs and costs as compared to the national average and trend;

(b) whether or not these needs are being met now; and if not,

(c) the way in which the probable future needs may be met and the cost of same;

(d) the possibility of reducing these determined costs by combining the responsibility, authority and activities of the state agencies now exercising control over the institutions; and

WHEREAS, Senate Concurrent Resolution No. 10, adopted by the Legislature in regular session, 1963, directed the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to conduct a study to determine whether a public building code for the State of West Virginia, incorporating provisions for fire safety, for the general safety and welfare of building occupants, for materials and techniques used in construction, and for any other matters deemed appropriate, would be desirable, and if so, to draft such public building code; and further directed said committee and commission to make a final report containing their conclusions and recommendations and any proposed draft of the aforementioned building code to the Legislature, prior to the convening of its regular session, 1965; and

WHEREAS, House Concurrent Resolution No. 40, adopted by the Legislature in regular session, 1964, directed the Joint Committee on Government and Finance to conduct a study of the experience of West Virginia in the use of electronic data processing equipment; to review the costs of these programs,

resultant efficiency, change in volume of work, and their effect on state employment; and

WHEREAS, House Concurrent Resolution No. 49, adopted by the Legislature in regular session, 1964, created a special interim committee to make a continuing audit of all receipts and disbursements of the Department of Commerce and the Advisory Committee Pavilion Fund pursuant to an executive order dated the 7th day of January, 1964, in connection with West Virginia's participation in the New York World's Fair; and further directed said special interim committee to make a report thereon to the Legislature not later than the first day of the regular session of the Legislature, 1965; and

WHEREAS, House Concurrent Resolution No. 20, adopted by the Legislature in regular session, 1963, created a special interim committee to make a comprehensive study of all executive and administrative offices, departments and instrumentalities of the state government, other than the Board of Governors of West Virginia University and Potomac State College and the West Virginia Board of Education, for the purpose of allocating their respective functions, powers and duties in such manner as to group the same according to major practices so far as practicable to assure the most economical and efficient operation of state government and to provide the maximum efficiency, economy and fidelity in the operation of government; and further directed said special interim committee to report its findings and recommendations, together with drafts of any proposed legislation, to the Legislature not later than the second week after the convening of its regular session, 1965; and

WHEREAS, It appears from some of the reports of the aforementioned committees and commission that the hereinbefore described studies have not been completed; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the aforesaid studies be continued by the Joint Committee on Government and Finance or jointly by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation or by the special interim committee

on West Virginia's participation in the New York World's Fair, as the case may be; and, be it

Resolved further, That the study directed to be made under the provisions of said House Concurrent Resolution No. 20 be continued by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation; and that the committee and the commission report their recommendations and findings, together with drafts of any proposed legislation, to the Legislature as hereinafter provided; and, be it

Resolved further, That all provisions of said Senate and House Concurrent Resolutions be continued in full force and effect until such time as the studies described therein have been completed; and, be it

Resolved further, That all reports, findings, drafts and recommendations required of said Joint Committee on Government and Finance, or special interim committee on West Virginia's participation in the New York World's Fair, or jointly of said Joint Committee on Government and Finance and Commission on Interstate Cooperation be made to the Legislature on or before the first day of its regular session, 1966; and, be it

Resolved further, That the expenses incurred by the Joint Committee on Government and Finance or jointly by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to continue such studies and to prepare any drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance; and that all expenses incurred by said special interim committee to conduct the abovementioned study be paid from the legislative appropriations made to the Joint Committee on Government and Finance: *Provided*, That said special interim committee shall obtain the advance approval of the Joint Committee on Government and Finance before incurring any expenses whatever.

SENATE CONCURRENT RESOLUTION NO. 34

(By Mr. Martin)

[Adopted March 13, 1965.]

Extending the time within which the special interim committee studying the arrangement of the judicial circuits, the need

for a state-wide system of courts of concurrent and limited jurisdiction within said circuits, the salaries of the judges of the circuit courts and such other courts in existence or to be established may conduct such studies and make the reports required of said committee.

WHEREAS, Committee Substitute for Senate Concurrent Resolution No. 15, adopted by the Legislature in regular session, 1963, created a special interim committee to study the arrangement of the judicial circuits, the need for a state-wide system of courts of concurrent and limited jurisdiction within said circuits, and to study the salaries of the judges of the circuit courts and such other courts in existence or to be established, and to report its findings and recommendations; and

WHEREAS, All of the studies and labors of said committee have not been completed and there is a need to continue the studies directed by said resolution; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the aforesaid studies be continued by said special interim committee; and, be it

Resolved further, That all the provisions of said Committee Substitute for said Senate Concurrent Resolution No. 15 be continued in full force and effect until such time as the studies described therein have been completed; and, be it

Resolved further, That until such time said committee shall have all the authority, powers and responsibilities vested in it by said resolution; and, be it

Resolved further, That all reports, findings and recommendations of said committee be made to the Legislature on or before the first day of its regular session, 1967; and, be it

Resolved further, That all expenses incurred by said special interim committee to conduct the abovementioned studies and to make its findings, recommendations and reports, including reimbursement for expenses of the members of said committee in the amount of twenty-five dollars per diem, and mileage at the rate of ten cents per mile, shall be paid from the appropriations under Account No. 103 for joint expenses.

COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTION NO. 2
(Originating in the Senate Committee on the Judiciary)

[Adopted March 13, 1965.]

Proposing an amendment to the Constitution of the State of West Virginia, amending section ten, article eight thereof, relating to the judicial circuits and circuit judges.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That section ten, article eight of the Constitution be amended to read as follows:

Article VIII—Judicial Department.

Section 10. Circuit Courts.—The State shall be divided into as many judicial circuits as the Legislature may prescribe. The judges of the circuit courts shall be elected by the qualified voters of the circuit in the manner prescribed by law and shall hold their offices for the term of eight years unless sooner removed in the manner prescribed by this Constitution. Any such judge in office when this amendment takes effect shall continue in office in the circuit in which he resides until his term shall expire, unless he is sooner removed, as aforesaid. During his continuance in office a judge of a circuit court shall reside in the circuit of which he is a judge.

The Legislature may increase or decrease the number of circuit judges in any circuit. The judicial circuits existing at the time of the adoption of this amendment shall remain as they are until changed by law. A judge of a circuit court in office at the time of any such change shall continue as a judge of the circuit in which he shall continue to reside after such change, unless his term shall expire, or unless he is sooner removed, as aforesaid.

A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals.

There shall be at least one judge for each circuit and as many more as may be necessary to transact the business of such circuit. If there be two or more judges of a circuit, the business shall be apportioned among them by the chief judge of the circuit in the manner provided by law. The judge longest in continuous service as a circuit court judge shall be chief judge of the circuit. If two or more have so served for the same period, the senior in years of these shall be chief judge: *Provided*, That if such judge declines to serve as chief judge, then another judge of the circuit shall be designated chief judge in accordance with the rules of that circuit. If the chief judge is temporarily disqualified or unable to serve, one of the judges of the circuit designated in accordance with the rules of that circuit shall serve temporarily in his stead.

When this amendment takes effect, each legislative court of record of limited jurisdiction then existing in the State, shall become part of the circuit court for the circuit in which it is located, and the judge thereof shall become and shall continue to be a judge of the circuit court until his then current term shall expire, unless he is sooner removed, as aforesaid: *Provided, however*, That until the thirty-first day of December, one thousand nine hundred seventy-six, the number of circuit judges and judges of legislative courts of record of limited jurisdiction existing at the time of the adoption of this amendment shall not be reduced.

ACTS
Second Extraordinary Session
1964

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1964

SECOND EXTRAORDINARY SESSION (November 27, 1964)

CHAPTER 1

(House Bill No. 1—By Mr. Speaker, Mr. Singleton)

[Passed November 27, 1964; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the determination of the meaning of terms used in the West Virginia Personal Income Tax Act.

Be it enacted by the Legislature of West Virginia:

That section nine, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 21. Personal Income Tax.

Section

9. Meaning of terms.

Section 9. Meaning of Terms.—Any term used in this
2 article shall have the same meaning as when used in a
3 comparable context in the laws of the United States re-
4 lating to income taxes, unless a different meaning is

5 clearly required. Any reference in this article to the laws
6 of the United States shall mean the provisions of the
7 Internal Revenue Code of 1954, as amended, and such
8 other provisions of the laws of the United States as relate
9 to the determination of income for federal income tax
10 purposes. All amendments made to the laws of the United
11 States prior to the twenty-seventh day of November, one
12 thousand nine hundred sixty-four, shall be given effect in
13 determining the taxes imposed by this article for the tax
14 period beginning the first day of January, one thousand
15 nine hundred sixty-four, and thereafter, but no amend-
16 ment to the laws of the United States made on or after
17 the twenty-seventh day of November, one thousand nine
18 hundred sixty-four, shall be given effect.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1966

REGULAR SESSION

CHAPTER 1

(Com. Sub. for House Bill No. 205—By Mr. Watson and Mr. Buck)

[Passed February 8, 1966; in effect July 1, 1967. Approved by the Governor.]

AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight, relating to the disposition of abandoned and unclaimed personal property; providing for the procedure to follow with respect thereto; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eight, to read as follows:

Article 8. Uniform Disposition of Unclaimed Property Act.

Section

1. Definitions and use of terms.
2. Property held by banking or financial organizations.
3. Unclaimed funds held by life insurance corporations.
4. Deposits and refunds held by utilities.
5. Undistributed dividends and distributions of business associations.
6. Property of business associations and banking or financial organizations held in course of dissolution.
7. Property held by fiduciaries.
8. Property held by courts and public officers and agencies.
9. Miscellaneous personal property held for another person.

10. Reciprocity for property presumed abandoned or escheated under the laws of another state.
11. Report of abandoned property.
12. Notice and publication of lists of abandoned property.
13. Payment or delivery of abandoned property.
14. Relief from liability by payment or delivery.
15. Income accruing after payment or delivery.
16. Periods of limitation not a bar.
17. Sale of abandoned property.
18. Deposits of funds; trust and expense fund; records of deposits.
19. Claim for abandoned property paid or delivered.
20. Determination of claims; hearings.
21. Judicial review.
22. Election to take payment or delivery; destruction of property which has no obvious commercial value.
23. Examination of records.
24. Proceeding to compel delivery of abandoned property.
25. Appeals from circuit courts.
26. Offenses and penalties.
27. Rules and regulations.
28. Effect of laws of other states.
29. Severability.
30. Uniformity of interpretation.
31. Effective date.

Section 1. Definitions and Use of Terms.—As used in

- 2 this article, unless the context otherwise requires:
- 3 (a) "Banking organization" means any bank, trust
- 4 company, or a private banker engaged in business in this
- 5 state, or a banking institution as defined in section one,
- 6 article four, chapter thirty-one of this code.
- 7 (b) "Business association" means any corporation
- 8 (other than a public corporation), joint stock company,
- 9 business trust, partnership, or any association for business
- 10 purposes of two or more individuals.
- 11 (c) "Financial organization" means any savings and
- 12 loan association, building and loan association, industrial
- 13 loan company, credit union, business association which
- 14 issues travelers checks, or investment company, engaged
- 15 in business in this state.
- 16 (d) "Holder" means any person in possession of prop-
- 17 erty subject to this article belonging to another, or who
- 18 is trustee in case of a trust, or is indebted to another
- 19 on an obligation subject to this article.
- 20 (e) "Life insurance corporation" means any assoc-
- 21 ation or corporation transacting within this state the
- 22 business of insurance on the lives of persons or insurance
- 23 appertaining thereto, including, but not by way of limita-
- 24 tion, endowments and annuities.

25 (f) "Owner" means a depositor in case of a deposit,
26 a beneficiary in case of a trust, a creditor, claimant, or
27 payee in case of other choses in action, or any person
28 having a legal or equitable interest in property subject
29 to this article, or his legal representative.

30 (g) "Person" means any individual, business associ-
31 ation, government or political subdivision, public corpo-
32 ration, public authority, estate, trust, two or more persons
33 having a joint or common interest, or any other legal
34 or commercial entity; but shall not include any retirement
35 system supported entirely or in part by the state of
36 West Virginia.

37 (h) "Utility" means any person who owns or operates
38 within this state, for public use, any plant, equipment,
39 property, franchise, or license for the transmission of
40 communications or the production, storage, transmission,
41 sale, delivery, or furnishing of electricity, water, steam,
42 or gas.

Sec. 2. Property Held by Banking or Financial Organ-

2 izations.—The following property held or owing by a
3 banking or financial organization is presumed abandoned:

4 (a) Any demand, savings or matured time deposit
5 made in this state with a banking organization, together
6 with any interest or dividend thereon, excluding any
7 charges which may lawfully be withheld, if the owner
8 has not within the immediately preceding fifteen years
9 increased or decreased the amount of the deposit: *Pro-*
10 *vided*, That notwithstanding the fact that there has been
11 no increase or decrease in the amount of the deposit
12 within said fifteen-year period, there shall be no presump-
13 tion of abandonment if the owner has within the immedi-
14 ately preceding year:

15 (1) Presented the passbook or other similar evidence
16 of deposit for the crediting of interest; or

17 (2) Corresponded in writing with the banking organi-
18 zation concerning the deposit; or

19 (3) Otherwise indicated an interest in the deposit as
20 evidenced by a memorandum on file with the banking
21 organization.

22 In any case where the owner has taken any of the ac-
23 tions specified in (1), (2) or (3) of this subsection (a),

24 there shall thereafter be no presumption of abandonment
25 unless and until another fifteen years have passed without
26 any increase or decrease in the amount of the deposit and
27 without any of such actions having been taken in the last
28 year of such further fifteen-year period.

29 (b) Any funds paid in this state toward the purchase
30 of shares or other interest in a financial organization
31 or any deposit made therewith in this state, and any
32 interest or dividends thereon, excluding any charges
33 that may lawfully be withheld, if the owner has not
34 within the immediately preceding fifteen years increased
35 or decreased the amount of the funds or deposit: *Provided,*
36 *however,* That notwithstanding the fact that there has
37 been no increase or decrease in the amount of the funds
38 or deposit within said fifteen-year period, there shall be
39 no presumption of abandonment if the owner has within
40 the immediately preceding year:

41 (1) Presented an appropriate record for the crediting
42 of interest or dividends; or

43 (2) Corresponded in writing with the financial organ-
44 ization concerning the funds or deposit; or

45 (3) Otherwise indicated an interest in the funds or
46 deposit as evidenced by a memorandum on file with the
47 financial organization.

48 In any case where the owner has taken any of the
49 actions specified in (1), (2) or (3) of this subsection
50 (b), there shall thereafter be no presumption of abandon-
51 ment unless and until another fifteen years have passed
52 without any increase or decrease in the amount of the
53 funds or deposit and without any of such actions having
54 been taken in the last year of such further fifteen-year
55 period.

56 (c) Any sum payable on any check certified in this
57 state or on any written instrument issued in this state
58 on which a banking or financial organization is directly
59 liable, including, by way of illustration but not of limita-
60 tion, a certificate of deposit, draft, and traveler's check,
61 that has been outstanding for more than fifteen years
62 from the date it was payable, or from the date of its
63 issuance if payable on demand, unless the owner has
64 within the preceding year corresponded in writing with

65 the banking or financial organization concerning it, or
66 otherwise indicated an interest as evidenced by a
67 memorandum on file with the banking or financial
68 organization.

69 (d) Any funds or other personal property, tangible
70 or intangible, removed from a safe-deposit box or any
71 other safekeeping repository in this state on which the
72 lease or rental period has expired due to nonpayment
73 of rental charges or other reason, or any surplus amounts
74 arising from the sale thereof pursuant to law, that have
75 been unclaimed by the owner for more than fifteen years
76 from the date on which the lease or rental period expired.

Sec. 3. Unclaimed Funds Held by Life Insurance
2 **Corporations.**—(a) Unclaimed funds, as defined in this
3 section, held and owing by a life insurance corporation
4 shall be presumed abandoned if the last known address,
5 according to the records of the corporation, of the person
6 entitled to the funds is within this state. If a person
7 other than the insured or annuitant is entitled to the
8 funds and no address of such person is known to the
9 corporation or if it is not definite and certain from the
10 records of the corporation what person is entitled to
11 the funds, it is presumed that the last known address
12 of the person entitled to the funds is the same as the
13 last known address of the insured or annuitant according
14 to the records of the corporation.

15 (b) “Unclaimed funds,” as used in this section, means
16 all moneys held and owing by any life insurance corpo-
17 ration unclaimed and unpaid for more than seven years
18 after the moneys became due and payable as established
19 from the records of the corporation under any life or
20 endowment insurance policy or annuity contract which
21 has matured or terminated. A life insurance policy not
22 matured by actual proof of the death of the insured is
23 deemed to be matured and the proceeds thereof are
24 deemed to be due and payable if such policy was in
25 force when the insured attained the limiting age under
26 the mortality table on which the reserve is based, unless
27 the person appearing entitled thereto has within the
28 preceding seven years, (1) assigned, readjusted, or paid
29 premiums on the policy, or subjected the policy to loan,

30 or (2) corresponded in writing with the life insurance
31 corporation concerning the policy. Moneys otherwise
32 payable according to the records of the corporation are
33 deemed due and payable although the policy or contract
34 has not been surrendered as required.

Sec. 4. Deposits and Refunds Held by Utilities.—The
2 following funds held or owing by any utility are pre-
3 sumed abandoned:

4 (a) Any deposit made subsequent to one thousand
5 nine hundred fifty-seven by a subscriber with a utility
6 to secure payment for, or any sum paid in advance for,
7 utility services to be furnished in this state, less any
8 lawful deductions, that has remained unclaimed by the
9 person appearing on the records of the utility entitled
10 thereto for more than five years after the termination
11 of the services for which the deposit or advance pay-
12 ment was made.

13 (b) Any sum which a utility has been ordered to
14 refund and which was received subsequent to one
15 thousand nine hundred fifty-seven for utility services
16 rendered in this state, together with any interest thereon,
17 less any lawful deductions, that has remained unclaimed
18 by the person appearing on the records of the utility
19 entitled thereto for more than five years after the date
20 it became payable in accordance with the final determi-
21 nation or order providing for the refund.

Sec. 5. Undistributed Dividends and Distributions of
2 **Business Associations.**—Any stock or other certificate of
3 ownership, or any dividend, profit, distribution, interest,
4 payment on principal, or other sum held or owing by a
5 business association for or to a shareholder, certificate
6 holder, member, bondholder, or other security holder, or
7 a participating patron of a cooperative, who has not
8 claimed it, or corresponded in writing with the business
9 association concerning it, within five years after the date
10 prescribed for payment or delivery, is presumed aban-
11 doned if:

12 (a) It is held or owing by a business association organ-
13 ized under the laws of or created in this state; or

14 (b) It is held or owing by a business association doing

15 business in this state, but not organized under the laws
16 of or created in this state, and the records of the busi-
17 ness association indicate that the last known address of
18 the person entitled thereto is in this state.

**Sec. 6. Property of Business Associations and Banking
2 or Financial Organizations Held in Course of Dissolution.**
3 —All intangible personal property distributable in the
4 course of a voluntary dissolution of a business associa-
5 tion, banking organization, or financial organization
6 organized under the laws of or created in this state, that
7 is unclaimed by the owner within one year after the date
8 for final distribution, is presumed abandoned.

Sec. 7. Property Held by Fiduciaries.—All intangible
2 personal property and any income or increment thereon,
3 held in a fiduciary capacity for the benefit of another
4 person is presumed abandoned unless the owner has,
5 within five years after the final date for distribution of
6 such property and the cessation of all active fiduciary
7 duties as required by law or the instrument under which
8 the fiduciary is acting, increased or decreased the prin-
9 cipal, accepted payment of principal or income, corre-
10 sponded in writing with the fiduciary concerning the
11 property, or otherwise indicated an interest as evidenced
12 by a memorandum on file with the fiduciary:

13 (a) If the property is held by a banking organization
14 or a financial organization, or by a business association
15 organized under the laws of or created in this state;
16 or

17 (b) If it is held by a business association, doing busi-
18 ness in this state, but not organized under the laws of or
19 created in this state, and the records of the business
20 association indicate that the last known address of the
21 person entitled thereto is in this state; or

22 (c) If it is held in this state by any other person.

**Sec. 8. Property Held by Courts and Public Officers
2 and Agencies.**—(a) All intangible personal property held
3 for the owner by any state or federal court, public corpo-
4 ration, public authority, or public officer in this state, or
5 a political subdivision thereof, that has remained un-
6 claimed by the owner for more than five years is pre-

7 sumed abandoned: *Provided, however,* That this provision
8 shall in no way affect such property in the custody or
9 control of any state or federal court in any pending
10 action: *And provided further,* That if any federal statute
11 provides for the distribution of any unclaimed property
12 subject to the jurisdiction of a federal court, this statute
13 shall not apply.

14 (b) Notwithstanding the provisions of subsection (a)
15 of this section, all intangible personal property in the
16 custody or control of a general receiver of a state court
17 of record appointed pursuant to the provisions of article
18 six, chapter fifty-one of this code, that has remained
19 unclaimed by the owner for more than fifteen years is
20 presumed abandoned: *Provided, however,* That any such
21 property in the custody or control of any such general
22 receiver in which there is any contingent remainder
23 interest, or any vested remainder interest which is sub-
24 ject to open to let in persons not yet in being or to open
25 to let in members of any class, or any executory interest,
26 or executory devise interest, or any base, qualified, con-
27 ditional, or limited fee estate or interest, or any other
28 qualified, conditional, limited or determinable estate or
29 interest, shall not be presumed abandoned until such
30 property has remained unclaimed for more than fifteen
31 years after such estate or interest has vested or any such
32 class has closed and the persons entitled to such prop-
33 erty have been determined.

**Sec. 9. Miscellaneous Personal Property Held for
2 Another Person.**—All intangible personal property not
3 otherwise covered by this article, including any income or
4 increment thereon and after deducting any lawful charges,
5 that is held or owing in this state in the ordinary course
6 of the holder's business and has remained unclaimed
7 by the owner for more than five years after it became
8 payable or distributable is presumed abandoned: *Pro-
9 vided, however,* That this section shall not apply to such
10 property held or owing by a utility prior to one thousand
11 nine hundred fifty-seven.

**Sec. 10. Reciprocity for Property Presumed Abandoned
2 or Escheated under the Laws of Another State.**—If specific

3 property which is subject to the provisions of sections
4 two, five, six, seven and nine is held for or owed or
5 distributable to an owner whose last known address is
6 in another state by a holder who is subject to the juris-
7 diction of that state, the specific property is not presumed
8 abandoned in this state and subject to this article if:

9 (a) It may be claimed as abandoned or escheated
10 under the laws of such other state; and

11 (b) The laws of such other state make reciprocal pro-
12 vision that similar specific property is not presumed
13 abandoned or escheatable by such other state when held
14 for or owed or distributable to an owner whose last
15 known address is within this state by a holder who is
16 subject to the jurisdiction of this state.

Sec. 11. Report of Abandoned Property.—(a) Every
2 person holding funds or other property, tangible or intan-
3 gible, presumed abandoned under this article shall report
4 to the state treasurer with respect to the property as
5 hereinafter provided.

6 (b) The report shall be verified and shall include:

7 (1) The name, if known, and last known address, if
8 any, of each person appearing from the records of the
9 holder to be the owner of any property of the value of
10 fifty dollars or more presumed abandoned under this
11 article;

12 (2) In case of unclaimed funds of life insurance
13 corporations, the full name of the insured or annuitant
14 and his last known address according to the life insur-
15 ance corporation's records;

16 (3) The nature and identifying number, if any, or
17 description of the property and the amount appearing
18 from the records to be due, except that items of value
19 under fifty dollars each may be reported in aggregate;

20 (4) The date when the property became payable,
21 demandable, or returnable, and the date of the last trans-
22 action with the owner with respect to the property;
23 and

24 (5) Other information which the state treasurer pre-
25 scribes by rule as necessary for the administration of this
26 article.

27 (c) If the person holding property presumed aban-
28 doned is a successor to other persons who previously held
29 the property for the owner, or if the holder has changed
30 his name while holding the property, he shall file with
31 his report all prior known names and addresses of each
32 holder of the property.

33 (d) The report shall be filed before November first
34 of each year as of June thirtieth next preceding, but the
35 report of life insurance corporations shall be filed before
36 May first of each year as of December thirty-first next
37 preceding. The state treasurer may postpone the report-
38 ing date upon written request by any person required to
39 file a report.

40 (e) If the holder of property presumed abandoned
41 under this article knows the whereabouts of the owner
42 and if the owner's claim has not been barred by the
43 statute of limitations, the holder shall, before filing the
44 annual report, attempt to communicate with the owner
45 so that the owner may take necessary steps to prevent
46 abandonment from being presumed. A notice from the
47 holder to the owner sent to the owner's last known address
48 by United States mail, postage prepaid, shall satisfy the
49 requirements of this subsection (e).

50 (f) Verification, if made by a partnership, shall be
51 executed by a partner; if made by an unincorporated
52 association or private corporation, by an officer; and if
53 made by a public corporation, by its chief fiscal officer.

54 (g) The initial report filed under this article shall
55 include all items of property which, under the provi-
56 sions hereof, would have been presumed abandoned on
57 the effective date of this article had this article been in
58 effect on July one, one thousand nine hundred fifty-two.

Sec. 12. Notice and Publication of Lists of Abandoned
2 **Property.**—(a) Within one hundred twenty days from
3 the filing of the report required by section eleven, the
4 state treasurer shall cause notice to be published at least
5 once each week for two successive weeks in an English
6 language newspaper of general circulation in the county
7 in this state in which is located the last known address
8 of any person to be named in the notice. If no address

9 is listed or if the address is outside this state, the notice
10 shall be published in the county in which the holder of
11 the abandoned property has his principal place of busi-
12 ness within this state.

13 (b) The published notice shall be entitled "Notice of
14 Names of Persons Appearing to Be Owners of Abandoned
15 Property," and shall contain:

16 (1) The names in alphabetical order and last known
17 addresses, if any, of persons listed in the report and enti-
18 tled to notice within the county as hereinbefore specified.

19 (2) A statement that information concerning the
20 amount or description of the property and the name and
21 address of the holder may be obtained by any persons
22 possessing an interest in the property by addressing an
23 inquiry to the state treasurer.

24 (3) A statement that if proof of claim is not presented
25 by the owner to the holder and if the owner's right to
26 receive the property is not established to the holder's
27 satisfaction within sixty-five days from the date of the
28 second published notice, the abandoned property shall be
29 placed in the custody of the state treasurer, to whom all
30 further claims must thereafter be directed.

31 (c) The state treasurer is not required to publish in
32 such notice any item of less than fifty dollars unless he
33 deems such publication to be in the public interest.

34 (d) Within ten days after the first publication of the
35 notice required by subsection (a) of this section, the state
36 treasurer shall mail a notice to each person having an
37 address listed therein who appears to be entitled to prop-
38 erty of the value of fifty dollars or more presumed aban-
39 doned under this article.

40 (e) The mailed notice shall contain:

41 (1) A statement that, according to a report filed with
42 the state treasurer, property is being held to which the
43 addressee appears entitled.

44 (2) The name and address of the person holding the
45 property and any necessary information regarding changes
46 of name and address of the holder.

47 (3) A statement that, if satisfactory proof of claim
48 is not presented by the owner to the holder by the date
49 specified in the published notice, the property will be

50 placed in the custody of the state treasurer, to whom all
51 further claims must be directed.

52 (f) Within five days after the date specified in the
53 published notice, the state treasurer shall mail to each
54 holder a notice specifying the date on which the holder's
55 payment or delivery of abandoned property is due to the
56 state treasurer.

Sec. 13. Payment or Delivery of Abandoned Property.

2 —Every person who has filed a report as provided by
3 section eleven shall within twenty-five days after the
4 time specified in section twelve for claiming the property
5 from the holder pay or deliver to the state treasurer all
6 abandoned property specified in the report, except that,
7 if the owner establishes his right to receive the abandoned
8 property to the satisfaction of the holder within the
9 time specified in section twelve, or if it appears that for
10 some other reason the presumption of abandonment is
11 erroneous, the holder need not pay or deliver the property,
12 which will no longer be presumed abandoned, to the state
13 treasurer, but in lieu thereof shall file a verified written
14 explanation of the proof of claim or of the error in the
15 presumption of abandonment.

Sec. 14. Relief from Liability by Payment or Delivery.

2 —The payment or delivery of property to the state treas-
3 urer by any holder shall terminate any legal relationship
4 between the holder and the owner and shall release
5 and discharge such holder from any and all liability to
6 the owner, his heirs, personal representatives, successors
7 and assigns by reason of such delivery or payment, regard-
8 less of whether such property is in fact and in law aban-
9 doned property, and such delivery and payment may be
10 pleaded as a bar to recovery and shall be a conclusive
11 defense in any suit or action brought by such owner,
12 his heirs, personal representatives, successors and assigns,
13 or any claimant against the holder by reason of such
14 delivery or payment. The state treasurer shall reimburse
15 any holder who cannot be relieved of such liability by
16 this section for all liability to the owner, his heirs, per-
17 sonal representatives, successors and assigns, incurred
18 by reason of any such delivery or payment. The state

19 treasurer shall assume custody and shall be responsible
20 for the safekeeping of any such property paid or delivered
21 to him. Any holder who has paid moneys to the state
22 treasurer pursuant to this article may make payment
23 to any person appearing to such holder to be entitled
24 thereto, and upon proof of such payment and proof that
25 the payee was entitled thereto, the state treasurer shall
26 forthwith reimburse the holder for the payment.

Sec. 15. Income Accruing after Payment or Delivery.

2 —When property is paid or delivered to the state treas-
3 urer under this article, the owner is not entitled to
4 receive income or other increments accruing thereafter.

Sec. 16. Periods of Limitation Not a Bar.—The expira-
2 tion of any period of time specified by statute or court
3 order, during which an action or proceeding may be
4 commenced or enforced to obtain payment of a claim
5 for money or recovery of property, shall not prevent the
6 money or property from being presumed abandoned
7 property, nor affect any duty to file a report required
8 by this article or to pay or deliver abandoned property
9 to the state treasurer.

Sec. 17. Sale of Abandoned Property.—(a) All aban-
2 doned property other than money delivered to the state
3 treasurer under this article shall within one year after
4 the delivery be sold by him to the highest bidder at
5 public sale in whatever city in the state affords in his
6 judgment the most favorable market for the property
7 involved. The state treasurer may decline the highest
8 bid and reoffer the property for sale if he considers the
9 price bid insufficient. He need not offer any property
10 for sale if, in his opinion, the probable cost of sale exceeds
11 the value of the property.

12 (b) Any sale held under this section shall be preceded
13 by a single publication of notice thereof, at least three
14 weeks in advance of sale in an English language news-
15 paper of general circulation in the county where the
16 property is to be sold.

17 (c) The purchaser at any sale conducted by the state
18 treasurer pursuant to this article shall receive title to
19 the property purchased, free from all claims of the owner

20 or prior holder thereof and of all persons claiming through
21 or under them. The state treasurer shall execute all
22 documents necessary to complete the transfer of title.

Sec. 18. Deposits of Funds; Trust and Expense Fund;

2 **Records of Deposits.**—(a) All funds received under this
3 article, including the proceeds from the sale of abandoned
4 property under section seventeen, shall forthwith be
5 deposited by the state treasurer in a special fund to be
6 known as the “Trust and Expense Fund.”

7 (b) From said fund the state treasurer shall make
8 prompt payment of claims duly allowed as hereinafter
9 provided, and shall pay the necessary costs of selling
10 abandoned property, of mailing notices, of making publi-
11 cations required by this article, and of paying other
12 operating expenses and administrative expenses reason-
13 ably incurred by the treasurer in the administration and
14 enforcement of the provisions of this article. At any time
15 when the balance of said fund shall exceed one hundred
16 fifty thousand dollars, the state treasurer may, and at
17 least once every fiscal year shall, transfer to the general
18 school fund the balance of the trust and expense fund
19 which shall exceed one hundred fifty thousand dollars.
20 The treasurer is authorized to draw his requisitions for
21 such sums upon the auditor in the manner provided by
22 law.

23 (c) Before making any deposit to said fund, the state
24 treasurer shall record the name and last known address
25 of each person appearing from the holder’s reports to be
26 entitled to the abandoned property, and the name and
27 last known address of each insured person or annuitant,
28 and with respect to each policy or contract listed in the
29 report of a life insurance corporation, its number, the
30 name of the corporation, and the amount due. Such
31 records shall be available for public inspection at all
32 reasonable business hours.

Sec. 19. Claim for Abandoned Property Paid or

2 **Delivered.**—Any person claiming an interest in any prop-
3 erty paid or delivered to the state treasurer under this
4 article may file a claim thereto or to the proceeds from
5 the sale thereof on a form prescribed by the state

6 treasurer.

2 **Sec. 20. Determination of Claims; Hearings.**—(a) The
3 state treasurer shall promptly consider any claim filed
4 under this article, and if he is satisfied from the evidence
5 submitted that such claim is valid, he shall immediately
6 allow same. If he is not so satisfied, then he or an assist-
7 ant designated by him in writing, shall hold a hearing,
8 and all of the pertinent provisions of article five, chapter
9 twenty-nine-a of this code, shall apply to and govern
10 the hearing and the administrative procedures in connec-
11 tion with and following such hearing, with like effect
12 as if the provisions of said article five were set forth
13 in extenso in this section, except that where the property
14 in question was located in a county within this state
15 immediately before delivery or payment thereof to the
16 state treasurer, the hearing shall be held in such county.
17 Within thirty days after the filing of a claim, the state
18 treasurer shall in writing, served in person or by regis-
19 tered or certified mail, notify the person making the
20 claim that he has decided to allow the claim or that he
21 has determined that a hearing as herein specified will
22 be necessary. Any such hearing shall be held within
23 thirty days after receipt of notice from the state treasurer
24 that a hearing will be necessary, unless there is a post-
25 ponement or continuance for good cause.

26 (b) For the purpose of any such hearing, the state
27 treasurer shall have the power and authority to issue
28 subpoenas and subpoenas duces tecum, in accordance
29 with the provisions of section one, article five, chapter
30 twenty-nine-a of this code. All subpoenas and subpoenas
31 duces tecum shall be issued and served within the time
32 and for the fees and shall be enforced, as specified in
33 section one, article five of said chapter twenty-nine-a,
34 and all of the said section one provisions dealing with
35 subpoenas and subpoenas duces tecum shall apply to
36 subpoenas and subpoenas duces tecum issued for the
37 purpose of a hearing hereunder. At any such hearing,
38 any person claiming an interest in the property in ques-
39 tion may represent himself or be represented by an
40 attorney at law admitted to practice before any circuit
41 court of this state.

41 (c) After such hearing and consideration of all the
42 testimony, evidence and record in the case, the state
43 treasurer shall make and enter an order deciding the
44 claim in question. Such order shall be accompanied by
45 findings of fact and conclusions of law as specified in
46 section three, article five, chapter twenty-nine-a of this
47 code, and a copy of such order and accompanying findings
48 and conclusions shall be served upon all of the parties
49 and their attorneys of record, if any, in person or by
50 registered or certified mail. The state treasurer shall
51 also cause a notice to be served with the copy of such
52 order, which notice shall advise the parties of their right
53 to judicial review, in accordance with the provisions of
54 section twenty-one of this article. The order of the state
55 treasurer shall be final unless vacated or modified upon
56 judicial review thereof in accordance with the provisions
57 of section twenty-one of this article.

58 (d) The order and the accompanying findings of fact
59 and conclusions of law shall be public records. When
60 a claim is allowed by the state treasurer, whether with
61 or without hearing, the same shall be paid forthwith
62 without deduction for costs of notices or sale or for
63 administrative charges.

Sec. 21. Judicial Review.—(a) Any party adversely
2 affected by a final order made and entered by the state
3 treasurer after such hearing, held in accordance with the
4 provisions of section twenty of this article, is entitled
5 to judicial review thereof. All of the pertinent provisions
6 of section four, article five, chapter twenty-nine-a of this
7 code shall apply to and govern such review with like
8 effect as if the provisions of said section four were set
9 forth in extenso in this section, except that where the
10 property in question was located in a county within this
11 state immediately before delivery or payment thereof to
12 the state treasurer, the petition shall be filed in the cir-
13 cuit court of such county.

14 (b) The judgment of the circuit court shall be final
15 unless reversed, vacated or modified on appeal to the
16 supreme court of appeals in accordance with the provi-
17 sions of section one, article six, chapter twenty-nine-a
18 of this code.

Sec. 22. Election to Take Payment or Delivery;

2 **Destruction of Property Which Has No Obvious Com-**
3 **mmercial Value.**—(a) The state treasurer, after receiving
4 reports of property deemed abandoned pursuant to this
5 article, may decline to receive any property reported
6 which he deems to have a value less than the cost of giving
7 notice and holding sale, or he may, if he deems it desir-
8 able because of the small sum involved, postpone taking
9 possession until a sufficient sum accumulates. Unless the
10 holder of the property is notified to the contrary within
11 one hundred twenty days after filing the report required
12 under section eleven, the state treasurer shall be deemed
13 to have elected to receive the custody of the property.

14 (b) Any property delivered to the state treasurer pur-
15 suant to this article which has no obvious commercial
16 value shall be retained by the state treasurer until such
17 time as he determines to destroy or otherwise dispose
18 of the same. If the state treasurer determines that any
19 property delivered to him pursuant to this article has no
20 obvious commercial value, he may at any time thereafter
21 destroy or otherwise dispose of the same, and in that
22 event no action or proceeding shall be brought or main-
23 tained against the state or any officer thereof or against
24 the holder for or on account of any action taken by the
25 state treasurer pursuant to this article with respect to
26 said property.

Sec. 23. Examination of Records.—Whenever the state
2 treasurer has reason to believe that a person has failed
3 to report property which should have been reported pur-
4 suant to the provisions of this article, he may issue a
5 subpoena duces tecum requiring such person to produce
6 at a reasonable time at such person's residence or princi-
7 pal place of business such of his books, records or papers
8 as are reasonably necessary for the state treasurer to
9 determine whether a report was required. Every such
10 subpoena duces tecum shall be served at least five days
11 before the return date thereof. Upon motion made
12 promptly, and in any event before the time specified in
13 a subpoena duces tecum for compliance therewith, the
14 circuit court of the county in which such person resides
15 or has his principal place of business, or the judge thereof

16 in vacation, may grant any relief with respect to such
17 subpoena duces tecum which such court, under the West
18 Virginia rules of civil procedure for trial courts of rec-
19 ord, could grant, and for any of the same reasons, with
20 respect to a subpoena duces tecum issued from such court.
21 In case of disobedience or neglect of any subpoena duces
22 tecum served on any person, the circuit court of the
23 county in which such person resides or has his principal
24 place of business, or the judge thereof in vacation, upon
25 application by the state treasurer, may compel obedience
26 by attachment proceedings for contempt as in the case
27 of disobedience of the requirements of a subpoena duces
28 tecum issued from such circuit court.

**Sec. 24. Proceeding to Compel Delivery of Abandoned
2 Property.**—If any person refuses to pay or deliver prop-
3 erty to the state treasurer as required under this article,
4 he may bring an action in the circuit court of the county
5 where the holder resides or has his principal place of
6 business to enforce such payment or delivery.

Sec. 25. Appeals from Circuit Courts.—Any person
2 adversely affected by the final judgment of any circuit
3 court under the provisions of this article may seek review
4 thereof by appeal to the supreme court of appeals of this
5 state, and jurisdiction is hereby conferred upon such
6 court to hear and entertain such appeals upon application
7 made therefor in the manner and within the time pro-
8 vided by law for civil appeals generally.

Sec. 26. Offenses and Penalties.—(a) Any person who
2 shall wilfully fail to render any report required under
3 this article shall be guilty of a misdemeanor, and, upon
4 conviction thereof, shall be punished by a fine not to
5 exceed five hundred dollars.

6 (b) Any person who shall wilfully refuse to pay or
7 deliver abandoned property to the state treasurer as
8 required under this article shall be guilty of a misde-
9 meanor, and, upon conviction thereof, shall be punished
10 by a fine of not less than one hundred dollars nor more
11 than one thousand dollars, or by imprisonment for not
12 more than thirty days, or by both fine and imprisonment
13 in the discretion of the court.

Sec. 27. Rules and Regulations.—To carry out the provisions of this article the state treasurer may make necessary rules and regulations in accordance with the provisions of chapter twenty-nine-a of this code.

Sec. 28. Effect of Laws of Other States.—This article shall not apply to any property that has been presumed abandoned or escheated under the laws of another state prior to the effective date of this article.

Sec. 29. Severability.—If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Sec. 30. Uniformity of Interpretation.—This article shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 31. Effective Date.—This article shall take effect on July one, one thousand nine hundred sixty-seven.

CHAPTER 2

(Com. Sub. for Senate Bill No. 32—By Mr. Carson, Mr. President,
and Mr. Parker)

[Passed February 7, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to repeal article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article two-b, relating to the department of agriculture, to the inspection, labeling and disposition of animals, carcasses, meat, meat food products and meat by-products, to the licensing of commercial slaughterers, custom slaughterers, and processors, and to the inspection of slaughterhouses and processing plants; and providing exclusions and penalties.

Be it enacted by the Legislature of West Virginia:

That article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new article two-b be enacted in lieu thereof to read as follows:

Article 2-b. Inspection of Animals, Meat and Meat Products.

Section

1. Purpose and construction.
2. Definitions.
3. Commissioner to enforce article; rules and regulations; cooperation with federal agencies, etc.
4. License required for commercial slaughterer, custom slaughterer, or processor; application for license; fees; refusal; revocation or suspension; suspension of inspection; establishment number or numbers.
5. Access to establishments, records, etc.
6. Inspection of animals, carcasses and establishments; scheduling of operations; conveyances; quarantine and segregation; labeling, branding, etc.; seizure and destruction of certain animals, products, etc.; reinspection; reprocessing; health examinations for employees; rejection tags; removal of inspection marks.
7. Exclusion of slaughterhouses and processing plants under supervision of the United States department of agriculture; exclusion of farmers.
8. Exemptions.
9. Hearings; judicial review.
10. Additional prohibitions.
11. Penalties.
12. Severability.

Section 1. Purpose and Construction.—Subject to the provisions of subsection (a) of section seven hereof, the basic purpose of this article is to provide for the inspection, labeling and disposition of animals, carcasses, meat, meat food products and meat by-products which are to be sold or offered for sale through commercial outlets for human consumption, the licensing of commercial slaughterers, custom slaughterers, and processors, and the inspection of slaughterhouses and processing plants located in the state of West Virginia. This article, being intended to protect the health of the citizens of West Virginia, shall be liberally construed.

Sec. 2. Definitions.—Unless the context in which used clearly requires a different meaning, as used in this article:

- (a) "Department" means the department of agriculture of the state of West Virginia;
- (b) "Commissioner" means the commissioner of agri-

7 culture of the state of West Virginia and his duly author-
8 ized representatives;

9 (c) "Person" means any individual, partnership, cor-
10 poration, association, or other entity;

11 (d) "Contract veterinarian" means a graduate of a
12 school of veterinary medicine accredited by the American
13 veterinary medical association who provides services for
14 the department under contract;

15 (e) "Veterinary supervisor" means a graduate of a
16 school of veterinary medicine accredited by the American
17 veterinary medical association, and employed by the de-
18 partment to inspect and supervise the inspection of
19 animals, carcasses, meat, meat food products or meat by-
20 products;

21 (f) "Meat inspector" means an individual employed by
22 the department to inspect animals, carcasses, meat, meat
23 food products or meat by-products under the supervision
24 of a veterinary supervisor;

25 (g) "State inspection" means inspection services con-
26 ducted by the department at or in connection with estab-
27 lishments required to be licensed by this article;

28 (h) "W. Va. Condemned," or abbreviation thereof,
29 means the animal so marked has been inspected and found
30 to be in a dying condition, or to be affected with any other
31 condition or disease that would require condemnation of
32 its carcass;

33 (i) "W. Va. Inspected and Condemned," or abbrevia-
34 tion thereof, means that the carcass, meat, meat food
35 product or meat by-product, so marked or so identified, is
36 unwholesome or adulterated and shall be disposed of in
37 the manner prescribed by the commissioner;

38 (j) "W. Va. Retained" means that the carcass, meat,
39 meat food product or meat by-product so identified is held
40 for further examination by a veterinary supervisor or
41 contract veterinarian to determine its disposal;

42 (k) "W. Va. Suspect" means that the animal so marked
43 and identified is suspected of being affected with a disease
44 or condition which may require its condemnation, in
45 whole or in part, when slaughtered, and is subject to
46 further examination by a contract veterinarian or veter-
47 inary supervisor to determine its disposal;

48 (l) "W. Va. Inspected and Passed," or abbreviation
49 thereof, means that the carcass, meat, meat food product
50 or meat by-product, so marked or so identified, was at the
51 time it was so marked or so identified found to be whole-
52 some;

53 (m) "Country" when used in the name of a meat, meat
54 food product or meat by-product means that such meat,
55 meat food product or meat by-product was actually pre-
56 pared on a farm;

57 (n) "Federal inspection" means the meat and poultry
58 inspection service conducted or approved by the meat
59 inspection division and the poultry inspection division of
60 the United States Department of Agriculture;

61 (o) "Federal Meat Inspection Act" means the act of
62 Congress approved March four, one thousand nine hun-
63 dred seven, as amended and extended [21 U. S. C. 71
64 *et seq.*] and the imported meat provisions of subsections
65 306 (b) and (c) of the Tariff Act of 1930, as amended [19
66 U. S. C. 1306 (b) and (c)];

67 (p) "Federal Poultry Products Inspection Act" means
68 the act of Congress approved August twenty-eight, one
69 thousand nine hundred fifty-seven, as amended [21 U. S.
70 C. 451 *et seq.*];

71 (q) "Inspection legend" means a mark or a statement
72 on a carcass, meat, meat food product or meat by-product
73 indicating the same has been inspected and passed in this
74 state under the provisions of this article;

75 (r) "Meat label" means a display of written, printed
76 or graphic matter on a container indicating the carcass,
77 meat, meat food products or meat by-products contained
78 therein have been inspected and passed in this state under
79 the provisions of this article;

80 (s) "Official inspection mark" means any symbol
81 prescribed by the commissioner for the purpose of
82 identifying the inspection status of any article so in-
83 spected;

84 (t) "Establishment number" means an official number
85 assigned by the commissioner to each establishment and
86 included on the inspection legend and meat label to
87 identify all inspected and passed carcasses, meat, meat

- 88 food products and meat by-products handled in that
89 establishment;
- 90 (u) "Container" and "package" shall include but not
91 be limited to any box, can, tin, cloth, plastic or any other
92 receptacle, wrapper or cover;
- 93 (v) "Animals" mean cattle, swine, sheep, goats and
94 rabbits;
- 95 (w) "Carcass" means all or any part of a slaughtered
96 animal, including viscera, which is capable of being used
97 for human consumption;
- 98 (x) "Meat" means the edible part of the muscle of
99 animals, which is skeletal or which is found in the tongue,
100 in the diaphragm, in the heart or in the esophagus, with
101 or without the accompanying or overlying fat, and the
102 portions of bone, skin, sinew nerve and blood vessels
103 which normally accompany the muscle tissue and which
104 are not separated from it in the process of dressing; it
105 does not include the muscle found in the lips, snout or
106 ears;
- 107 (y) "Meat food product" means any article of food for
108 human consumption or any article which enters into the
109 composition of food for human consumption, which is
110 derived or prepared in whole or in part from any portion
111 of any animal, except organotherapeutic substances, meat
112 juices, meat extract and the like which are only for
113 medicinal purposes and are advertised only to the medical
114 profession; any edible part of the carcass which has been
115 manufactured, cured, smoked, processed or otherwise
116 treated shall be considered a meat food product;
- 117 (z) "Meat by-product" means any edible part of an
118 animal other than meat or meat food product;
- 119 (aa) "Commercial slaughterer" means a person en-
120 gaged for profit in this state in the business of slaughter-
121 ing or dressing animals for human consumption which
122 are to be sold or offered for sale through a commercial
123 outlet, and shall include a person who in addition to such
124 commercial slaughtering also engages in the business of
125 a custom slaughterer;
- 126 (bb) "Custom slaughterer" means a person engaged
127 for profit in this state in the business of slaughtering or
128 dressing animals for human consumption which are not to

129 be sold or offered for sale through a commercial outlet
130 and shall include the boning or cutting up of carcasses
131 of such animals and the grinding, chopping and mixing of
132 the carcasses thereof;

133 (cc) "Slaughterhouse" shall include but not be limited
134 to all buildings, structures and facilities used in the
135 slaughtering or dressing of animals for human consump-
136 tion;

137 (dd) "Processor" means a person who engages for
138 profit in this state in the business of packing or packaging
139 carcasses, meat, meat food products or meat by-products
140 for human consumption or a person engaged for profit in
141 the business of curing, salting, processing or other prepar-
142 ing of carcasses, meat, meat food products or meat by-
143 products for human consumption;

144 (ee) "Processing plant" shall include but not be limited
145 to all buildings, structures, chill rooms, aging rooms, proc-
146 essing rooms, sanitary facilities, other facilities, and
147 utensils, used by or in connection with the operations of
148 a processor;

149 (ff) "Establishment" means any slaughterhouse or
150 processing plant in this state;

151 (gg) "Commercial outlet" means a place of business
152 in this state in which carcasses, meat, meat food products
153 or meat by-products are sold or offered for sale for human
154 consumption by the purchaser or others;

155 (hh) "Commercial dealer" means any person who op-
156 erates one or more commercial outlets and who sells or
157 offers for sale thereat any carcasses, meat, meat food prod-
158 ucts or meat by-products for human consumption, and who
159 does not can, cook, cure, dry, smoke or render any car-
160 cass, meat, meat food products or meat by-products at
161 such outlets and who conducts no slaughtering or pre-
162 paring of carcasses, meat, meat food products or meat by-
163 products at such outlets other than boning or cutting up
164 of carcasses, and other than grinding, chopping and mix-
165 ing operations at such outlets with respect to trim or meat
166 derived only from such boning or cutting up operations;

167 (ii) "Custom slaughtered carcass or meat," "cutsom
168 slaughtered meat food products" or "custom slaughtered
169 meat by-products" mean, respectively, carcasses, meat,

170 meat food products or meat by-products which were
171 slaughtered, dressed or otherwise processed by a custom
172 slaughterer;

173 (jj) "Wholesome" means sound, healthful, clean, and
174 otherwise fit for human consumption;

175 (kk) "Unwholesome" means any animal, carcass, meat,
176 meat food product or meat by-product which:

177 (i) Is unsound, injurious to health, contains any bio-
178 logical residue not permitted under reasonable rules and
179 regulations promulgated by the commissioner, or is other-
180 wise unfit for human consumption;

181 (ii) Consists in whole or in part of any filthy, putrid,
182 or decomposed substance;

183 (iii) Was processed, prepared, packed, or held under
184 insanitary conditions so that the same may have become
185 contaminated or may have become injurious to health;
186 and

187 (iv) Was produced in whole or in part from animals
188 which died other than by slaughter.

189 (ll) "Adulterated" means any animal, carcass, meat,
190 meat food product or meat by-product:

191 (i) Which bears or contains any poisonous or deleteri-
192 ous substance, whether added or natural, that may render
193 it injurious to health or unfit for human consumption;

194 (ii) Concerning which a substance has been substi-
195 tuted, wholly or in part;

196 (iii) In which damage or inferiority has been con-
197 cealed in any manner;

198 (iv) Concerning which any casing has been used which
199 contains any dye or artificial coloring not authorized by
200 reasonable rules and regulations promulgated by the
201 commissioner;

202 (v) From which a valuable constituent has been in
203 whole or in part omitted or abstracted; and

204 (vi) To or with which any substance has been added,
205 mixed or packed for the purpose of increasing its bulk
206 or weight, or so as to reduce its quality or strength, or to
207 make it appear better or of greater value than it is, unless
208 authorized by reasonable rules and regulations promul-
209 gated by the commissioner.

210 (mm) "Licensee" means any person licensed under
211 the provisions of this article.

Sec. 3. Commissioner to Enforce Article; Rules and Regulations; Cooperation with Federal Agencies, etc.—(a)
2 The commissioner shall administer and enforce the provi-
3 sions of this article and for this purpose he is hereby au-
4 thorized and empowered to promulgate reasonable rules
5 and regulations and to employ or contract with such per-
6 sons as may be appropriate. All rules and regulations shall
7 be promulgated in accordance with the provisions of chap-
8 ter twenty-nine-a of this code. Such rules and regulations
9 shall, insofar as practicable, be in conformity with the
10 rules and regulations issued under the federal Meat In-
11 spection Act and the Federal Poultry Products Inspection
12 Act.
13 Act.

14 (b) The commissioner is hereby authorized and em-
15 powered to cooperate with the federal government and
16 any agencies, departments and instrumentalities thereof,
17 the state of West Virginia and any agencies, departments
18 or political subdivisions thereof, and any other state or
19 commonwealth and any agencies, departments or political
20 subdivisions thereof, in order to carry out the effective
21 administration of this article.

Sec. 4. License Required for Commercial Slaughterer, Custom Slaughterer, or Processor; Application for License; Fees; Refusal; Revocation or Suspension; Suspension of Inspection; Establishment Number or Numbers.—
2 The commissioner shall administer and enforce the provi-
3 sions of this article and for this purpose he is hereby au-
4 thorized and empowered to promulgate reasonable rules
5 and regulations and to employ or contract with such per-
6 sons as may be appropriate. All rules and regulations shall
7 be promulgated in accordance with the provisions of chap-
8 ter twenty-nine-a of this code. Such rules and regulations
9 shall, insofar as practicable, be in conformity with the
10 rules and regulations issued under the federal Meat In-
11 spection Act and the Federal Poultry Products Inspection
12 Act.
13 Act.
14 (a) No commercial slaughterer, custom slaughterer, or
15 processor shall operate an establishment unless he shall
16 first have obtained a license from the commissioner so to
17 do, which license remains unsuspended and unrevoked.
18 Application for such license shall be made on forms pre-
scribed by the commissioner and shall be accompanied by
the fee required in this section. When such a person oper-
ates as a commercial slaughterer and also operates as a
processor, whether such operations are located on the
same or different premises in this state, each such opera-
tion shall be licensed. When such a person operates two or
more slaughterhouses not on the same premises in this
state, or operates two or more processing plants not on the
same premises in this state, a separate license shall be re-

19 quired for each such slaughterhouse and each such proc-
20 essing plant. Each license shall expire on the thirtieth day
21 of June next following its issuance, and the annual fee for
22 each such license shall be one hundred dollars, except that
23 the annual fee for the license of a person who operates
24 solely as a custom slaughterer shall be twenty-five dollars.
25 Before issuing any license required by the provisions of
26 this section, the commissioner shall inspect the applicant's
27 establishment and if the commissioner is satisfied that
28 the establishment is clean and sanitary, is properly equip-
29 ped, and is in conformity with the provisions of this
30 article and any reasonable rules and regulations promul-
31 gated by the commissioner, and if he is further satisfied
32 that the carcasses, meat, meat food products or meat by-
33 products to be sold or offered for sale therefrom through
34 commercial outlets will be wholesome and unadulterated,
35 he shall issue the license. Each license shall specify the
36 location of the establishment at which the licensee shall
37 carry on his operations. The license shall also contain the
38 establishment number assigned by the commissioner.

39 (b) When a licensee changes the location of his estab-
40 lishment, he shall not operate at such new location unless
41 and until his establishment at such new location has been
42 inspected by the commissioner and a new license has
43 been issued in accordance with the provisions of subsec-
44 tion (a) of this section: *Provided*, That a fee shall not
45 be charged for such new license during the license year
46 in which the change in location was made.

47 (c) The commissioner may refuse to grant a license or
48 may suspend or revoke a license issued under the pro-
49 visions of this section whenever he finds that the appli-
50 cant's or licensee's establishment, as the case may be, is
51 not clean or sanitary, or is not properly equipped, or is
52 not in conformity with the provisions of this article or
53 any reasonable rules and regulations promulgated by
54 the commissioner, or if he finds that the carcasses, meat,
55 meat food products or meat by-products to be sold or
56 offered for sale therefrom through commercial outlets
57 are or will be unwholesome or adulterated. Upon the
58 refusal to grant a license, the commissioner shall fur-
59 nish a written statement to the applicant specifying the

60 grounds for such refusal. No such revocation or suspen-
61 sion of a license shall be effective until the licensee has
62 received written notice thereof, which notice shall specify
63 the grounds for such revocation or suspension. Whenever
64 there is sufficient cause for the revocation or suspension
65 of a license as hereinabove specified, the commissioner
66 may in lieu of such revocation or suspension, suspend
67 inspections at the establishment. Immediately upon sus-
68 pension of such inspections, the commissioner shall give
69 the licensee written notice thereof, and such notice shall
70 contain a recitation of the deficiencies which must be
71 fully and completely corrected before inspections shall
72 be resumed. Upon receipt of a written statement advising
73 that a license has been refused or upon receipt of a writ-
74 ten notice of the revocation or suspension of a license,
75 or upon the suspension of inspections at the licensee's
76 establishment, the applicant or licensee, as the case may
77 be, may, in writing, demand a hearing. The commissioner
78 shall hold such a hearing within ten days after receipt
79 of such written demand, in accordance with the provi-
80 sions of section nine of this article.

Sec. 5. Access to Establishments, Records, etc.—The com-
2 missioner may at any time enter upon and inspect any
3 establishment, place, premises or conveyance, either pri-
4 vate or public, where animals are slaughtered or carcasses,
5 meat, meat food products or meat by-products are proc-
6 essed, handled, stored, transported, distributed, sold or
7 offered for sale, for the purpose of examining such ani-
8 mals, carcasses, meat, meat food products or meat by-
9 products. Any person engaged in the business of operat-
10 ing an establishment shall maintain such records as the
11 commissioner may require directly pertaining to the
12 movement, storage and distribution or other disposition
13 of animals, carcasses, meat, meat food products or meat
14 by-products, and such records shall be open to inspection
15 by the commissioner at any time during the normal work-
16 ing hours at such establishment.

**Sec. 6. Inspection of Animals, Carcasses and Establish-
2 ments; Scheduling of Operations; Conveyances; Quarant-
3 ine and Segregation; Labeling, Branding, etc.; Seizure**

4 **and Destruction of Certain Animals, Products, etc.; Re-**
5 **inspection; Reprocessing; Health Examinations for Em-**
6 **ployees; Rejection Tags; Removal of Inspection Marks.—**

7 (a) The commissioner shall provide ante-mortem inspec-
8 tion of all animals before they are slaughtered for human
9 consumption in any establishment under state inspection.

10 (b) The commissioner shall provide post-mortem in-
11 spection of all animals slaughtered for human consump-
12 tion in any establishment under state inspection.

13 (c) All inspections under the provisions of this article
14 shall be performed in accordance with reasonable rules
15 and regulations promulgated by the commissioner.

16 (d) The commissioner shall inspect all establishments
17 under state inspection to make certain that they are oper-
18 ating in accordance with the provisions of this article and
19 all reasonable rules and regulations promulgated by the
20 commissioner.

21 (e) When one inspector is assigned to make inspections
22 at two or more establishments where few animals are
23 slaughtered, or where small quantities of carcasses, meat,
24 meat food products or meat by-products are handled, or
25 where the operations at such establishments are sporadic,
26 and such establishments in any of such cases are in reason-
27 ably close proximity to one another, the commissioner,
28 giving full consideration to the convenience of the licen-
29 sees of such establishments, may by written notice to such
30 licensees specify a reasonable schedule for such opera-
31 tions: *Provided*, That the commissioner may not require
32 operations other than during normal working hours.

33 (f) Every conveyance used by any establishment under
34 state inspection, and, notwithstanding the provisions of
35 subsection (a) of section seven of this article, every con-
36 veyance used by any slaughterhouse or processing plant
37 operating under federal inspection or approved by the
38 United States Department of Agriculture, for the trans-
39 portation of carcasses, meat, meat food products or meat
40 by-products shall be maintained in a clean and sanitary
41 condition and may be inspected in accordance with the
42 provisions of this article and reasonable rules and regu-
43 lations promulgated by the commissioner.

44 (g) The commissioner shall require such quarantine and
45 segregation of animals, carcasses, meat, meat food prod-
46 ucts and meat by-products in establishments as is deemed
47 necessary to effectuate the provisions of this article.

48 (h) The head, tongue, tail, thymus glands, viscera,
49 blood and other parts of any slaughtered animal shall be
50 retained in such a manner as to preserve their identity
51 until after the post-mortem inspection has been com-
52 pleted.

53 (i) Each licensee shall pay for such devices for the
54 affixing of marks, brands or stamps and for such meat
55 labels as may be prescribed for his establishment by the
56 commissioner. Such devices and meat labels shall be
57 under the exclusive control and supervision of the com-
58 missioner. The meat label used by any licensee shall be
59 of the form and size prescribed by reasonable rules and
60 regulations promulgated by the commissioner.

61 (j) Each carcass that has been inspected and passed
62 in this state by the commissioner shall be marked at the
63 time of inspection with the inspection legend. Any carcass
64 which is not passed shall be marked conspicuously by the
65 commissioner at the time of inspection in the following
66 manner: "W. Va. Inspected and Condemned," or any ab-
67 breviation thereof.

68 (k) Each primal part of a carcass that has been in-
69 spected and passed shall be marked with the inspection
70 legend, and each liver, beef heart and beef tongue that
71 has been inspected and passed shall be branded with the
72 inspection legend at the time of final inspection. Meat
73 that has been boned out, cut from primal parts or other-
74 wise changed so that the inspection legend is no longer
75 plainly visible, and meat food products and meat by-
76 products that are too small to be marked with the inspec-
77 tion legend shall be packed in closed containers to which
78 shall be affixed the meat label indicating that the meat,
79 meat food products or meat by-products contained therein
80 have been inspected and passed. Upon removal of the
81 contents of such containers bearing such label, the label
82 shall be defaced to prevent its reuse.

83 (l) All carcasses, meat, meat food products and meat
84 by-products which have been derived from an animal

85 slaughtered by a custom slaughterer shall be marked
86 "W. Va. Custom Slaughtered" in letters not less than
87 three eighths of an inch in height.

88 (m) Each official inspection mark shall contain the
89 establishment number of the establishment involved,
90 unless otherwise authorized by rules and regulations
91 promulgated by the commissioner.

92 (n) The commissioner is hereby authorized and em-
93 powered to seize and destroy (i) any animal to be slaugh-
94 tered in this state and thereafter sold or offered for sale
95 through a commercial outlet which cannot be made fit
96 for human consumption; (ii) any animal, carcass, meat,
97 meat food product or meat by-product slaughtered or
98 processed in this state in violation of the provisions of
99 this article or any reasonable rules and regulations pro-
100 mulgated by the commissioner; (iii) any carcass, meat,
101 meat food product or meat by-product that does not bear
102 an inspection legend or meat label provided for by this
103 article or which has not been inspected and passed under
104 federal inspection or approved by the United States De-
105 partment of Agriculture and which is intended to be sold
106 or offered for sale through a commercial outlet; and (iv)
107 any animal, carcass, meat, meat food product or meat by-
108 product which is unwholesome or adulterated. Where
109 appropriate the commissioner may in lieu of destruction
110 as aforesaid denature, decharacterize, mutilate or slash
111 any carcass, meat, meat food product or meat by-product
112 intended to be sold or offered for sale through a com-
113 mercial outlet. The commissioner is also authorized and
114 empowered to seize and retain under a retained tag any
115 animal, carcass, meat, meat food product or meat by-
116 product until the commissioner determines to destroy,
117 denature, decharacterize, mutilate, slash or release the
118 same. Whenever the commissioner is authorized or em-
119 powered to take any of the actions specified in this sub-
120 section, he may order and direct the person having
121 custody or possession of such animal, carcass, meat, meat
122 food product or meat by-product, or the licensee of the
123 establishment in which it is found, to be responsible for
124 the disposition thereof, as well as any necessary storage,
125 handling or other incidentals related thereto. Such dis-

126 position shall be carried out only under the direction and
127 supervision of the commissioner.

128 (o) Whenever practicable, the commissioner shall fore-
129 go the actions authorized in the immediately preceding
130 subsection and permit reprocessing if such reprocessing
131 will correct or eliminate the conditions which would have
132 justified any of such actions. Any such reprocessing in
133 this state shall be under the supervision of the commis-
134 sioner.

135 (p) Whenever the commissioner has good cause to
136 believe that any carcass, meat, meat food product or meat
137 by-product, whether fresh, frozen, cured or otherwise
138 prepared, and which is intended to be sold or offered for
139 sale through a commercial outlet, may be unwholesome
140 or adulterated or otherwise injurious to health, he may
141 inspect or reinspect the same under the provisions of
142 this article and any reasonable rules and regulations
143 promulgated by him, even though such carcass, meat,
144 meat food product or meat by-product may have been
145 previously inspected and passed.

146 (q) No licensee shall employ in any establishment any
147 person who has any communicable disease or infected
148 wounds or who is a carrier of any communicable disease.
149 To enforce the provisions of this subsection, the com-
150 missioner may require any employee or prospective em-
151 ployee to submit to a health examination by a physician
152 and furnish to the commissioner a certificate from such
153 physician concerning his findings. The cost of conducting
154 such examination and furnishing such certificate shall be
155 borne by the licensee concerned.

156 (r) Whenever the commissioner inspects any room,
157 compartment, equipment or utensil in any establishment
158 subject to state inspection and finds the same not to be
159 clean and sanitary or finds the same to be otherwise un-
160 suitable for the slaughtering or processing operations
161 carried on in such establishment, he shall affix thereto a
162 rejection tag or rejection notice. No such rejected room,
163 compartment, equipment or utensil shall be used until
164 the deficiencies requiring such rejection shall have been
165 fully and completely corrected. No person other than the

166 commissioner shall remove any such rejection tag or
167 notice.

168 (s) When any animal, carcass, meat, meat food product
169 or meat by-product has been inspected hereunder, the ap-
170 propriate official inspection mark shall be affixed thereto,
171 and no person shall remove the same unless authorized
172 so to do by the commissioner.

**Sec. 7. Exclusion of Slaughterhouses and Processing
2 Plants under Supervision of the United States Depart-
3 ment of Agriculture; Exclusion of Farmers.—**(a) The pro-
4 visions of this article shall not apply to any slaughter-
5 house or processing plant operating under the federal
6 Meat Inspection Act or the federal Poultry Products In-
7 spection Act, or approved by the United States Depart-
8 ment of Agriculture.

9 (b) For the purposes of this subsection, a farmer is a
10 person who owns or operates a farm or farms in this state
11 and does not engage, directly or indirectly, in the business
12 of buying or selling any animals, other than as a part of his
13 normal farming operations, and does not engage in any
14 business that involves the slaughtering of any animals
15 other than those owned by him, or the buying or selling
16 of any carcasses, meat, meat food products or meat by-
17 products of any animals other than those owned by him.
18 Without being licensed under the provisions of this article,
19 a farmer may slaughter or cause to be slaughtered his
20 own animals for his own consumption on his own prem-
21 ises, on the premises of another person or in the estab-
22 lishment of a licensed custom slaughterer, and a farmer
23 may sell or trade such animals or the carcasses, meat,
24 meat food products or meat by-products thereof to other
25 individuals in his county or immediately surrounding
26 counties.

Sec. 8. Exemptions.—(a) The provisions of this article
2 shall not apply to:

3 (i) Any commercial dealer, provided all carcasses,
4 meat, meat food products and meat by-products sold or
5 offered for sale by such dealer were slaughtered and/or
6 processed in establishments under state inspection or fed-
7 eral inspection;

- 8 (ii) Persons slaughtering animals, or processing car-
9 casses, meat, meat food products or meat by-products, in
10 accordance with recognized religious dietary laws;
- 11 (iii) Any educational activities relating to animals, car-
12 casses, meat, meat food products or meat by-products and
13 conducted by four-H clubs, Future Farmers of America,
14 Future Homemakers of America;
- 15 (iv) Any meat by-product processed, offered, sold and
16 advertised for medicinal use only by physicians or other
17 persons engaged in the practice of the healing arts; and
- 18 (v) The West Virginia University meat laboratory.
- 19 (b) The commissioner may by reasonable rules and
20 regulations exempt any other activity, any animal, car-
21 cass, meat, meat food product or meat by-product, or
22 any person, from all of the provisions of this article or
23 one or more of such provisions.
- 24 (c) The commissioner may by reasonable rules and
25 regulations exempt a licensed custom slaughterer from
26 the requirements of this article relating to ante-mortem
27 and post-mortem inspection.
- 28 (d) The commissioner may by written order to the
29 person concerned suspend, limit or terminate any exemp-
30 tion provided under this section or granted by rules and
31 regulations authorized under subsections (b) and (c)
32 hereof when he determines that such suspension, limita-
33 tion or termination is necessary to effectuate the purposes
34 of this article: *Provided*, That the person affected by any
35 such suspension, limitation or termination may demand
36 a hearing in writing which shall be held by the commis-
37 sioner in accordance with the provisions of section nine
38 of this article. The commissioner shall hold such a hearing
39 within ten days after receipt of such written demand.

Sec. 9. Hearings; Judicial Review.—(a) When any per-
2 son is entitled to a hearing before the commissioner as
3 authorized in this article, the commissioner shall hold
4 such hearing and all of the pertinent provisions of article
5 five, chapter twenty-nine-a of this code shall apply to and
6 govern such hearing and the administrative procedures
7 in connection with and following such hearing, with like
8 effect as if the provisions of said article five were set forth
9 in extenso in this subsection, except that the hearing shall

10 be held in the county in which the establishment in-
11 volved is located, or in which the affected person resides
12 or has his principal place of business, or in Kanawha
13 county, West Virginia, at the election of the person de-
14 manding the hearing. Any such hearing shall be held
15 within the time limits hereinbefore specified in this ar-
16 ticle, unless there is a postponement or a continuance for
17 good cause shown.

18 (b) For the purpose of any such hearing, the commis-
19 sioner shall have the power and authority to issue sub-
20 poenas and subpoenas duces tecum, in accordance with
21 the provisions of section one, article five, chapter twenty-
22 nine-a of this code. All subpoenas and subpoenas duces
23 tecum shall be issued and served within the time and for
24 the fees and shall be enforced, as specified in section one,
25 article five of said chapter twenty-nine-a, and all of the
26 said section one provisions dealing with subpoenas and
27 subpoenas duces tecum shall apply to subpoenas and sub-
28 poenas duces tecum issued for the purpose of a hearing
29 hereunder. At any such hearing, the person who de-
30 manded the same may represent himself or be represented
31 by an attorney at law admitted to practice before any
32 circuit court of this state.

33 (c) After such hearing and consideration of all the
34 testimony, evidence and record in the case, the commis-
35 sioner shall make and enter an order deciding the matter
36 in question. Such order shall be accompanied by findings
37 of fact and conclusions of law as specified in section three,
38 article five, chapter twenty-nine-a of this code, and a
39 copy of such order and accompanying findings and con-
40 clusions shall be served upon all the parties and their
41 attorneys of record, if any, in person or by registered or
42 certified mail. The commissioner shall also cause a notice
43 to be served with a copy of such order, which notice shall
44 advise the parties of their right to judicial review, in
45 accordance with the provisions of subsection (d) of this
46 section. The order of the commissioner shall be final un-
47 less vacated or modified upon judicial review thereof in
48 accordance with the provisions of subsection (d) of this
49 section.

50 (d) Any party adversely affected by a final order made

51 and entered by the commissioner after such hearing, held
52 in accordance with the provisions of subsections (a)
53 through (c) of this section, is entitled to judicial review
54 thereof. All of the pertinent provisions of section four,
55 article five, chapter twenty-nine-a of this code shall apply
56 to and govern such review with like effect as if the pro-
57 visions of said section four were set forth in extenso in
58 this subsection, except that the petition shall be filed in
59 the circuit court of the county in which the hearing be-
60 fore the commissioner was held.

61 (e) The judgment of the circuit court shall be final
62 unless reversed, vacated or modified on appeal to the
63 supreme court of appeals in accordance with the provi-
64 sions of section one, article six, chapter twenty-nine-a of
65 this code.

Sec. 10. Additional Prohibitions.—In addition to any
2 other prohibitions contained in this article, it shall be un-
3 lawful:

4 (a) For any person to operate any establishment under
5 state inspection which is not clean and sanitary;

6 (b) To slaughter any unwholesome or adulterated
7 animal intended to be sold or offered for sale through a
8 commercial outlet;

9 (c) To sell or offer for sale through a commercial out-
10 let any carcass, meat, meat food product or meat by-
11 product for human consumption which is unwholesome
12 or adulterated;

13 (d) To slaughter for human consumption any animal
14 tagged or permanently identified as "W. Va. Condemned,"
15 or abbreviation thereof;

16 (e) To process, sell or offer for sale for human con-
17 sumption any carcass, meat, meat food product or meat
18 by-product which is mislabeled with intent to deceive or
19 which is marked "W. Va. Inspected and Condemned," or
20 abbreviation thereof;

21 (f) To process in an establishment under state inspec-
22 tion for sale through any commercial outlet any carcass,
23 meat, meat food product or meat by-product intended for
24 human consumption and derived in whole or in part from
25 any calf, pig, kid or lamb which is so immature as to be
26 lacking in nutritional value;

27 (g) To knowingly or intentionally expose any carcass,
28 meat, meat food product or meat by-product in any estab-
29 lishment under state inspection to insects, live animals
30 or any contamination;

31 (h) To add kangaroo meat, horse meat, mule meat or
32 other equine meat to any animal meat, or meat food
33 product or meat by-product derived from animals and to
34 be sold or offered for sale through commercial outlets for
35 human consumption;

36 (i) To remove any hide, skin or any other part of an
37 unborn or stillborn animal in the confines of a room in an
38 establishment where any animals, carcasses, meat, meat
39 food products or meat by-products are slaughtered or
40 processed, as the case may be, to be sold or offered for
41 sale through a commercial outlet;

42 (j) To process for human consumption in any estab-
43 lishment subject to state inspection any carcass, meat,
44 meat food product or meat by-product derived from any
45 animal which died other than by slaughter;

46 (k) To transport to any commercial outlet for the pur-
47 pose of being sold or offered for sale therein, any carcass,
48 meat, meat food product or meat by-product which is not
49 marked, branded or stamped as having been inspected and
50 passed by the commissioner or by the United States De-
51 partment of Agriculture or which has not been approved
52 by the United States Department of Agriculture;

53 (l) To slaughter any horse, mule or other equine in
54 any establishment under state inspection in which animals
55 are slaughtered for human consumption for the purpose
56 of being sold or offered for sale through commercial
57 outlets;

58 (m) To bring any kangaroo meat, horse meat, mule
59 meat or other equine meat into any establishment under
60 state inspection where animal carcasses, meat, meat food
61 products or meat by-products are processed for human
62 consumption for the purpose of being sold or offered for
63 sale through commercial outlets;

64 (n) To transport, process, sell or offer for sale any
65 kangaroo meat, horse meat, mule meat or other equine
66 meat within this state for human consumption unless it

67 is conspicuously and plainly identified or stamped as
68 such;

69 (o) For any person to use an establishment number
70 not assigned to him or to use an establishment number in
71 connection with operations concerning which a different
72 establishment number was assigned by the commissioner;

73 (p) To remove from any article any retained tag af-
74 fixed by the commissioner, unless such removal is au-
75 thORIZED by him;

76 (q) For a licensee to use any container bearing an
77 official inspection mark unless it contains the exact car-
78 cass, meat, meat food product or meat by-product which
79 was in the container at the time such contents were in-
80 spected and passed: *Provided*, That such a container may
81 be otherwise used if such official inspection mark thereon
82 is removed, obliterated or destroyed, and such other use
83 is authorized by reasonable rules and regulations promul-
84 gated by the commissioner;

85 (r) For any person, other than the commissioner, to
86 possess, keep or use, except as authorized by the commis-
87 sioner, any meat label or device for the affixing of a mark,
88 brand or stamp prescribed for inspection purposes here-
89 under;

90 (s) For any person, with intent to deceive, to possess,
91 keep or use any meat label, mark, brand or stamp similar
92 in character or import to an official meat label, mark,
93 brand or stamp prescribed by the commissioner here-
94 under or to an official meat label, mark, brand or stamp
95 used by the United States Department of Agriculture;

96 (t) To falsely make, falsely issue, falsely publish, alter,
97 forge, simulate or counterfeit any inspection certificate,
98 memorandum, meat label, mark, brand, or stamp, or de-
99 vice for making an inspection mark, brand or stamp, or
100 to possess, keep or use the same, with intent to deceive;

101 (u) For any person to refuse to permit the commis-
102 sioner to enter and inspect at any time, upon presentation
103 of appropriate credentials, an establishment under state
104 inspection, or to interfere with any such lawful entry or
105 inspection;

106 (v) For any person to refuse to permit the commis-

107 sioner, upon presentation of appropriate credentials, to
108 examine and copy the records described in section five
109 of this article.

Sec. 11. Penalties.—Any person who shall violate any
2 of the provisions of this article shall be guilty of a mis-
3 demeanor and upon conviction thereof, shall for the first
4 offense be fined not less than fifty dollars nor more than
5 one hundred dollars and upon conviction of each subse-
6 quent offense shall be fined not less than one hundred
7 dollars nor more than five hundred dollars.

Sec. 12. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or application, and
6 to this end the provisions of this article are declared to
7 be severable.

CHAPTER 3

(Senate Bill No. 44—By Mr. McCourt)

[Passed February 2, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to repeal section nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections nine and eighteen of said article, relating to the continuation of the increase in the price of alcoholic liquors heretofore established and the deposit into the general revenue fund of revenue derived therefrom.

Be it enacted by the Legislature of West Virginia:

That section nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections nine and eighteen of said article be amended and reenacted to read as follows:

Article 3. Sales by Commissioner.**Section**

9. Uniform prices; posting and distribution of price lists; continuation of price increase on alcoholic liquors.
18. Operating fund; continuation and use; amount of operating fund.

Section 9. Uniform Prices; Posting and Distribution of

2 **Price Lists; Continuation of Price Increase on Alcoholic**
3 **Liquors.**—The commissioner shall, from time to time, fix
4 uniform prices for each variety, class and brand of alco-
5 holic liquors offered for sale in state stores. Alcoholic
6 liquors shall be sold in state stores and agencies only at
7 the uniform prices fixed by the commissioner.

8 The commissioner shall prepare price lists showing the
9 price of each variety, class or brand. Price lists shall be
10 posted prominently in each store and shall be available for
11 distribution and inspection in every state store and agency.

12 The commissioner, in the exercise of his authority under
13 this section, is hereby directed to continue the increase in
14 the price of alcoholic liquors, heretofore effected pursuant
15 to the provisions of this section as amended by chapter
16 six, acts of the Legislature of West Virginia, regular ses-
17 sion, one thousand nine hundred fifty-one, which is pres-
18 ently producing an additional annual revenue of one mil-
19 lion six hundred thousand dollars on an annual volume
20 of business equal to the average for the past three years.

21 The revenue derived from the increase in the price of
22 alcoholic liquors shall be deposited into the general reve-
23 nue fund in the manner hereinafter provided in section
24 seventeen of this article.

Sec. 18. Operating Fund; Continuation and Use; Amount

2 **of Operating Fund.**—The operating fund of the commis-
3 sioner, heretofore created in the state treasury, is hereby
4 continued and shall be a revolving fund from which all
5 operation and administration expenses of the commission-
6 er shall be paid.

7 All moneys collected by the commissioner shall be
8 credited to the operating fund until that fund reaches an
9 amount sufficient for the current and routine require-
10 ments of the office of the West Virginia alcohol beverage
11 control commissioner, this amount to be not in excess of

12 the amount hereinbefore provided in section fifteen of
13 this article.



CHAPTER 4

(Com. Sub. for Senate Bill No. 1—By Mr. Carson, Mr. President)

[Passed February 10, 1966; in effect from passage.]

AN ACT making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

Be it enacted by the Legislature of West Virginia:

Title

1. General Provisions.
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section

1. General policy.
2. Definitions.
3. Classification of appropriations.
4. Method of expenditure.

Section 1. General Policy.—The purpose of this act is to
2 appropriate money necessary for economical and efficient
3 discharge of the duties and responsibilities of the state and
4 its agencies during the fiscal year one thousand nine hundred
5 sixty-seven.

Sec. 2. Definitions.—For the purpose of this act:
2 “Board” shall mean the board of public works;
3 “Spending Unit” shall mean the department, agency or
4 institution to which an appropriation is made;
5 The “fiscal year one thousand nine hundred sixty-seven”
6 shall mean the period from July first, one thousand nine
7 hundred sixty-six through June thirtieth, one thousand nine
8 hundred sixty-seven.
9 “From collections” shall mean that part of the total ap-
10 propriation which must be collected by the spending unit to
11 be available for expenditure. If the authorized amount of

12 collections is not collected, the total appropriation for the
13 spending unit shall be reduced automatically by the amount
14 of the deficiency in the collection. If the amount collected
15 exceeds the amount designated "from collections" the excess
16 shall be set aside in a special surplus fund and may be ex-
17 pended for the purpose of the spending unit as provided by
18 chapter 5, article 4 and chapter 5-A, article 2 of the code of
19 West Virginia.

Sec. 3. Classification of Appropriations.—An appropria-
2 tion for:

3 "Personal Services" shall be expended only for the pay-
4 ment of salaries, wages, fees and other compensation for
5 skill, work, or employment, except from the appropriations
6 made to the spending units of state government, there may
7 be transferred upon approval of the Board of Public Works,
8 to a special account an amount sufficient to match federal
9 grants-in-aid for the various programs under the Federal
10 Economic Opportunity Act and related federal acts;

11 Unless otherwise specified, appropriations for personal
12 services shall include salaries of heads of spending unit;

13 "Current Expenses" shall be expended only for operating
14 cost other than personal services or capital outlay;

15 "Repairs and Alterations" shall include all expenditures
16 for materials, supplies and labor used in repairing and alter-
17 ing buildings, grounds and equipment, other than personal
18 service;

19 "Equipment" shall be expended only for things which
20 have an appreciable and calculable period of usefulness in
21 excess of one year;

22 "Buildings" shall include construction and alteration of
23 structures and the improvements of lands, sewer and water
24 improvements, and shall include shelter, support, storage,
25 protection, or the improvement of a natural condition;

26 "Lands" shall be expended only for the purchase of lands
27 or interest in lands.

28 Appropriations otherwise classified shall be expended
29 only where the distribution of expenditures for different
30 purposes cannot well be determined in advance or it is
31 necessary or desirable to permit the spending unit freedom

32 to spend an appropriation for more than one of the above
33 purposes.

Sec. 4. Method of Expenditure.—Money appropriated by
2 this act, unless otherwise specifically directed, shall be ap-
3 propriated and expended according to the provisions of
4 chapter 12, article 3 of the code of West Virginia, or accord-
5 ing to any law detailing a procedure specifically limiting
6 that article.

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Section 1. Appropriations from General Revenue.—From 2 the state fund, general revenue, there is hereby appropriated 3 conditionally upon the fulfillment of the provisions set forth 4 in chapter 5, article 4 and chapter 5-A, article 2 of the code of 5 West Virginia, the following amounts, as itemized, for ex- 6 penditure during the fiscal year one thousand nine hundred 7 sixty-seven.

LEGISLATIVE

1—Senate

Acct. No. 101

	<i>Fiscal Year</i>
	<i>1966-67</i>
1 Salaries of Members	\$ 54,000.00
2 Compensation and per diem of officers and	
3 attaches	175,000.00
4 Mileage of Members	3,000.00
5 Current Expenses and Contingent Fund.....	112,000.00
6 To pay Clerk of the Senate for compiling	
7 and publishing the West Virginia Blue	
8 Book, the distribution of which shall be	
9 made by the office of the Clerk of the Senate	
10 and shall include seventy-five copies for each	
11 member of the Legislature and two copies to	
12 each classified and approved High and Junior	
13 High School and one to each Elementary	
14 School within the state	10,000.00
15 To pay cost of printing the 1966 edition of Blue	
16 Book	49,000.00
17 Drafting Service	18,000.00

18 The appropriations for the Senate for the fiscal
 19 year 1965-66 are to remain in full force and
 20 effect, and are hereby reappropriated to
 21 June 30, 1967.

22 Any balances so reappropriated may be trans-
 23 ferred and credited to the 1966-67 accounts.

24 Upon the written request of the Clerk of the
 25 Senate the State Auditor shall transfer
 26 amounts between items of the total appro-
 27 priation in order to protect or increase the
 28 efficiency of the service.

29 The Clerk of the Senate is authorized to draw
 30 his requisitions upon the Auditor, payable
 31 out of the contingent fund of the Senate,
 32 for any bills for supplies and services that
 33 may have been incurred by the Senate and
 34 not included in the appropriation bill, and
 35 for bills for supplies and services incurred
 36 after adjournment, and for the necessary
 37 operation of the Senate offices, the requis-
 38 ition for same to be accompanied by the bills
 39 to be filed with the Auditor.

40 The President of the Senate, upon recom-
 41 mendation of the Chairman of the Finance
 42 Committee and the Chairman of the Judi-
 43 ciary Committee, shall have authority to
 44 employ such staff personnel during and
 45 between sessions of the Legislature as shall
 46 be needed, and the Clerk of the Senate is
 47 hereby authorized to draw requisition upon
 48 the State Auditor, payable out of the ap-
 49 propriation for Contingent Expenses for such
 50 services.

2—*House of Delegates*

Acct. No. 102

1	Salaries of Members	\$	154,500.00
2	Compensation and per diem of officers and		
3	attaches		185,000.00

4 Mileage of Members	7,500.00
5 Current Expenses and Contingent Fund	115,000.00
6 Drafting Service	15,000.00

7 The appropriations for the House of Delegates
8 for the fiscal year 1965-66 are to remain in
9 full force and effect, and are hereby re-
10 appropriated to June 30, 1967.

11 Any balances so reappropriated may be trans-
12 ferred and credited to the 1966-67 accounts.

13 Upon the written request of the Clerk of the
14 House of Delegates the State Auditor shall
15 transfer amounts between items of the total
16 appropriation in order to protect or increase
17 the efficiency of the service.

18 The Clerk of the House of Delegates, with
19 approval of the Speaker, is authorized to
20 draw his requisitions upon the Auditor,
21 payable out of the contingent fund of the
22 House of Delegates, for any bills for supplies
23 and services that may have been incurred
24 by the House of Delegates, and not included
25 in the appropriation bill, for bills for serv-
26 ices and supplies incurred in preparation for
27 the opening of the session and after adjourn-
28 ment, and for the necessary operation of the
29 House of Delegates offices, the requisition
30 for same to be accompanied by bills to be
31 filed with the Auditor.

32 For duties imposed by law and by the House
33 of Delegates, including the salary allowed by
34 law as keeper of the rolls, the Clerk of the
35 House of Delegates shall be paid a salary of
36 \$1,125.00 per month, payable from the con-
37 tingent fund of the House of Delegates, and
38 the Clerk may employ a secretary and a
39 clerk at a salary to be determined by the
40 Speaker of the House of Delegates.

41 The Speaker of the House of Delegates, upon
42 recommendation of the Chairman of the

43 Taxation and Finance Committee, and the
 44 Chairman of the Judiciary Committee,
 45 shall have authority to employ such staff
 46 personnel during and between sessions of
 47 the Legislature as shall be needed, and the
 48 Clerk of the House is hereby authorized
 49 to draw requisition upon the State Audi-
 50 tor, payable out of the appropriation for
 51 Contingent Expenses for such services.

3—*Joint Expenses*

Acct. No. 103

1 To pay the cost of legislative printing and		
2 stationery	\$	225,000.00
3 Commission on Interstate Cooperation		20,000.00
4 Joint Committee on Government and Finance		375,000.00
5 Other Authorized Legislative Committees		35,000.00
6 The appropriation for Joint Expenses for the		
7 fiscal year 1965-66 are to remain in full force		
8 and effect, and are hereby reappropriated to		
9 June 30, 1967.		
10 Any balances so reappropriated may be trans-		
11 ferred and credited to the 1966-67 accounts.		
12 Upon the written request of the Clerk of the		
13 Senate and the Clerk of the House of Dele-		
14 gates the State Auditor shall transfer		
15 amounts between items of the total appro-		
16 priation in order to protect or increase the		
17 efficiency of the service.		

JUDICIAL

4—*Supreme Court of Appeals*

Acct. No. 110

1 Salaries of Judges	\$	112,500.00
2 Other Personal Services		162,080.00
3 Current Expenses		32,000.00
4 Equipment		3,000.00
5 Total	\$	309,580.00

5—Judicial—Auditor's Office
Acct. No. 111

1	Salaries of Judges	\$	454,000.00
2	Other Personal Services		91,000.00
3	Current Expenses		25,000.00
4	Judges Retirement System		50,000.00
5	Criminal Charges		270,000.00
6	Total	\$	890,000.00

7 This appropriation shall be administered by the State Auditor who shall draw his requisition for warrants in payment of salaries in the form of payrolls, making deductions therefrom as required by law, for taxes and other items. The appropriation for Judges' Retirement System is to be transferred to the Judges' Retirement Fund, in accordance with the law relating thereto, upon requisition of the State Auditor.

6—State Law Library
Acct. No. 114

1	Personal Services	\$	36,000.00
2	Current Expenses		5,160.00
3	Equipment		24,500.00
4	Total	\$	65,660.00

7—Judicial Council
Acct. No. 118

1	To pay expenses of Members of the Council	\$	12,000.00
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EXECUTIVE

8—Governor's Office
Acct. No. 120

1	Salary of Governor	\$	25,000.00
2	Other Personal Services		140,200.00
3	Current Expenses		35,000.00
4	Equipment		5,000.00
5	Civil Contingent Fund		175,000.00

6	Of this appropriation there may be expended,	
7	at the discretion of the Governor, an	
8	amount not to exceed \$1,000.00 as West	
9	Virginia's contribution to the Interstate Oil	
10	Compact Commission.	
11	Custodial Fund	75,000.00
12	To be used for current general expenses,	
13	including compensation of servants and	
14	employees, household maintenance, cost of	
15	official functions, and any additional house-	
16	hold expenses occasioned by such official	
17	functions.	
18	Federal State Coordination	500,000.00
19	To match and aid Federal Programs, and	
20	any part of this appropriation may be	
21	transferred to any department for such pur-	
22	poses.	
23	Total	\$ 955,200.00
24	Any balance remaining in Appalachian Re-	
25	gional Area Development Program and Of-	
26	fice of Economic Opportunity is hereby re-	
27	appropriated for expenditure during the	
28	fiscal year 1966-67, to match and aid Federal	
29	Programs.	

9—Department of Personnel

Acct. No. 121

1	Personal Services	\$ 45,760.00
2	Current Expenses	8,515.00
3	Equipment	5,725.00
4	Total	\$ 60,000.00

FISCAL

10—Auditor's Office—General Administration

Acct. No. 150

1	Salary of State Auditor	\$ 18,000.00
2	Other Personal Services	405,040.00
3	Current Expenses	119,600.00

4	Equipment	10,000.00
5	Microfilm Program	5,000.00
6	Total	\$ 557,640.00

11—*Treasurer's Office*
Acct. No. 160

1	Salary of State Treasurer	\$ 17,500.00
2	Other Personal Services	137,729.00
3	Current Expenses	20,150.00
4	Equipment	7,500.00
5	Total	\$ 182,879.00

12—*Sinking Fund Commission*
Acct. No. 170

1	Personal Services	\$ 23,469.00
2	Current Expenses	985.00
3	Equipment	1,000.00
4	Total	\$ 25,454.00

13—*State Tax Commissioner*
Acct. No. 180

1	Personal Services	\$ 1,934,177.00
2	Current Expenses	567,530.00
3	Equipment	23,500.00
4	Total	\$ 2,525,207.00

5 Above appropriation includes amounts hereto-
6 fore made available for administration and
7 enforcement of Cigarette Tax and Store and
8 General Licenses Division.

14—*State Tax Commissioner*
Acct. No. 185

1	Property Appraisal	\$ 682,960.00
2	Any balance remaining in the 1964-65 and	
3	1965-66 appropriations "Property Appraisal"	

4 at the close of the fiscal year 1965-66 is
 5 hereby reappropriated for expenditure dur-
 6 ing the fiscal year 1966-67.

15—*State Commissioner of Public Institutions*

Acct. No. 190

1	Salary of Commissioner.....	\$	13,000.00
2	Salaries of Board Members—Board of Proba-		
3	tion and Parole.....		30,000.00
4	Other Personal Services		358,513.00
5	Current Expenses		136,925.00
6	Equipment		5,500.00
7	Total.....	\$	543,938.00
8	Above appropriation includes the Administra-		
9	tion of Board of Probation and Parole.		

16—*Department of Finance and Administration*

Acct. No. 210

1	Personal Services	\$	674,683.00
2	Current Expenses		275,431.00
3	Repairs and Alterations		51,100.00
4	Equipment		17,800.00
5	Postage		130,000.00
6	Records Management		18,380.00
7	Office of State Emergency Planning		30,649.00
8	Transportation Division—Vehicles		90,000.00
9	State Agency for Surplus Property.....		25,000.00
10	Total.....	\$	1,313,043.00
11	The Workmen's Compensation Commission,		
12	Department of Welfare, Public Service		
13	Commission, Department of Natural Re-		
14	sources, Department of Motor Vehicles, State		
15	Road Commission, State Health Department		
16	and State Tax Commissioner—Income Tax		
17	Division, shall reimburse the Postage appro-		
18	priation of the Department of Finance and		
19	Administration monthly for all meter serv-		

20 ice. Any spending unit operating from
 21 Special Revenue or receiving reimbursement
 22 for postage costs from the Federal Govern-
 23 ment shall refund to the Postage Account of
 24 the Department of Finance and Admin-
 25 istration such amounts. Should this appro-
 26 priation for Postage be insufficient to meet
 27 the mailing requirements of the State spend-
 28 ing units as set out above, any excess post-
 29 age meter service requirements shall be a
 30 proper charge against the units, and each
 31 spending unit shall refund to the Postage
 32 appropriation of the Department of Finance
 33 and Administration any amounts required
 34 for that Department for postage in excess
 35 of this appropriation.

36 Any unexpended balance remaining in the
 37 "Postage Account" and "Records Manage-
 38 ment Account" at the close of the fiscal year
 39 1965-66 is hereby reappropriated for expend-
 40 iture during the fiscal year 1966-67.

41 The State Road Commission shall reimburse
 42 the appropriation of the Department of Fi-
 43 nance and Administration monthly for all
 44 actual expenses incurred pursuant to (the
 45 provisions of) chapter 17, article 2-A, sec-
 46 tion 13 of the code of West Virginia.

17—*The Board of Public Works*

Acct. No. 220

1	Contingent Fund	\$	50,000.00
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18—*State Board of Insurance*

Acct. No. 225

1	Personal Services	\$	15,680.00
2	Current Expenses		3,650.00
3	Equipment		400.00
4	Total	\$	19,730.00

LEGAL

19—Attorney General

Acct. No. 240

1	Salary of Attorney General	\$	18,500.00
2	Other Personal Services		263,317.00
3	Current Expenses		26,145.00
4	Equipment		9,500.00
5	To protect the resources or tax structure of		
6	the State in controversies or legal proceed-		
7	ings affecting same		3,250.00
8	Total.....	\$	320,712.00
9	When legal counsel or secretarial help is ap-		
10	pointed by the Attorney General, for any		
11	state spending unit, this account shall be		
12	reimbursed from such unit's appropriated		
13	account in an amount agreed upon by the		
14	Attorney General and the proper authority		
15	of said spending unit.		

20—Commission on Uniform State Laws

Acct. No. 245

1	Total.....	\$	2,000.00
2	To pay expenses of members of the Com-		
3	mission on Uniform State Laws.		

INCORPORATING AND RECORDING

21—Secretary of State

Acct. No. 250

1	Salary of Secretary of State.....	\$	17,000.00
2	Other Personal Services		81,400.00
3	Current Expenses		20,670.00
4	Equipment		7,500.00
5	Total.....	\$	126,570.00

EDUCATIONAL

22—Department of Education

Acct. No. 290

1	Comprehensive Educational Program	\$	1,000,000.00
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- 2 To be used in accordance with Senate Bill No.
 3 102, 1965 Regular Session of the Legisla-
 4 ture.

23—*Educational Broadcasting Authority*

Acct. No. 291

- 1 Total.....\$ 75,000.00
 2 Administration of Educational Broadcasting.

24—*State Board of Education—Vocational Division*

Acct. No. 293

- 1 To implement Vocational Education Act of
 2 1963 P.L. 88-210\$ 500,000.00
 3 The above appropriation includes \$100,000.00
 4 for Manpower Training.

25—*State Board of Education—Vocational Division*

Acct. No. 294

- 1 Any unexpended balance remaining in this
 2 appropriation at the close of the fiscal
 3 year 1965-66 is hereby reappropriated for
 4 expenditure during the fiscal year 1966-67.

26—*State Board of School Finance—State Aid to Schools*

Acct. No. 295

- 1 State Aid to supplement the General School
 2 Fund\$ 83,098,136.00
 3 To be transferred to the General School Fund
 4 upon the requisition of the Governor.

27—*Department of Education—Aid for Exceptional Children*

Acct. No. 296

- 1 Personal Services\$ 29,108.00
 2 Current Expenses 7,300.00
 3 Out-of-State Instruction 54,000.00
 4 Aid to Counties 569,000.00
 5 Total.....\$ 659,408.00
 6 The appropriation for "Out-of-State Instruc-
 7 tion" may be expended to provide instruc-

- 8 tion, care and maintenance for educable
 9 persons who have multiple handicaps and
 10 for whom the state provides no facilities.

28—*Department of Education—Textbook Aid*

Acct. No. 297

1	Textbooks for Schools	\$	150,000.00
2	To be distributed according to chapter fifty-		
3	one, acts of the Legislature, regular session,		
4	one thousand nine hundred and thirty-nine.		

29—*Teachers Retirement Board*

Acct. No. 298

1	Benefit Fund—Payments to Retired Teachers	\$	3,505,974.00
2	Employers' Accumulation Fund — To match		
3	contributions of members		3,344,000.00
4	Expense Fund		33,304.00
5	Total	\$	6,883,278.00

30—*State Commission on Higher Education*

Acct. No. 299

1	Personal Services	\$	18,700.00
2	Current Expenses		1,300.00
3	Total	\$	20,000.00

31—*West Virginia University*

Acct. No. 300

1	Personal Services	\$	12,106,238.00
2	Current Expenses		1,820,000.00
3	Repairs and Alterations		500,000.00
4	Equipment		970,200.00
5	Oak Wilt Control Research		10,000.00
6	State aid to students of Veterinary Medicine ...		36,500.00
7	Office of Research and Development		162,000.00
8	Bureau for Coal Research		137,000.00
9	National Youth Science Camp		65,600.00
10	Forestry Products		67,000.00
11	Appalachian Center—Third Phase		75,000.00
12	Educational TV Program		125,000.00

13	Regional Research Institute	62,500.00
14	West Virginia University Centennial Prepara-	
15	tions	30,000.00
16	Total	\$ 16,167,038.00
17	Out of the above appropriation for Personal	
18	Services, the sum of \$8,500.00 shall be used	
19	only for the employment of a Spray Special-	
20	ist who shall be stationed only at West Vir-	
21	ginia University Farm at Kearneysville, and	
22	\$7,200.00 for the employment of a Labor	
23	Specialist.	

32—*Potomac State College of West Virginia University*

Acct. No. 315

1	Personal Services	\$ 525,605.00
2	Current Expenses	78,500.00
3	Repairs and Alterations	43,225.00
4	Equipment	39,125.00
5	Total	\$ 686,455.00

33—*Marshall University*

Acct. No. 320

1	Personal Services	\$ 3,638,204.00
2	Current Expenses	304,556.00
3	Repairs and Alterations	109,521.00
4	Equipment	163,528.00
5	Flood Wall Assessment	3,200.00
6	Experimental Projects in Teacher Education	33,561.00
7	Educational TV Program	125,000.00
8	Total	\$ 4,377,570.00

34—*Fairmont State College*

Acct. No. 321

1	Personal Services	\$ 1,335,188.00
2	Current Expenses	111,900.00
3	Repairs and Alterations	49,400.00
4	Equipment	74,400.00
5	Total	\$ 1,570,888.00

35—*Glenville State College*

Acct. No. 322

1	Personal Services	\$	802,853.00
2	Current Expenses		82,360.00
3	Repairs and Alterations		45,340.00
4	Equipment		47,665.00
5	Community Development and Research		15,500.00
6	Total	\$	993,718.00

36—*West Liberty State College*

Acct. No. 323

1	Personal Services	\$	1,272,896.00
2	Current Expenses		125,000.00
3	Repairs and Alterations		68,000.00
4	Equipment		72,000.00
5	Total	\$	1,537,896.00

37—*Shepherd College*

Acct. No. 324

1	Personal Services	\$	746,661.00
2	Current Expenses		95,700.00
3	Repairs and Alterations		50,000.00
4	Equipment		60,000.00
5	Community Development and Research		25,000.00
6	Total	\$	977,361.00

38—*Concord College*

Acct. No. 325

1	Personal Services		1,300,702.00
2	Current Expenses		133,000.00
3	Repairs and Alterations		40,000.00
4	Equipment		90,000.00
5	Center for Economic Action		50,000.00
6	Total	\$	1,613,702.00
7	Any unexpended balance remaining in the		
8	appropriation "Center for Economic Ac-		
9	tion" at the close of the fiscal year 1965-66		

10 is hereby reappropriated for expenditure
 11 during the fiscal year 1966-67.

39—*West Virginia Institute of Technology*

Acct. No. 327

1	Personal Services	\$ 1,240,230.00
2	Current Expenses	136,827.00
3	Repairs and Alterations	78,957.00
4	Equipment	113,956.00
5	Total	\$ 1,569,970.00

40—*West Virginia State College*

Acct. No. 328

1	Personal Services	\$ 1,591,524.00
2	Current Expenses	178,100.00
3	Repairs and Alterations	89,484.00
4	Equipment	80,968.00
5	Total	\$ 1,940,076.00

41—*Bluefield State College*

Acct. No. 329

1	Personal Services	\$ 595,227.00
2	Current Expenses	67,096.00
3	Repairs and Alterations	34,888.00
4	Equipment	59,725.00
5	Total	\$ 756,936.00

42—*West Virginia State College—4-H Camp*

Acct. No. 330

1	Personal Services	\$ 14,152.00
2	Current Expenses	5,270.00
3	Repairs and Alterations	6,160.00
4	Equipment	1,120.00
5	Total	\$ 26,702.00

43—*West Virginia Schools for the Deaf and Blind*

Acct. No. 333

1	Personal Services	\$ 682,269.00
2	Current Expenses	165,330.00

3	Repairs and Alterations	32,700.00
4	Equipment	20,850.00
5	Total.....	\$ 901,149.00

44—*State FFA-FHA Camp and Conference Center*
Acct. No. 336

1	Personal Services	\$ 35,153.00
2	Current Expenses	8,200.00
3	Repairs and Alterations	8,000.00
4	Equipment	8,500.00
5	Total.....	\$ 59,853.00

45—*Department of Archives and History*
Acct. No. 340

1	Personal Services	\$ 48,300.00
2	Current Expenses	7,900.00
3	Equipment	14,700.00
4	Total.....	\$ 70,900.00

46—*West Virginia Library Commission*
Acct. No. 350

1	Personal Services	\$ 121,308.00
2	Current Expenses	5,000.00
3	Books and Periodicals	43,500.00
4	Library Services for the Blind	7,000.00
5	Total.....	\$ 176,808.00

CHARITIES AND CORRECTION

47—*West Virginia Industrial School for Boys*
Acct. No. 370

1	Personal Services	\$ 368,872.00
2	Current Expenses	153,460.00
3	Repairs and Alterations	44,400.00
4	Equipment	22,250.00
5	Total.....	\$ 588,982.00

48—Forestry Camp for Boys

Acct. No. 371

1	Personal Services	\$	106,707.00
2	Current Expenses		83,700.00
3	Repairs and Alterations		10,900.00
4	Equipment		13,650.00
5	Total	\$	214,957.00

49—West Virginia Industrial Home for Girls

Acct. No. 372

1	Personal Services	\$	207,731.00
2	Current Expenses		82,500.00
3	Repairs and Alterations		15,000.00
4	Equipment		13,500.00
5	Vocational Training		5,000.00
6	Total	\$	323,731.00

50—West Virginia State Prison for Women

Acct. No. 374

1	Personal Services	\$	45,455.00
2	Current Expenses		35,595.00
3	Repairs and Alterations		10,550.00
4	Equipment		1,400.00
5	Total	\$	93,000.00

51—West Virginia Penitentiary

Acct. No. 375

1	Personal Services	\$	760,840.00
2	Current Expenses		517,200.00
3	Repairs and Alterations		38,600.00
4	Equipment		33,200.00
5	Total	\$	1,349,840.00

52—Medium Security Prison

Acct. No. 376

1	Personal Services	\$	441,920.00
2	Current Expenses		192,420.00

3	Repairs and Alterations	25,400.00
4	Equipment	30,900.00
5	Total	\$ 690,640.00

53—West Virginia Children's Home
Acct. No. 380

1	Personal Services	\$ 58,204.00
2	Current Expenses	43,980.00
3	Repairs and Alterations	7,000.00
4	Equipment	6,750.00
5	Total	\$ 115,934.00

54—Andrew S. Rowan Memorial Home
Acct. No. 384

1	Personal Services	\$ 243,020.00
2	Current Expenses	175,000.00
3	Repairs and Alterations	35,200.00
4	Equipment	8,575.00
5	Total	\$ 461,795.00

HEALTH AND WELFARE

55—State Health Department
Acct. No. 400

1	Personal Services	\$ 412,913.00
2	Current Expenses	134,174.00
3	Equipment	19,248.00
4	Cancer Control and Treatment	150,000.00
5	Tuberculosis Field Clinic and Nursing Service	10,580.00
6	Out-Patient Pneumothorax Treatment	20,000.00
7	Local Health Services	550,000.00
8	Dental Clinics	45,520.00
9	Heart Disease Control	25,070.00
10	Maternal and Child Health-	
11	mobile Medical Examination Clinic	30,000.00
12	Radiological Health	18,800.00
13	Mobile Chest X-Ray	39,534.00
14	Hospital and Medical Facilities Construction	
15	Program	17,501.00
16	Total	\$ 1,473,340.00

56—*Department of Veterans Affairs*

Acct. No. 404

1	Personal Services	\$ 203,520.00
2	Current Expenses	46,490.00
3	Equipment	4,500.00
4	To provide Educational Opportunities for	
5	Children of War Veterans as provided by	
6	Chapter thirty-nine, Acts of the Legislature,	
7	one thousand nine hundred and forty-three	15,000.00
8	Total	\$ 269,510.00
9	Any unexpended balance remaining in the ap-	
10	propriation "To Provide Educational Op-	
11	portunities for Children of War Veterans"	
12	at the close of the fiscal year 1965-66 is	
13	hereby reappropriated for expenditure dur-	
14	ing the fiscal year 1966-67.	

57—*Department of Welfare*

Acct. No. 405

1	Personal Services	\$ 4,919,826.00
2	Current Expenses	1,398,377.00
3	Equipment	30,875.00
4	Public Assistance Grants (Classified Aid)	8,797,721.00
5	Aid to Crippled Children	470,000.00
6	Medical Services and M.A.A.	2,500,000.00
7	Conservation of Vision and Prevention of	
8	Blindness	40,000.00
9	Child Welfare Services	171,600.00
10	General Relief and Boarding Care	1,140,000.00
11	Social Security Matching Fund	206,920.00
12	Total	\$ 19,675,319.00

58—*State Agency on Aging*

Acct. No. 406

1	Total	\$ 33,300.00
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59—*Department of Mental Health*

Acct. No. 410

1	Personal Services	\$ 344,818.00
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2	Current Expenses	64,172.00
3	Equipment	2,600.00
4	Research and Training	25,000.00
5	Civil Service Costs	61,000.00
6	Division of Alcoholism	180,000.00
7	Total	\$ 677,590.00
8	Any unexpended balance remaining in the ap-	
9	propriation for "Research and Training" at	
10	the close of the fiscal year 1965-66 is hereby	
11	reappropriated for expenditure during the	
12	fiscal year 1966-67.	

60—Commission on Mental Retardation
Acct. No. 411

1	Total	\$ 26,000.00
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61—Colin Anderson Center
Acct. No. 419

1	Personal Services	\$ 1,232,336.00
2	Current Expenses	329,950.00
3	Repairs and Alterations	53,000.00
4	Equipment	25,000.00
5	Total	\$ 1,640,286.00

62—Weston State Hospital
Acct. No. 420

1	Personal Services	\$ 2,105,789.00
2	Current Expenses	927,605.00
3	Repairs and Alterations	140,000.00
4	Equipment	50,000.00
5	Total	\$ 3,223,394.00

63—Spencer State Hospital
Acct. No. 421

1	Personal Services	\$ 1,062,380.00
2	Current Expenses	441,250.00
3	Repairs and Alterations	50,000.00
4	Equipment	23,900.00
5	Total	\$ 1,577,530.00

64—*Huntington State Hospital*

Acct. No. 422

1	Personal Services	\$ 1,556,375.00
2	Current Expenses	692,730.00
3	Repairs and Alterations	75,000.00
4	Equipment	33,100.00
5	Total	\$ 2,357,205.00

65—*Lakin State Hospital*

Acct. No. 423

1	Personal Services	\$ 757,520.00
2	Current Expenses	251,650.00
3	Repairs and Alterations	60,000.00
4	Equipment	39,000.00
5	Total	\$ 1,108,170.00

66—*Barboursville State Hospital*

Acct. No. 424

1	Personal Services	\$ 407,360.00
2	Current Expenses	155,426.00
3	Repairs and Alterations	34,800.00
4	Equipment	12,800.00
5	Total	\$ 610,386.00

67—*Fairmont Emergency Hospital*

Acct. No. 425

1	Personal Services	\$ 162,220.00
2	Current Expenses	98,000.00
3	Repairs and Alterations	12,250.00
4	Equipment	8,900.00
5	Total	\$ 281,370.00

68—*Welch Emergency Hospital*

Acct. No. 426

1	Personal Services	\$ 213,880.00
2	Current Expenses	157,300.00

3	Repairs and Alterations.....	55,000.00
4	Equipment	17,000.00
5	Total.....	\$ 443,180.00

69—*Hopemont State Hospital*
Acct. No. 430

1	Personal Services	\$ 507,520.00
2	Current Expenses	313,540.00
3	Repairs and Alterations	23,000.00
4	Equipment	12,000.00
5	Total.....	\$ 856,060.00

70—*Pinecrest Sanitarium*
Acct. No. 431

1	Personal Services	\$ 784,870.00
2	Current Expenses	560,105.00
3	Repairs and Alterations.....	31,100.00
4	Equipment	19,020.00
5	Total.....	\$ 1,395,095.00

71—*Denmar State Hospital*
Acct. No. 432

1	Personal Services	\$ 559,790.00
2	Current Expenses	245,000.00
3	Repairs and Alterations.....	38,730.00
4	Equipment	20,000.00
5	Total.....	\$ 863,520.00

72—*Berkeley Springs Sanitarium*
Acct. No. 436

1	Personal Services	\$ 37,675.00
2	Current Expenses	7,860.00
3	Repairs and Alterations.....	9,700.00
4	Equipment	3,700.00
5	Total.....	\$ 58,935.00

73—*State Board of Education—Rehabilitation Division*

Acct. No. 440

1	Personal Services	\$	342,565.00
2	Current Expenses		47,895.00
3	Rehabilitation Center		324,618.00
4	Case Services		396,000.00
5	Supervisory Services for Vending Stand Pro-		
6	gram for the Blind		20,490.00
7	Training and Special Projects		35,617.00
8	Social Security Matching Fund		28,000.00
9	Total	\$	1,195,185.00

BUSINESS AND INDUSTRIAL RELATIONS

74—*Bureau of Labor and Department of Weights and Measures*

Acct. No. 450

1	Personal Services	\$	396,500.00
2	Current Expenses		114,325.00
3	Equipment		4,500.00
4	Total	\$	515,325.00

75—*Department of Mines*

Acct. No. 460

1	Personal Services	\$	821,850.00
2	Current Expenses		188,650.00
3	Equipment		64,500.00
4	Total	\$	1,075,000.00

76—*Department of Commerce*

Acct. No. 465

1	Personal Services	\$	471,404.00
2	Current Expenses		323,930.00
3	Equipment		11,500.00
4	Mt. State Forest Festival		15,000.00
5	Alpine Festival		500.00
6	Governor's Conference on Wood Utilization		3,000.00

7	Industrial Development Revolving Fund	250,000.00
8	West Virginia Historical Drama Association ..	35,000.00
9	Total	\$ 1,110,334.00
10	The above appropriations, Mountain State	
11	Forest Festival, Alpine Festival, Governor's	
12	Conference on Wood Utilization, and West	
13	Virginia Historical Drama Association shall	
14	be expended only upon authorization of the	
15	Commerce Commissioner and in accordance	
16	with the provisions of chapter 5-A of the	
17	code of West Virginia.	
18	All federal moneys heretofore or hereafter re-	
19	ceived as reimbursements to the Depart-	
20	ment of Commerce, for moneys expended	
21	from General Revenue funds, are hereby re-	
22	appropriated for the purposes as originally	
23	made, including Personal Services, Current	
24	Expenses, Equipment, in-service training	
25	programs.	
26	Special Revenue Account be created and out-	
27	standing loans in Urban Planning Revolv-	
28	ing Fund be deposited into Special Revenue	
29	Account instead of General Revenue Fund.	
30	Industrial Development Revolving Fund may	
31	be transferred to Special Revenue.	
77	<i>State Commission on Manpower, Technology and Training</i>	
	Acct. No. 470	
1	Total	\$ 30,000.00
	<i>78—Southern Interstate Nuclear Board</i>	
	Acct. No. 471	
1	Total	\$ 4,280.00
	<i>79—Commission on Interstate Cooperation</i>	
	Acct. No. 472	
1	Total	\$ 9,000.00
2	Out of the above appropriation the sum of	
3	\$7,500.00 may be made available for West	
4	Virginia's membership in The Council of	
5	State Governments.	

80—*Interstate Commission on Potomac River Basin*

Acct. No. 473

1	West Virginia's contribution to Potomac River		
2	Basin Interstate Commission	\$	4,500.00

81—*Ohio River Valley Water Sanitation Commission*

Acct. No. 474

1	West Virginia's contribution to the Ohio River		
2	Valley Water Sanitation Commission	\$	14,755.00

82—*Southern Regional Education Board*

Acct. No. 475

1	West Virginia's contribution to Southern Re-		
2	gional Education Board	\$	43,900.00
3	To be expended upon requisition of the Gov-		
4	ernor.		

83—*West Virginia Air Pollution Commission*

Acct. No. 476

1	Personal Services	\$	54,083.00
2	Current Expenses		28,090.00
3	Repairs and Alterations		400.00
4	Equipment		23,777.00
5	Total	\$	106,350.00

84—*West Virginia Historic Commission*

Acct. No. 477

1	Personal Services	\$	800.00
2	Current Expenses		16,700.00
3	Total	\$	17,500.00

85—*Department of Banking*

Acct. No. 480

1	Personal Services	\$	128,000.00
2	Current Expenses		49,430.00
3	Equipment		4,100.00
4	Total	\$	181,530.00

86—*West Virginia State Aeronautics Commission*

Acct. No. 485

1	Personal Services	\$	20,636.00
2	Current Expenses		16,380.00
3	Equipment		1,000.00
4	Aerial Markers		1,000.00
5	Civil Air Patrol Expenses		8,000.00
6	Total	\$	47,016.00

87—*West Virginia Non-Intoxicating Beer Commissioner*

Acct. No. 490

1	Personal Services	\$	150,060.00
2	Current Expenses		59,350.00
3	Equipment		1,500.00
4	Total	\$	210,910.00

88—*West Virginia Racing Commission*

Acct. No. 495

1	Personal Services	\$	107,310.00
2	Current Expenses		30,740.00
3	Equipment		1,000.00
4	Total	\$	139,050.00

AGRICULTURE

89—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner	\$	17,000.00
2	Other Personal Services		611,355.00
3	Current Expenses		239,365.00
4	Equipment		15,000.00
5	Total	\$	882,720.00

- 6 Any balance remaining in the appropriation
 7 "Slaughterhouse and Meat Packing Inspec-
 8 tion" at the close of the fiscal year 1965-66
 9 is hereby reappropriated for expenditure
 10 during the fiscal year 1966-67.
 11 Funds may be used to match Federal Funds
 12 for the eradication and control of oak wilt.

90—*Department of Agriculture—Soil Conservation Committee*

Acct. No. 512

1	Personal Services	\$	80,795.00
2	Current Expenses		39,200.00
3	Total	\$	119,995.00

91—*Department of Agriculture—Marketing and Research*

Acct. No. 513

1	For cooperation with the Federal Government		
2	in a program of marketing and research.....	\$	155,000.00
3	Any part or all of this appropriation may be		
4	transferred to Special Revenue Fund for the		
5	purpose of matching Federal Funds for the		
6	above named program.		

92—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1	West Virginia State Fair.....	\$	25,000.00
2	Agricultural Awards		43,000.00
3	Walnut Festival		3,500.00
4	Total	\$	71,500.00

CONSERVATION AND DEVELOPMENT

93—*Geological and Economic Survey Commission*

Acct. No. 520

1	Personal Services	\$	161,127.00
2	Current Expenses		49,570.00
3	Equipment		10,890.00
4	Cooperative Mapping Program.....		60,000.00
5	Total	\$	281,587.00
6	Of the above appropriations for Current Ex-		
7	penses, the sum of \$15,000.00 may be used		
8	to cooperate with the United States Geolog-		
9	ical Survey in Ground Waters Resources		
10	Study.		

11 Of the above appropriation for Cooperative
 12 Mapping Program the sum of \$10,000.00
 13 may be used for preparation of accurate
 14 geographic and political maps of West Vir-
 15 ginia.

94—*Department of Veterans Affairs*
 Acct. No. 564

1	In aid of Veterans Day Patriotic Exercises	\$	3,000.00
2	To be expended subject to the approval of the		
3	Department of Veterans Affairs upon pres-		
4	entation of satisfactory plans by the Grafton		
5	G.A.R. Post, American Legion, Veterans of		
6	Foreign Wars and Sons of Veterans.		

95—*Department of Natural Resources*
 Acct. No. 565

1	Personal Services	\$	1,236,391.00
2	Current Expenses		511,620.00
3	Repairs and Alterations		98,500.00
4	Equipment		62,533.00
5	Clarke-McNary—Fire Prevention		120,000.00
6	Area Redevelopment Administration		22,046.00
7	Water Resources Board		2,000.00
8	Rabies Control		30,000.00
9	Total	\$	2,083,090.00

10 Out of the above appropriation for Current
 11 Expenses, subsistence for conservation offi-
 12 cers shall be paid at the rate of two dollars
 13 and fifty cents per calendar day to the chief
 14 conservation officer and to each full-time
 15 uniformed conservation officer, under his
 16 direct supervision, whose primary duties and
 17 responsibilities are law enforcement.

18 Any unexpended balance remaining in the ap-
 19 propriation "Clarke-McNary—Fire Preven-
 20 tion" at the close of the fiscal year 1965-66
 21 is hereby reappropriated for expenditure
 22 during the fiscal year 1966-67.

PROTECTION

96—Department of Public Safety

Acct. No. 570

1	Personal Services	\$ 2,023,546.00
2	Current Expenses	987,347.00
3	Repairs and Alterations	56,940.00
4	Equipment	262,880.00
5	Total	\$ 3,330,713.00

97—Adjutant General—State Militia

Acct. No. 580

1	Personal Services	\$ 70,000.00
2	Current Expenses	100,756.00
3	Repairs and Alterations	7,050.00
4	Equipment	6,300.00
5	Compensation of Commanding Officers, Cleri-	
6	cal Allowances and Uniform Allowances	85,000.00
7	Property Maintenance	41,245.00
8	State Armory Board	799,649.00
9	Total	\$ 1,110,000.00

98—Department of Civil and Defense Mobilization

Acct. No. 581

1	Personal Services	\$ 37,090.00
2	Current Expenses	11,045.00
3	Equipment	4,300.00
4	Total	\$ 52,435.00

99—Auditor's Office—Social Security

Acct. No. 582

1	To match contributions of state employees for	
2	social security	\$ 2,304,758.00
3	The above appropriation is intended to cover	
4	the state's share of social security costs for	
5	those spending units operating from Gen-	
6	eral Revenue Fund and General School	
7	Fund Appropriations. The State Road	

8 Commission, Department of Motor Vehicles,
 9 Workmen's Compensation Commission,
 10 Public Service Commission, and other de-
 11 partments operating from Special Revenue
 12 Funds and/or Federal Funds shall pay
 13 their proportionate share of the social secur-
 14 ity cost for their respective divisions.
 15 Any unexpended balance remaining in this
 16 appropriation at the close of the fiscal year
 17 1965-66 is hereby reappropriated for ex-
 18 penditure during the fiscal year 1966-67.

100—*State Board of Education—Insurance*

Acct. No. 584

1 Insure Contents of Buildings \$ 12,500.00

101—*West Virginia Board of Examiners for Practical Nurses*

Acct. No. 587

1 To pay the per diem of members and other
 2 general expenses \$ 16,000.00
 3 From Collections 16,000.00

102—*State Board of Dental Examiners*

Acct. No. 589

1 To pay the per diem of members and other
 2 general expenses \$ 5,500.00
 3 From Collections 5,500.00

103—*State Board of Professional Foresters*

Acct. No. 5895

1 To pay the per diem of members and other
 2 general expenses \$ 2,000.00
 3 From Collections 2,000.00

104—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of members and other
 2 general expenses \$ 10,500.00
 3 From Collections 10,500.00

105—*State Board of Osteopathy*
Acct. No. 591

1 To pay the per diem of members and other		
2 general expenses	\$	1,610.00
3 From Collections		1,610.00

106—*State Board of Optometry*
Acct. No. 592

1 To pay the per diem of members and other		
2 general expenses	\$	2,500.00
3 From Collections		2,500.00

107—*State Board of Embalmers and Funeral Directors*
Acct. No. 593

1 To pay the per diem of members and other		
2 general expenses	\$	10,000.00
3 From Collections		10,000.00

108—*State Board of Registration for Professional Engineers*
Acct. No. 594

1 To pay the per diem of members and other		
2 general expenses	\$	28,000.00
3 From Collections		28,000.00

109—*State Board of Architects*
Acct. No. 595

1 To pay the per diem of members and other		
2 general expenses	\$	4,000.00
3 From Collections		4,000.00

110—*State Veterinary Board*
Acct. No. 596

1 To pay the per diem of members and other		
2 general expenses	\$	500.00
3 From Collections		500.00

111—*State Board of Law Examiners*
Acct. No. 597

1 To pay the per diem of members and other		
2 general expenses	\$	3,000.00

112—*Human Rights Commission*

Acct. No. 598

1	Personal Services	\$	31,950.00
2	Current Expenses		14,800.00
3	Equipment		1,250.00
4	Total	\$	48,000.00

113—*State Board of Chiropractic Examiners*

Acct. No. 5985

1	To pay the per diem of members and other		
2	general expenses	\$	2,000.00
3	From Collections		2,000.00

114—*West Virginia State Board of Sanitarians*

Acct. No. 599

1	To pay the per diem of members and other		
2	general expenses	\$	800.00
3	From Collections		800.00

115—*West Virginia Public Employees Retirement Board*

Acct. No. 614

1	Employers Accumulation Fund	\$	750,000.00
2	Expense Fund		25,000.00
3	Total	\$	775,000.00

4 The above appropriation is intended to cover
5 the state's share of the West Virginia Pub-
6 lic Employees' Retirement cost in accord-
7 ance with chapter 5, article 10 of the
8 code of West Virginia for those departments
9 operating from General Revenue Fund and
10 General School Fund appropriations. The
11 State Road Commission, Department of Mo-
12 tor Vehicles, State Tax Commissioner—Gas-
13 oiline Tax Division, Workmen's Compensa-
14 tion Commission, Public Service Commis-
15 sion, and other departments operating from
16 Special Revenue Funds and/or Federal
17 Funds shall pay their proportionate share

18 of the retirement costs for their respective
 19 divisions. When specific appropriations are
 20 not made such payments may be made from
 21 the balances in the various Special Revenue
 22 Funds in excess of specific appropriations.

116—*Insurance Commissioner*

Acct. No. 616

1	Personal Services	\$ 154,477.00
2	Current Expenses	25,610.00
3	Equipment	3,000.00
4	Total	\$ 183,087.00

5 Special Fees collected under authority of
 6 chapter 33, article 3, of the code of West
 7 Virginia shall be deposited to General Rev-
 8 enue Fund. Any balance remaining in Spe-
 9 cial Revenue Fund Acct. No. 826 at the end
 10 of fiscal year 1965-66 is to be transferred to
 11 State Fund General Revenue.

117—*Insurance Commissioner—Fire Marshal*

Acct. No. 617

1	Personal Services	\$ 128,525.00
2	Current Expenses	31,595.00
3	Repairs and Alterations	1,800.00
4	Equipment	1,650.00
5	Total	\$ 163,570.00

6 Special Fees collected under authority of
 7 chapter 29, article 3, of the code of West
 8 Virginia shall be deposited to General Rev-
 9 enue Fund. Any balance remaining in Spe-
 10 cial Revenue Fund Acct. No. 827 at the end
 11 of fiscal year 1965-66 is to be transferred to
 12 State Fund General Revenue.

118—*State Road Commission*

Acct. No. 641

1	Total	\$ 6,345,000.00
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2 The purpose of the above appropriation is to
 3 aid in payment of interest and principal on
 4 outstanding road bonds and may be trans-
 5 ferred to the state road fund upon the
 6 requisition of the Governor.

Sec. 2. Appropriations from Other Funds.—From the funds
 2 designated there is hereby appropriated conditionally upon
 3 the fulfillment of the provisions set forth in chapter 5,
 4 article 4, and chapter 5-A, article 2, of the code of West
 5 Virginia the following amounts, as itemized, for expenditure
 6 during the fiscal year one thousand nine hundred sixty-
 7 seven.

119—*State Road Commission*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1	Federal-Aid Construction — Interstate Pro-	
2	gram	\$ 74,521,500.00
3	Federal-Aid Construction—ABC Program	34,700,000.00
4	Interstate Maintenance	1,056,000.00
5	Special Maintenance and State Construction—	
6	Primary	9,006,500.00
7	Special Maintenance and State Construction—	
8	Secondary	10,532,500.00
9	Routine Maintenance—Primary	6,318,250.00
10	Routine Maintenance—Secondary	6,318,250.00
11	Emergency Operations—Snow and Ice Con-	
12	trol—Flood and Slides	3,000,000.00
13	General Operations	27,432,524.00
14	Equipment Purchases	1,500,000.00
15	Inventory Purchases	3,000,000.00
16	Debt Service	9,370,888.00
17	Total	\$186,756,412.00

18 It is the intent to appropriate and make avail-
 19 able for expenditure, the balances and all
 20 revenues and income of the state road fund,
 21 including the proceeds from the sale of
 22 bonds, for the maintenance, construction
 23 and reconstruction of state roads and for

24 other purposes in accordance with the pro-
 25 visions of chapter 17, code of West Virginia,
 26 one thousand nine hundred thirty-one, as
 27 amended.

28 Funds in excess of amounts herein appropri-
 29 ated may be made available by budget
 30 amendment upon request of the Road Com-
 31 missioner and approval of the Board of
 32 Public Works.

33 The State Road Commissioner shall have the
 34 authority to operate revolving funds within
 35 the state road fund for the operation and
 36 purchase of various types of equipment
 37 used directly and indirectly in the construc-
 38 tion and maintenance of roads and for the
 39 purchase of inventories of materials and
 40 supplies: *Provided, however,* That the op-
 41 eration of such revolving funds shall not
 42 cause expenditures in excess of the fore-
 43 going appropriations.

44 There is hereby appropriated, within the
 45 above line items, sufficient moneys for the
 46 payment of claims, accrued or arising dur-
 47 ing this budgetary period, to be paid in ac-
 48 cordance with chapter 14, article 2, sections
 49 7 and 8, code of West Virginia, one thousand
 50 nine hundred thirty-one, as amended.

120—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$ 955,239.00
2	Current Expenses	422,708.00
3	Equipment	30,000.00
4	Purchase of License Plates	230,000.00
5	Social Security Matching Fund	38,574.00
6	Public Employees Retirement Matching Fund	45,041.00
7	Total	\$ 1,721,562.00

121—*State Tax Commissioner—Gasoline Tax Division*

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$	193,825.00
2	Current Expenses		72,475.00
3	Equipment		4,000.00
4	Social Security Matching Fund		8,027.00
5	Total	\$	278,327.00

122—*State Board of Education*

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	42,823.00
2	Current Expenses		15,100.00
3	Equipment		1,050.00
4	Total	\$	58,973.00

123—*State Board of Education—Vocational Division*

Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	58,517.00
2	Current Expenses		9,370.00
3	Equipment		1,250.00
4	Vocational Aid		410,000.00
5	Total	\$	479,137.00

124—*Department of Education—Veterans Education*

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	13,320.00
2	Current Expenses		2,691.00
3	Total	\$	16,011.00

- 4 Expenditures from this appropriation shall not
 5 exceed the amount to be reimbursed by the
 6 Federal Government.

7 Federal funds in excess of the amounts hereby
 8 appropriated may be made available by
 9 budget amendment upon request of the
 10 State Superintendent of Schools and ap-
 11 proval of the Board of Public Works for
 12 any emergency which might arise in the
 13 operation of this Division during the fiscal
 14 year.

125—*Department of Education*
 Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintendent	\$ 18,000.00
2	Other Personal Services	404,080.00
3	Current Expenses	92,185.00
4	Equipment	3,950.00
5	National Defense Education Act	189,500.00
6	Statewide Testing Program	176,000.00
7	Experimental Projects	16,480.00
8	Total	\$ 900,195.00

9 Any part or all of the appropriation for
 10 "National Defense Education Act" may be
 11 transferred to a Special Revenue Fund for
 12 the purpose of matching Federal Funds for
 13 this program.

126—*State Board of School Finance*
 Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 19,714.00
2	Current Expenses	5,000.00
3	Total	\$ 24,714.00

127—*Department of Education—School Lunch Program*
 Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 66,071.00
2	Current Expenses	18,000.00

3	Aid to Counties—Includes hot lunches and	
4	canning for hot lunches	300,000.00
5	Total.....	\$ 384,071.00

128—*Department of Education*

Acct. No. 706

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salaries of County Superintendents	\$ 61,000.00
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129—*Department of Education*

Acct. No. 707

TO BE PAID FROM GENERAL SCHOOL FUND

1	State Aid to Children's Home.....	\$ 25,000.00
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130—*Department of Education*

Acct. No. 715

TO BE PAID FROM GENERAL SCHOOL FUND

1	Scholarships for Teacher Training	\$ 50,000.00
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131—*Real Estate Commission*

Acct. No. 801

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 30,861.00
2	Current Expenses	18,404.00
3	Social Security Matching Fund	1,212.00
4	Public Employees Retirement Matching Fund	1,578.00

5	Total.....	\$ 52,055.00
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6 The total amount of this appropriation shall be
 7 paid from Special Revenue Fund out of col-
 8 lections of license fees as provided by law.

132—*West Virginia Racing Commission*

Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

1	Medical Expenses	\$ 5,000.00
2	The total amount of this appropriation shall	
3	be paid from Special Revenue Fund out	

4 of collections of license fees and fines as
5 provided by law.

6 No expenditures shall be made from this
7 account except for hospitalization, medical
8 care, and/or funeral expenses for persons
9 contributing to this fund.

133—*Auditor's Office—Land Department Operating Fund*
Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

1 Current Expenses\$ 15,000.00

2 The total amount of this appropriation shall
3 be paid from Special Revenue Fund out of
4 fees and collections as provided by law.

5 Special funds in excess of the amount herein
6 appropriated may be made available by
7 budget amendments upon request of the
8 State Auditor and the approval of the
9 Board of Public Works.

134—*Department of Finance and Administration*
Division of Purchases—Revolving Fund

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services\$ 97,650.00

2 Current Expenses 14,200.00

3 Equipment 12,000.00

4 Social Security Matching Fund 4,100.00

5 Public Employees Retirement Matching Fund 4,500.00

6 Total\$ 132,450.00

7 The total amount of this appropriation shall
8 be paid from Special Revenue Fund as pro-
9 vided by chapter 5, article 4 and chap-
10 ter 5-A, article 2, of the code of West Vir-
11 ginia.

12 The above appropriation includes salaries and
13 operating expenses.

14 There is hereby appropriated from this fund,
15 in addition to the above appropriation, the

16 necessary amount for the purchase of sup-
 17 plies for resale.
 18 Special funds in excess of the amounts hereby
 19 appropriated may be made available by
 20 budget amendments upon request of the
 21 Department of Finance and Administration
 22 and approval of the Board of Public Works.

135—*Department of Agriculture*

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	171,438.00
2	Current Expenses		40,700.00
3	Equipment		5,000.00
4	Social Security Matching Fund		6,601.00
5	Public Employees Retirement Matching Fund		8,707.00
6	Total	\$	232,446.00

7 The total amount of this appropriation shall be
 8 paid from Special Revenue Fund out of col-
 9 lections made by the Department of Agri-
 10 culture as provided by law. It is the inten-
 11 tion that special funds in excess of the
 12 amounts hereby appropriated shall be made
 13 available by budget amendments upon re-
 14 quest of the Commissioner of Agriculture,
 15 and approval of the Board of Public Works.

136—*State Committee of Barbers and Beauticians*

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	54,180.00
2	Current Expenses		31,795.00
3	Equipment		888.00
4	Social Security Matching Fund		2,297.00
5	Public Employees Retirement Matching Fund		2,764.00
6	Total	\$	91,924.00

7 The total amount of this appropriation shall be
 8 paid from Special Revenue Fund out of

- 9 collections made by the State Committee of
10 Barbers and Beauticians as provided by law.

137—*Public Service Commission*

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners	\$	42,000.00
2	Other Personal Services		411,218.00
3	Current Expenses		53,703.00
4	Equipment		6,440.00
5	Social Security Matching Fund		12,341.00
6	Public Employees Retirement Matching Fund		20,162.00
7	Total	\$	545,864.00

8 The total amount of this appropriation shall be
9 paid from Special Revenue Fund out of col-
10 lections for special license fees from public
11 service corporations as provided by law. Out
12 of the above appropriation \$5,000.00 may
13 be transferred to the State Water Resources
14 Commission of the Department of Natural
15 Resources for use in cooperation with the
16 U. S. Geological Survey in a program of
17 stream gauging.

138—*Public Service Commission—Motor Carrier Division*

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	235,855.00
2	Current Expenses		57,990.00
3	Equipment		4,860.00
4	Social Security Matching Fund		6,650.00
5	Public Employees Retirement Matching Fund		10,234.00
6	Total	\$	315,589.00

7 The total amount of this appropriation shall
8 be paid from Special Revenue Fund out of
9 receipts collected for or by the Public Serv-
10 ice Commission pursuant to and in the exer-

11 cise of regulatory authority over motor
12 carriers as authorized by law.

139—*Department of Natural Resources*

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 1,067,145.00
2	Current Expenses	427,061.00
3	Repairs and Alterations	74,022.00
4	Equipment	131,330.00
5	Total	\$ 1,699,558.00

6 The total amount of this appropriation shall be
7 paid from Special Revenue Fund out of fees
8 collected by the Department of Natural Re-
9 sources. Expenditures shall be limited to the
10 amounts appropriated except for Federal
11 Funds received and Special Funds collected
12 at state parks. Special Funds in excess of the
13 amounts hereby appropriated may be made
14 available by budget amendment upon re-
15 quest of the Department of Natural Re-
16 sources and approval of the Board of Public
17 Works.

140—*Department of Public Safety—Inspection Fees*

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 115,640.00
2	Current Expenses	69,770.00
3	Repairs and Alterations	7,100.00
4	Equipment	13,400.00
5	Social Security Matching Fund	499.00
6	Total	\$ 206,409.00

7 The total amount of this appropriation shall be
8 paid from Special Revenue Fund out of fees
9 collected for inspection stickers as provided
10 by law.

11 Special funds in excess of the amounts hereby
 12 appropriated may be made available by
 13 budget amendment upon request of the De-
 14 partment of Public Safety and approval of
 15 the Board of Public Works for the purpose
 16 of repairs to, or construction of police
 17 barracks.

141—*West Virginia Alcohol Beverage Control*
 Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salary of Commissioner	\$	14,000.00
2 Other Personal Services		3,303,524.00
3 Current Expenses		863,000.00
4 Repairs and Alterations		35,000.00
5 Equipment		60,000.00
6 Social Security Matching Fund		141,204.00
7 Public Employees Retirement Matching Fund		168,896.00
8 Total	\$	4,585,624.00

9 The total amount of this appropriation shall
 10 be paid from Special Revenue Fund out of
 11 liquor revenues.

12 The above appropriation includes the salaries
 13 of store personnel, store inspectors, store
 14 operating expenses and equipment; and sal-
 15 aries, expenses and equipment of adminis-
 16 tration offices.

17 There is hereby appropriated from liquor
 18 revenues, in addition to the above appro-
 19 priation, the necessary amount for the pur-
 20 chase of liquor, as provided by law.

142—*West Virginia Civil Service System*
 Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$	125,100.00
2 Current Expenses		31,435.00
3 Social Security Matching Fund		4,614.00
4 Public Employees Retirement Matching Fund		5,936.00
5 Total	\$	167,085.00

- 6 The total amount of this appropriation shall
 7 be paid from Special Revenue Fund sup-
 8 ported by participating agencies as provided
 9 by law.
- 10 The Board of Public Works is hereby au-
 11 thorized to make available by budget
 12 amendment, upon request of the Civil
 13 Service Commission, funds in excess of the
 14 amounts hereby appropriated.

143—*West Virginia University—Special Capital
 Improvement Fund*

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service	\$ 665,000.00
2 Creative Arts Building	7,100,000.00
3 Educational Television	500,000.00
4 Chemistry Annex	1,500,000.00
5 Potomac State Auditorium	800,000.00
6 Small Projects	400,000.00
7 Property Acquisition	400,000.00
8 Utilities, Roads, and Parking	200,000.00
9 Total.....	<u>\$ 11,565,000.00</u>

- 10 The total amount of this appropriation shall
 11 be paid from the non-revolving Capital Im-
 12 provement Fund created by the 1959 Legis-
 13 lature, amended by the 1963 Legislature.
 14 Any unexpended balance remaining in this
 15 appropriation at the close of the fiscal year
 16 1965-66 is hereby reappropriated for ex-
 17 penditure during the fiscal year 1966-67.

144—*State Board of Education—Special Capital
 Improvement Fund*

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

1 Payment of Principal and Interest on Bonds \$	1,071,800.00
2 Marshall University—Dormitory Furniture	292,275.00

3	Concord College—Dormitory Furniture	364,500.00
4	Glenville State College—Dormitory Furniture	81,000.00
5	Bluefield State College—Addition to Technical	
6	Science Facilities	256,000.00
7	Glenville State College — Renovation Old	
8	Library Building	75,000.00
9	West Liberty State College—Renovation Top	
10	Floor of Library or addition to Fine Arts	
11	Building	75,000.00
12	Fairmont State College — Campus Electrical	
13	Vault and Connection	30,000.00
14	West Virginia Institute of Technology —	
15	Cafeteria Furniture and Equipment	30,000.00
16	Shepherd College — Renovation Home Eco-	
17	nomics Building	40,000.00
18	Concord College—Purchase of Land	23,000.00

19 Total\$ 2,338,575.00

20 As required by law, the above projects are list-
 21 ed in a stated order of priority and are to be
 22 paid on a cash basis. It is intended that only
 23 complete and useable units or projects be
 24 constructed and then only in the listed order
 25 of priority.

26 The total amount of this appropriation shall
 27 be paid from the non-revolving Capital Im-
 28 provement Fund created by the 1959 Legis-
 29 lature, amended by the 1963 Legislature.

30 The above appropriation to Glenville State
 31 College for Dormitory Furniture of \$81,000
 32 is to be made available from passage date of
 33 this act.

34 Any unexpended balance remaining in this
 35 appropriation at the close of the fiscal year
 36 1965-66 is hereby reappropriated for ex-
 37 penditure during the fiscal year 1966-67,
 38 and the priority appropriation made to
 39 Shepherd College for Renovation, Admin-

40	Administration Building, \$360,000.00 in the 1965-66	
41	Budget Bill, is hereby reappropriated as	
42	follows:	
43	Shepherd College—Renovation, Administra-	
44	tion Building to Classrooms	\$ 145,000.00
45	Administration Building	215,000.00

145—*West Virginia University—Medical School*

TO BE PAID FROM MEDICAL SCHOOL FUND

Acct. No. 873

1	Supplemental Retirement	\$ 70,000.00
2	Social Security	110,825.00
3	Physical Planning	2,130.00
4	Purchasing Inventory	22,735.00
5	Registrar	19,950.00
6	Medical Center Library	51,215.00
7	Administration	303,830.00
8	Animal Quarters	15,270.00
9	Multilith Department	5,060.00
10	Electronics Laboratory	14,350.00
11	Academic Communication	8,250.00
12	Medical Center Information (News Media)	13,650.00
13	Photography and Illustrations	23,050.00
14	Vice President's Office	43,000.00
15	School of Medicine	1,297,095.00
16	Medical Technology	43,760.00
17	School of Dentistry	533,335.00
18	School of Nursing	225,480.00
19	School of Pharmacy	17,775.00
20	Medical Biochemistry	834,925.00
21	University Hospital	3,351,497.00
22	Other Operating Expenses	2,984,261.00
23	Total	\$ 9,991,443.00
24	Special funds in excess of the amounts hereby	
25	appropriated may be made available by	
26	budget amendment upon request of the	
27	Board of Governors of West Virginia Uni-	
28	versity and approval of the Board of Public	
29	Works.	

146—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Personal Services	\$	870,120.00
2	Current Expenses		291,937.00
3	Equipment		16,689.00
4	Social Security Matching Fund.....		34,835.00
5	Public Employees Retirement Matching Fund		44,081.00
6	Total.....	\$	1,257,662.00
7	There is hereby authorized to be paid out of		
8	the above appropriation for current ex-		
9	penses the amount necessary for the premi-		
10	ums on bonds given by the State Treasurer		
11	and bond custodian for the protection of the		
12	Workmen's Compensation Fund.		

Sec. 3. Supplemental and Deficiency Appropriation.—

2 From the State Fund, General Revenue, except as otherwise
 3 provided, there are hereby appropriated the following
 4 amounts, as itemized, for expenditure during the fiscal year
 5 one thousand nine hundred sixty-six to supplement the
 6 1965-66 appropriations, and to be available for expenditure
 7 upon date of passage.

147—*Supreme Court of Appeals*

Acct. No. 110

1	Current Expenses	\$	18,000.00
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148—*Governor's Office*

Acct. No. 120

1	Civil Contingent Fund	\$	60,000.00
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149—*Department of Personnel*

Acct. No. 121

1	Personal Services	\$	18,162.00
2	Current Expenses		1,338.00
3	Equipment		2,000.00
4	Total.....	\$	21,500.00

150—*Department of Finance and Administration*

Acct. No. 210

1 Mansion Repairs and Refurbishing \$ 88,000.00

151—*Forestry Camp for Boys*

Acct. No. 371

1 Rebuild Forestry Camp \$ 180,000.00

152—*Industrial Home for Girls*

Acct. No. 372

1 Repairs and Alterations \$ 6,000.00

153—*West Virginia Penitentiary*

Acct. No. 375

1 Paving Assessment \$ 5,100.00

154—*Department of Welfare*

Acct. No. 405

1 Medical Service \$ 2,300,000.00

2 General Relief 200,000.00

3 Food Stamp Program 120,000.00

4 Total \$ 2,620,000.00

155—*Department of Labor*

Acct. No. 450

1 Equipment \$ 28,000.00

156—*Department of Commerce*

Acct. No. 465

1 Personal Services—Arts and Crafts \$ 11,000.00

157—*Racing Commission*

Acct. No. 495

1 Personal Services \$ 10,000.00

Sec. 4. Reappropriations.—The date for expiring the unexpended balances, if any, in items XXVII, XXXI, XXXVII, 3 and XXXIX, in the appropriations made by and under authority of Section 4 of the 1963 Budget Act and items 3 and 39 in the appropriations made by and under authority of Section 6 of the 1964 Budget Act and items I, II, III, IV, V, VI,

7 VIII, XII, XVI, and XVII in the appropriations made by and
8 under authority of Section 6 of the 1965 Budget Act are
9 hereby reappropriated from their respective dates of expira-
10 tion to June 30, 1967.

11 Item III—Governor's Office as herein reappropriated may
12 be used to match and aid Federal Programs, and any part
13 of this appropriation may be transferred to any department
14 for such purposes.

15 Item IV—Department of Finance and Administration as
16 herein reappropriated is only the item "To Establish Motor
17 Pool."

18 Item XXXIX—Forestry Camp for Boys, and, Item VIII—
19 Forestry Camp for Boys, as herein reappropriated may be
20 used to begin relocation of present Forestry Camp and/or
21 preliminary plans for establishing a new camp.

Sec. 5. Special Revenue Appropriations.—There is hereby
2 appropriated for expenditure during the fiscal year one
3 thousand nine hundred sixty-seven appropriations made by
4 general law from special revenue which are not paid into
5 the state fund as general revenue under the provisions of
6 chapter 12, article 2, section 2, of the code of West Virginia,
7 one thousand nine hundred thirty-one: *Provided, however,*
8 That none of the moneys so appropriated by this section
9 shall be available for expenditure except in compliance
10 with and in conformity to the provisions of chapter 12,
11 articles 2 and 3, chapter 5, article 4 and chapter 5-A, article 2,
12 of the code of West Virginia, unless the spending unit has
13 filed with the state director of the budget and the state
14 auditor prior to the beginning of each fiscal year:

15 (a) An estimate of the amount and sources of all revenues
16 accruing to such fund;

17 (b) A detailed expenditure schedule showing for what
18 purposes the fund is to be expended.

Sec. 6. Specific Funds and Collection Accounts.—A fund
2 or collection account, which by law is dedicated to a specific
3 use is hereby appropriated in sufficient amount to meet all
4 lawful demands upon the fund or collection account, and
5 shall be expended according to the provisions of chapter 12,
6 article 3, of the code of West Virginia.

7 There is hereby appropriated to Marshall University the
8 sum of \$122,000.00 representing interest earned on construc-
9 tion funds in the hands of the State Sinking Fund Com-
10 mission for the purpose of purchasing additional land and/
11 or equipment, and/or for matching federal funds which
12 may become available, all for the purpose of improving
13 existing facilities at Marshall University.

Sec. 7. Appropriation for Refunding Erroneous Payments.

2 —Money that has been erroneously paid into the state treas-
3 ury is hereby appropriated out of the fund into which it
4 was paid for refund to the proper person.

5 When the officer authorized by law to collect money for
6 the state finds that a sum has been erroneously paid, he shall
7 issue his requisition upon the auditor for the refunding of
8 the proper amount. The auditor shall issue his warrant to
9 the treasurer and the treasurer shall pay the warrant out of
10 the fund into which the amount was originally paid.

Sec. 8. Sinking Fund Deficiencies.—There is hereby ap-
2 propriated to the Board of Public Works a sufficient amount
3 to meet a deficiency that may arise in the funds of the State
4 Sinking Fund Commission because of the failure of any state
5 agency for either general obligation or revenue bonds or any
6 local taxing district for general obligation bonds to remit
7 funds necessary for the payment of interest and sinking fund
8 requirements. The Board of Public Works is authorized to
9 transfer from time to time such amounts to the State Sinking
10 Fund Commission as may be necessary for this purpose.

11 The State Sinking Fund Commission shall reimburse the
12 State of West Virginia through the Board of Public Works
13 from the first remittance collected from any state agency or
14 local taxing district for which the Board of Public Works ad-
15 vanced funds, with interest at the rate carried by the bonds
16 for which the advance was made.

Sec. 9. Appropriations from Taxes and License Fees.—

2 There is hereby appropriated from the soft drink tax reve-
3 nues for administration and enforcement of the law relating
4 to said tax, a sum not to exceed two and one-half per cent
5 of the total revenues collected. All such salaries and ex-
6 penses, authorized by law as aforesaid, shall be paid by the

7 Tax Commissioner through the state treasury out of gross
8 collections.

**Sec. 10. Appropriations to Pay Costs of Publication of
2 Delinquent Corporations.**—There is hereby appropriated out
3 of the state fund, general revenue, out of funds not other-
4 wise appropriated to be paid upon requisition of the auditor
5 and/or the Governor, as the case may be, a sum sufficient to
6 pay the cost of publication of delinquent corporations as pro-
7 vided by chapter 11, article 12, sections 75 and 77, of the code
8 of West Virginia.

Sec. 11. Appropriations for Local Governments.—There is
2 hereby appropriated for payment to counties, districts and
3 municipal corporations such amounts as will be necessary to
4 pay taxes due county, district and municipal corporations
5 and which have been paid into the treasury:

- 6 (a) For the redemption of lands;
- 7 (b) By public service corporations;
- 8 (c) For tax forfeitures.

Sec. 12. Total Appropriations.—Where only a total sum
2 is appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital outlay,
4 except as otherwise provided in Title I, Section 3.

Sec. 13. General School Fund.—The balance of the pro-
2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropriated
4 for expenditure in accordance with chapter 18, article 9,
5 section 6, of the code of West Virginia.

Title 3. Administration.

Section

1. Appropriations conditional.
2. Constitutionality.

Section 1. Appropriations Conditional.—The expenditure
2 of the appropriations made by this act, except those appro-
3 priations made to the legislative and judicial branches of the
4 state government, are conditioned upon the compliance by
5 the spending unit with the requirements of chapter 5,
6 article 4 and chapter 5-A, article 2, of the code of West
7 Virginia.

8 Where former spending units have been absorbed by or
9 combined with other spending units by acts of this Legisla-

10 ture, it is the intent of this act that reappropriation shall be
 11 to the succeeding or later spending unit created unless other-
 12 wise indicated.

Sec. 2. Constitutionality.—If any part of this act is de-
 2 clared unconstitutional by a court of competent jurisdiction,
 3 its decision shall not affect any portion of this act which
 4 remains, but the remaining portion shall be in full force and
 5 effect as if the portion declared unconstitutional had never
 6 been a part of the act.

CHAPTER 5

(Senate Bill No. 75—By Mr. McCourt)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT directing the state auditor to transfer immediately a
 certain accrued balance from the barbers and beauticians
 special fund to the general revenue fund.

Be it enacted by the Legislature of West Virginia:

Section

1. Transfer of sum from barbers and beauticians special fund.

**Section 1. Transfer of Sum from Barbers and Beauti-
 2 cians Special Fund.**—The state auditor shall immediately
 3 transfer to the general revenue fund the sum of one hun-
 4 dred forty thousand dollars from the barbers and beau-
 5 ticians special fund established by the provisions of ar-
 6 ticle fourteen, chapter sixteen of this code.

CHAPTER 6

(Senate Bill No. 83—Originating in the Senate Committee
 on Finance)

[Passed February 9, 1966; in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to amend chapter twenty-six of the code of West Vir-
 ginia, one thousand nine hundred thirty-one, as amended,
 by adding thereto a new article, designated article ten,
 relating to the establishment and charging of fees for the

maintenance of persons admitted to hospitals, homes and sanitarium under the jurisdiction and control of the commissioner of public institutions.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten, to read as follows:

Article 10. Hospitals, Homes and Sanitaria Fees.

Section

1. Authority of commissioner of public institutions to establish; exonerating persons from payment.

Section 1. Authority of Commissioner of Public Institutions to Establish; Exonerating Persons from Payment.—
 2 Notwithstanding any limitation contained in this chapter
 3 or any provision therein to the contrary, the commissioner
 4 of public institutions is authorized to establish and charge
 5 the inmate or patient reasonable fees for the maintenance
 6 of each person admitted to a hospital, home or sanitarium
 7 under his jurisdiction and control: *Provided*, That the
 8 commissioner of public institutions may, whenever it is
 9 deemed just and expedient to do so, exonerate any such
 10 person chargeable with such maintenance from the pay-
 11 ment thereof, in whole or in part, if the commissioner
 12 finds that such person is unable to pay or that payment
 13 would work an undue hardship upon him.

—c—

CHAPTER 7

(Senate Bill No. 9—By Mr. Barnett and Mr. Parker)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to refunding bonds, form, interest rates, and negotiability of same.

Be it enacted by the Legislature of West Virginia:

That section five, article two-a, chapter thirteen of the code

of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2-a. Revenue Bond Refinancing.

Section

5. Form of bonds; interest rates; negotiability.

Section 5. Form of Bonds; Interest Rates; Negotiability.

2 —The refunding bonds may be issued in one or more
3 series, may bear such date or dates, may mature at such
4 time or times not exceeding the period of usefulness of
5 the enterprise, as determined by the governing body in
6 its discretion, not in any event exceeding forty years from
7 their respective dates; may bear interest at such rate or
8 rates not exceeding the maximum rate of interest borne
9 by the notes, bonds, or other obligations refinanced
10 thereby; may be in such denomination or denominations,
11 may be in such form either coupon or registered, may
12 carry such registration and conversion privileges, may
13 be executed in such manner, may be payable in such
14 medium of payment, at such place or places, may be sub-
15 ject to such terms of redemption, with or without a pre-
16 mium, may be declared or become due before the ma-
17 turity date thereof, may provide for the replacement of
18 mutilated, destroyed, stolen, or lost bonds, may be au-
19 thenticated in such manner and upon compliance with
20 such conditions; and may contain such other terms and
21 covenants, as may be provided by resolution or resolu-
22 tions of the governing body of the public body: *Provided*,
23 That if the refinancing is for the sole purpose of discharg-
24 ing at less than their face or par value all of the outstand-
25 ing notes, bonds or other obligations of a class I or class
26 II city, as defined in chapter eight-a of this code, and such
27 notes, bonds or other obligations are to be refinanced, then
28 such refunding bonds may bear interest at any rate or
29 rates, not exceeding six per cent per annum, which re-
30 sults in a total interest cost of not more than the total
31 amount of interest, including interest then in arrears,
32 that would have been payable from the date of such
33 refinancing to maturity of the notes, bonds or other obli-
34 gations so refinanced.

35 Notwithstanding the form or tenor thereof, and in the
36 absence of an express recital on the face thereof that the
37 bond is nonnegotiable, all refunding bonds shall at all
38 times be, and shall be treated as, negotiable instruments
39 for all purposes.

CHAPTER 8

(Com. Sub. for Senate Bill No. 42—By Mr. Carson,
Mr. President, and Mr. Moreland)

[Passed February 9, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two, three and seven, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, changing the name of the state office building commission to "The State Building Commission of West Virginia"; designating the members, chairman and secretary of such commission; specifying the powers, duties and responsibilities of the commission; defining certain terms; and setting forth the duties, powers and responsibilities of the commission with respect to the issuance of revenue bonds and the acceptance of gifts and grants.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three and seven, article six, chapter five, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 6. State Building Commission.

Section

1. Name of state office building commission changed; composition; chairman and secretary; expenses of members; powers and duties generally.
2. Definitions.
3. Powers of the commission.
7. Commission empowered to issue state building revenue bonds; form and requirements for bonds; procedure for issuance; temporary bonds; funds, grants and gifts.

Section 1. Name of State Office Building Commission

2 Changed; Composition; Chairman and Secretary; Ex-

3 **penses of Members; Powers and Duties Generally.**—“The
4 State Office Building Commission of West Virginia,” here-
5 tofore created, shall continue in existence but on and after
6 the effective date of this section shall be known and desig-
7 nated as “The State Building Commission of West Vir-
8 ginia” and shall continue as a body corporate and as an
9 agency of the state of West Virginia. On and after the
10 effective date of this section, the commission shall consist
11 of the governor, the attorney general, the treasurer, the
12 auditor, the commissioner of agriculture, the secretary of
13 state, the president of the senate, the speaker of the house
14 of delegates, the minority leader of the senate and the
15 minority leader of the house of delegates. The governor
16 shall be chairman and the secretary of state shall be secre-
17 tary of the commission. The members of the commission
18 shall be paid or reimbursed for their necessary expenses
19 incurred under this article, but shall receive no compen-
20 sation for their services as members or officers of the
21 commission. Such expenses shall be paid solely from
22 funds provided under the authority of this article, and
23 the commission shall not proceed to exercise or carry out
24 any authority or power herein given it to bind said com-
25 mission beyond the extent to which money has been pro-
26 vided under the authority of this article. The commission
27 shall have the duties, powers and responsibilities pro-
28 vided for in this article.

Sec. 2. Definitions.—The following terms, wherever
2 used or referred to in this article, shall have the following
3 meanings, unless a different meaning clearly appears from
4 the context:

5 The term “commission” shall mean the state building
6 commission of West Virginia, or if said commission shall
7 be abolished, any board or officer succeeding to the princi-
8 pal functions thereof, or upon whom the powers given to
9 said commission shall be given by law.

10 The term “bonds” shall mean bonds issued by the com-
11 mission pursuant to this article.

12 The term “project” shall be deemed to mean collectively
13 the acquisition of land, the construction, equipping and
14 furnishing of a building or buildings, together with inci-

15 dental approaches, structures and facilities, herein author-
16 ized to be constructed.

17 The term "cost of project" shall embrace the cost of
18 construction, the cost of equipping and furnishing same,
19 the cost of all land, property, material and labor which
20 are deemed essential thereto, the cost of improvements,
21 financing charges, interest during construction, and all
22 other expenses, including legal fees, trustees', engineers'
23 and architects' fees which are necessarily or properly inci-
24 dental to the project.

25 The term "rent" or "rental" shall include all moneys
26 received for the use of any part of a project either from
27 the state of West Virginia or any officer, department or
28 public corporation thereof: *Provided*, That nothing in
29 this article shall be taken to authorize the payment by or
30 on behalf of the state of any rent in excess of the fair
31 rental value of property used by or for such state officer
32 or department or public corporation in the exercise of his
33 or its statutory duties.

Sec. 3. Powers of the Commission.—The commission
2 shall have power:

- 3 1. To sue and be sued, plead and be impleaded;
- 4 2. To have a seal and alter the same at pleasure;
- 5 3. To contract to acquire and to acquire, in the name of
6 the commission or of the state, by purchase or otherwise,
7 real property or rights or easements necessary or con-
8 venient for its corporate purposes;
- 9 4. To acquire, hold and dispose of personal property
10 for its corporate purposes;
- 11 5. To make by-laws for the management and regulation
12 of its affairs;
- 13 6. With the consent of the attorney general of the state
14 of West Virginia to use the facilities of his office, assistants
15 and employees in all legal matters relating to or pertaining
16 to the commission;
- 17 7. To appoint officers, agents and employees, and fix
18 their compensation;
- 19 8. To make contracts, and to execute all instruments
20 necessary or convenient to effectuate the intent of, and
21 to exercise the powers granted to it by, this article;

22 9. To renegotiate all contracts entered into by it when-
23 ever, due to a change in situation, it appears to the com-
24 mission that its interest will be best served;

25 10. To construct a building or buildings on real proper-
26 ty, which it may acquire, or which may be owned by the
27 state of West Virginia, in the city of Charleston, as con-
28 venient as may be to the capitol building, together with
29 incidental approaches, structures and facilities, subject to
30 such consent and approval of the city of Charleston in
31 any case as may be necessary; and, in addition, to acquire
32 or construct a warehouse, including office space therein, in
33 Kanawha county for the West Virginia alcohol beverage
34 control commissioner, and equip and furnish the same;
35 and to acquire or construct buildings and additions to
36 buildings (and equip and furnish the same), including
37 remodeling, renovation and repair, as may be required
38 for the safety and care of patients, guests and inmates at
39 hospitals under the jurisdiction and supervision of the de-
40 partment of mental health and at institutions under the
41 jurisdiction and supervision of the commissioner of public
42 institutions; and to formulate and program plans for the
43 orderly and timely capital improvement of all of said
44 hospitals and institutions and the state capitol buildings;

45 11. To maintain, construct and operate a project au-
46 thorized hereunder;

47 12. To charge rentals for the use of any part of a proj-
48 ect, subject to and in accordance with such agreements
49 with bondholders as may be made as hereinafter provided;

50 13. To issue negotiable bonds and to provide for the
51 rights of the holders thereof;

52 14. To enter on any lands and premises for the purpose
53 of making surveys, soundings and examinations;

54 15. To do all things necessary or convenient to carry
55 out the powers given in this article.

56 The rights and powers set forth in subdivision ten
57 of this section shall not be construed as in derogation of
58 any rights and powers now vested in the West Virginia
59 alcohol beverage control commissioner, the department
60 of mental health or the commissioner of public institu-
61 tions.

Sec. 7. Commission Empowered to Issue State Building Revenue Bonds; Form and Requirements for Bonds; Procedure for Issuance; Temporary Bonds; Funds, Grants and Gifts.—The commission is hereby empowered to raise the cost of a project, as defined hereinabove, by the issuance of state building revenue bonds of the state, the principal of and interest on which bonds shall be payable solely from the special fund herein provided for such payment. Such bonds shall be authorized by resolution of the commission which shall recite an estimate by the commission of such cost, and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided, to produce such cost, less the amount of any funds, grant or grants, gift or gifts received, or in the opinion of the commission expected to be received from the United States of America or from any other source. The acceptance by the commission of any and all such funds, grants and gifts, whether in money or in land, labor or materials, is hereby expressly authorized. All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than four per cent per annum, payable semiannually, and shall mature in not more than twenty-five years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the commission, at such price and under such terms and conditions as the commission may fix prior to the issuance of such bonds. The commission shall determine the form of such bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the chairman and secretary of the commission, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of said chairman of the commission. In case any of the officers whose signatures appear on the bonds or coupons issued as hereinbefore authorized shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The commission shall fix the denominations of said bonds, the princi-

42 pal and interest of which shall be payable at the office of
43 the treasurer of the state of West Virginia, at the capitol
44 of said state, or, at the option of the holder, at some bank
45 or trust company in the city of New York to be named in
46 the bonds in such medium as may be determined by the
47 commission. The said bonds shall be exempt from tax-
48 ation by the state of West Virginia, or any county or
49 municipality therein. The commission may provide for
50 the registration of such bonds in the name of the owner
51 as to principal alone, and as to both principal and interest
52 under such terms and conditions as the commission may
53 determine, and shall sell such bonds in such manner as
54 it may determine to be for the best interest of the state,
55 taking into consideration the financial responsibility of
56 the purchaser, and the terms and conditions of the pur-
57 chase, and especially the availability of the proceeds of
58 the bonds when required for payment of the cost of the
59 project, such sale to be made at a price not lower than a
60 price which, computed upon standard tables of bond
61 values, will show a net return of not more than four per
62 cent per annum to the purchaser upon the amount paid
63 therefor. The proceeds of such bonds shall be used solely
64 for the payment of the cost of the project for which bonds
65 were issued, and shall be deposited and checked out as
66 provided by section four of this article, and under such
67 further restrictions, if any, as the commission may pro-
68 vide. If the proceeds of bonds issued for a project shall
69 exceed the cost thereof, the surplus shall be paid into
70 the fund hereinafter provided for payment of the princi-
71 pal and interest of such bonds. Such fund may be used for
72 the purchase of any of the outstanding bonds payable from
73 such fund at the market price, but at not exceeding the
74 price, if any, at which such bonds shall in the same year
75 be redeemable, and all bonds redeemed or purchased
76 shall forthwith be cancelled, and shall not again be issued.
77 Prior to the preparation of definitive bonds, the commis-
78 sion may, under like restrictions, issue temporary bonds
79 with or without coupons, exchangeable for definitive
80 bonds upon the issuance of the latter. Revenue bonds
81 issued under the authority herein granted shall be eligible
82 as investments for the workmen's compensation fund,

83 state sinking fund, teachers' retirement fund and as se-
84 curity for the deposit of all public funds. Such revenue
85 bonds may be issued without any other proceedings or
86 the happenings of any other conditions or things than
87 those proceedings, conditions and things which are speci-
88 fied and required by this article, or by the constitution
89 of the state: *Provided*, That the aggregate amount of all
90 issues of bonds outstanding at one time for all projects
91 authorized hereunder shall not exceed twenty-five million
92 dollars including the renegotiation, reissuance or refi-
93 nancing of any such bonds: *Provided, however*, That no
94 bonds or other obligations shall be issued or incurred
95 hereunder, unless and until the Legislature by concur-
96 rent resolution has approved the purpose and amount
97 of each separate project.

C

CHAPTER 9

(Com. Sub. for Senate Bill No. 48—By Mr. Carson, Mr. President,
and Mr. Montgomery)

[Passed February 10, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the selection and appointment of the director of personnel of the civil service system, and his duties, qualifications and removal.

Be it enacted by the Legislature of West Virginia:

That section four, article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 6. Civil Service System.

Section

4. Selection and appointment of director of personnel; duties; qualifications; removal.

**Section 4. Selection and Appointment of Director of
2 Personnel; Duties; Qualifications; Removal.—After selec-**

3 tion through open competitive examination, then upon
4 recommendation of the civil service commission, the gov-
5 ernor shall appoint a director of personnel, who shall be
6 experienced in the field of personnel administration, and
7 who shall be knowledgeable concerning scientific methods
8 governing the appointment, promotion, transfer, layoff,
9 removal, discipline, classification, compensation and wel-
10 fare of employees, and who is in known sympathy with the
11 application of merit principles in public employment. The
12 selection and appointment must be in conformity with
13 civil service rules. The present merit system supervisor
14 may be the appointee. It shall be his duty to administer
15 this article so as to effectuate the general purpose of such
16 article as set forth in section one hereof. The director of
17 personnel may be removed by the civil service commission
18 for cause only after he has been presented in writing with
19 the reasons for his removal. He shall be given an oppor-
20 tunity, not less than fifteen days, to answer any charges
21 either in writing or upon his request to be heard by the
22 commission. The statement of reasons and answer or
23 transcript of hearing shall be filed with the secretary of
24 state as a public record. The decision of the commission,
25 after a hearing, shall be final and not subject to appeal.
26 None of the provisions of section two-a, article seven,
27 chapter six of this code, except the annual salary pro-
28 vision, shall be applicable to the director of personnel
29 of the civil service system.

c

CHAPTER 10

(House Bill No. 230—By Mr. Armistead)

[Passed February 9, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section two, article fourteen thereof, relating to making amendments to the constitution.

Be it enacted by the Legislature of West Virginia:

Constitutional Improvement Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as "Constitutional Improvement Amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Section 1. Submitting an Amendment to the State

2 **Constitution.**—That the question of the ratification or
3 rejection of an amendment to the constitution of West
4 Virginia, proposed in accordance with the provisions of
5 section two, article fourteen of said constitution, shall
6 be submitted to the voters of the state at the next general
7 election, to be held in the year one thousand nine hun-
8 dred sixty-six, which proposed amendment is as follows:
9 That section two, article fourteen of the constitution
10 of the state of West Virginia be amended so as to read
11 as follows:

12 **"Article XIV. Amendments.**

13 **"Section 2.** Any amendment to the Constitution of
14 the State may be proposed in either House of the Legis-
15 lature at any regular or extraordinary session thereof;
16 and if the same, being read on three several days in each
17 House, be agreed to on its third reading by two thirds
18 of the members elected thereto, the proposed amend-
19 ment, with the yeas and nays thereon, shall be entered
20 on the journals, and it shall be the duty of the Legis-
21 lature to provide by law for submitting the same to the
22 voters of the State for ratification or rejection, at a special
23 election, or at the next general election thereafter, and
24 cause the same to be published, at least three months
25 before such election in some newspaper in every county
26 in which a newspaper is printed. And if a majority of
27 the qualified voters, voting on the question at the polls
28 held pursuant to such law, ratify the proposed amend-
29 ment, it shall be in force from the time of such ratifica-
30 tion, as part of the Constitution of the State. If two or
31 more amendments be submitted at the same time, the

32 vote on the ratification or rejection shall be taken on
 33 each separately, but an amendment may relate to a single
 34 subject or to related subject matters and may amend or
 35 modify as many articles and as many sections of the
 36 Constitution as may be necessary and appropriate in
 37 order to accomplish the objectives of the amendment.
 38 The Legislature may provide by law for the submission
 39 of all such amendments on a single ballot whereon each
 40 amendment shall be listed separately and distinctly so
 41 as to provide a clear choice of ratification or rejection
 42 with respect to each proposal. Any ballot submitting
 43 proposed constitutional change shall include no other
 44 type of question or issue."

**Sec. 2. Amendment to Be Known as "Constitutional
 2 Improvement Amendment."**—For convenience in re-
 3 ferring to said proposed amendment, and in the prepa-
 4 ration of the form of the ballot hereinafter provided for,
 5 said proposed amendment is hereby designated as the
 6 "Constitutional Improvement Amendment."

Sec. 3. Form of Ballot; Election.—For the purpose
 2 of enabling the voters of the state to vote on the question
 3 of this proposed amendment and any other amendment
 4 or amendments that may be submitted to the constitu-
 5 tion at the said general election to be held in the year
 6 one thousand nine hundred sixty-six, the board of ballot
 7 commissioners of each county is hereby required to place
 8 upon, and at the foot of, the official ballot to be voted
 9 upon at that election, a heading reading "Ballot on Con-
 10 stitutional Amendment(s)."

11 In the first position under said heading the board of
 12 ballot commissioners of each county shall place the
 13 following:

14 No. 1. Constitutional Improvement Amendment

15 For Ratification

16 Against Ratification

17 The said election on the proposed amendment at each
 18 place of voting shall be superintended, conducted and
 19 returned, and the result thereof ascertained by the same
 20 officers and in the same manner as the election of officers
 21 to be voted for at said election, and all the provisions

22 of the law relating to general elections, including all
23 duties to be performed by any officer or board, as far as
24 practicable, and not inconsistent with anything herein
25 contained, shall apply to the election held under the
26 provisions of this act, except when it is herein otherwise
27 provided. The ballots cast on the question of said pro-
28 posed amendment shall be counted as other ballots cast
29 at said election.

**Sec. 4. Certificates of Election Commissioner; Canvass
2 of Vote; Certifying Result.**—As soon as the result is
3 ascertained, the commissioners, or a majority of them,
4 and the canvassers (if there be any), or a majority of
5 them, at each place of voting, shall make out and sign
6 two certificates thereof in the following form or to the
7 following effect:

8 "We, the undersigned, who acted as commissioners
9 (or canvassers, as the case may be) of the election
10 held at Precinct No. _____, in the district of
11 _____, in the county of _____,
12 on the _____ day of _____, one thousand
13 nine hundred sixty-six, upon the question of the
14 ratification or rejection of the proposed constitutional
15 amendment, do hereby certify that the result of said
16 election is as follows:

17 "Amendment No. 1. Constitutional Improvement
18 Amendment

19 "For ratification _____ votes.

20 "Against ratification _____ votes.

21 "Given under our hands this ____ day of _____,
22 one thousand nine hundred sixty-six."

23 The said two certificates shall correspond with each
24 other in all respects and contain the full and true returns
25 in said election at each place of voting on said question.
26 The said commissioners, or any one of them (or said
27 canvassers or any one of them, as the case may be), shall,
28 within four days, excluding Sunday, after that on which
29 said election was held, deliver one of said certificates to
30 the clerk of the county court of his county, together with
31 the ballots, and the other to the clerk of the circuit court
32 of the county.

33 The said certificates, together with the ballots cast on
 34 the question of said proposed amendment, shall be laid
 35 before the commissioners of the county court at the
 36 courthouse at the same time the ballots, poll books, and
 37 the certificates of election of the members of the Legis-
 38 lature are laid before them; and as soon as the result of
 39 said election in the county upon the question of such
 40 ratification or rejection is ascertained, two certificates of
 41 such result shall be made out and signed by said com-
 42 missioners as a board of canvassers, in the form or to
 43 the following effect:

44 "We, the board of canvassers of the county of
 45 _____, having carefully and impartially
 46 examined the returns of the election held in said
 47 county, in each district thereof, on the _____ day
 48 of November, one thousand nine hundred sixty-six,
 49 do certify that the result of the election in said county,
 50 on the question of the ratification or rejection of the
 51 proposed amendment is as follows:

52 "Amendment No. 1. Constitutional Improvement
 53 Amendment

54 "For ratification _____ votes.

55 "Against ratification _____ votes.

56 "Given under our hands this _____ day of _____,
 57 one thousand nine hundred sixty-six."

58 One of the certificates shall be filed in the office of the
 59 clerk of the county court, and the other forwarded by
 60 mail to the secretary of state, who shall file and preserve
 61 the same until the day on which the result of said elec-
 62 tion in the state is to be ascertained, as hereinafter
 63 stated.

Sec. 5. Proclamation of Result of Election by Governor.

2 —On the twenty-fifth day after the election is held, or
 3 as soon thereafter as practicable, the said certificate shall
 4 be laid before the governor, whose duty it shall be to
 5 ascertain therefrom the result of said election in the state,
 6 and declare the same by proclamation published in one
 7 or more newspapers printed at the seat of government.
 8 If a majority of the votes cast at said election upon said
 9 question be for ratification of said amendment, the pro-
 10 posed amendment so ratified shall be in force and effect

- 11 from and after the time of such ratification, as part of
12 the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall in the first instance, if found necessary by him, be paid out of the governor's contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.

CHAPTER 11

(Senate Bill No. 29—By Mr. Carson, Mr. President,
and Mr. Moreland)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section four, article seven thereof, prohibiting certain executive officers from holding any other office during their term of service, and relating to the terms of office of the governor.

Be it enacted by the Legislature of West Virginia:

Governor's Succession Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "Governor's Succession Amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Section 1. Submitting an Amendment to the State Constitution.—That the question of the ratification or rejection

3 of an amendment to the constitution of West Virginia, pro-
 4 posed in accordance with the provisions of section two,
 5 article fourteen of said constitution, shall be submitted
 6 to the voters of the state at the next general election, to
 7 be held in the year one thousand nine hundred sixty-six,
 8 which proposed amendment is as follows:

9 That section four, article seven of the constitution of
 10 the state of West Virginia be amended to read as follows:

“Article VII. Executive Department.

“**Section 4. Eligibility.**—None of the executive officers
 2 mentioned in this article shall hold any other office dur-
 3 ing the term of his service. A person who has been elected
 4 or has served as Governor during all or any part of two
 5 consecutive terms, shall be ineligible for the office of Gov-
 6 ernor during any part of the term immediately following
 7 the second of the two consecutive terms.”

**Sec. 2. Amendment to Be Known as the “Governor’s
 2 Succession Amendment.”**—For convenience in referring
 3 to said proposed amendment, and in the preparation of
 4 the form of the ballot hereinafter provided for, said pro-
 5 posed amendment is hereby designated as the “Governor’s
 6 Succession Amendment.”

Sec. 3. Form of Ballot; Election.—For the purpose of
 2 enabling the voters of the state to vote on the question
 3 of said proposed amendment to the constitution at the
 4 said general election to be held in the year one thousand
 5 nine hundred sixty-six, the board of ballot commissioners
 6 of each county is hereby required to place upon, and at
 7 the foot of, the official ballot to be voted at that election,
 8 under the heading reading “Ballot on Constitutional
 9 Amendment(s),” in the second position under said head-
 10 ing, the following:

11 No. 2. Governor’s Succession Amendment.

12 For Ratification

13 Against Ratification.

14 The said election on the proposed amendment at each
 15 place of voting shall be superintended, conducted and
 16 returned, and the result thereof ascertained by the same
 17 officers and in the same manner as the election of officers

18 to be voted for at said election, and all the provisions of
 19 the law relating to general elections, including all duties
 20 to be performed by any officer or board, as far as practi-
 21 cable, and not inconsistent with anything herein con-
 22 tained, shall apply to the election held under the pro-
 23 visions of this act, except when it is herein otherwise pro-
 24 vided. The ballots cast on the question of said proposed
 25 amendment shall be counted as other ballots cast at said
 26 election.

**Sec. 4. Certificates of Election Commissioners; Canvass
 2 of Vote; Certifying Result.**—As soon as the result is as-

3 certained, the commissioners, or a majority of them, and
 4 the canvassers (if there be any), or a majority of them,
 5 at each place of voting, shall make out and sign two cer-
 6 tificates thereof in the following form or to the following
 7 effect:

8 “We the undersigned, who acted as commissioners (or
 9 canvassers, as the case may be) of the election held at
 10 Precinct No., in the district of, in the
 11 county of, on the _____ day of,
 12 one thousand nine hundred sixty-six, upon the question
 13 of the ratification or rejection of the proposed constitu-
 14 tional amendment, do hereby certify that the result of
 15 said election is as follows:

16 “Amendment No. 2. Governor’s Succession Amend-
 17 ment.

18 “For ratification votes.

19 “Against ratification votes.

20 “Given under our hands this day
 21 of, one thousand nine hundred sixty-
 22 six.”

23 The said two certificates shall correspond with each
 24 other in all respects and contain the full and true returns
 25 in said election at each place of voting on said question.
 26 The said commissioners, or any one of them (or said can-
 27 vassers or any one of them, as the case may be), shall,
 28 within four days, excluding Sunday, after that on which
 29 said election was held, deliver one of said certificates to
 30 the clerk of the county court of the county, together with
 31 the ballots, and the other to the clerk of the circuit court
 32 of the county.

33 The said certificates, together with the ballots cast on
 34 the question of said proposed amendment, shall be laid
 35 before the commissioners of the county court at the court-
 36 house at the same time the ballots, poll books and the
 37 certificates of election of the members of the Legislature
 38 are laid before them; and as soon as the result of said
 39 election in the county upon the question of such ratifi-
 40 cation or rejection is ascertained, two certificates of such
 41 result shall be made out and signed by said commissioners
 42 as a board of canvassers, in the form or to the following
 43 effect:

44 "We, the board of canvassers of the county of,
 45 having carefully and impartially examined the returns
 46 of the election held in said county, in each district there-
 47 of, on the day of November, one thousand nine
 48 hundred sixty-six, do certify that the result of the elec-
 49 tion in said county, on the question of the ratification or
 50 rejection of the proposed amendment is as follows:

51 "Amendment No. 2. Governor's Succession Amend-
 52 ment.

53 "For ratification votes.

54 "Against ratification votes.

55 "Given under our hands this day of,
 56 one thousand nine hundred sixty-six."

57 One of the certificates shall be filed in the office of the
 58 clerk of the county court, and the other forwarded by
 59 mail to the secretary of state, who shall file and preserve
 60 the same until the day on which the result of said election
 61 in the state is to be ascertained, as hereinafter stated.

Sec. 5. Proclamation of Result of Election by Governor.

2 —On the twenty-fifth day after the election is held, or
 3 as soon thereafter as practicable, the said certificates shall
 4 be laid before the governor, whose duty it shall be to
 5 ascertain therefrom the result of said election in the
 6 state, and declare the same by proclamation published
 7 in one or more newspapers printed in the seat of gov-
 8 ernment. If a majority of the votes cast at said election
 9 upon said question be for ratification of said amendment,
 10 the proposed amendment so ratified shall be in force and
 11 effect from and after the time of such ratification, as part
 12 of the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Governor.
 2 **nor.**—The governor shall cause the said proposed amend-
 3 ment, with the proper designation for the same as here-
 4 inbefore adopted, to be published one time at least three
 5 months before such election in some newspaper in every
 6 county in which a newspaper is printed, at a price to be
 7 agreed upon in advance, in writing, and the cost of such
 8 advertising shall in the first instance, if found necessary
 9 by him, be paid out of the governor's contingent fund
 10 and be afterwards repaid to such fund by appropriation
 11 of the Legislature.

CHAPTER 12

(House Bill No. 300—Originating in the House Committee
 on the Judiciary)

[Passed February 9, 1966: in effect ninety days from passage. Approved by the
 Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section ten, article eight thereof, relating to courts of record and the judges thereof.

Be it enacted by the Legislature of West Virginia:

Judicial Circuit Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "Judicial Circuit Amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Section 1. Submitting an Amendment to the State Constitution.—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

9 That section ten, article eight of the constitution of the
10 state of West Virginia, be amended to read as follows:

“Article VIII—Judicial Department.

“Section 10. Circuit Courts.—The State shall be di-
2 vided into as many judicial circuits as the Legislature
3 may prescribe. The judges of the circuit courts shall be
4 elected by the qualified voters of the circuit in the
5 manner prescribed by law and shall hold their offices for
6 the term of eight years unless sooner removed in the
7 manner prescribed by this constitution. Any such judge
8 in office when this amendment takes effect shall continue
9 in office in the circuit in which he resides until his term
10 shall expire, unless he is sooner removed, as aforesaid.
11 During his continuance in office a judge of a circuit court
12 shall reside in the circuit of which he is a judge.

13 “The Legislature may increase or decrease the number
14 of circuit judges in any circuit. The judicial circuits
15 existing at the time of the adoption of this amendment
16 shall remain as they are until changed by law. A judge
17 of a circuit court in office at the time of any such change
18 shall continue as a judge of the circuit in which he shall
19 continue to reside after such change, unless his term
20 shall expire, or unless he is sooner removed, as aforesaid.

21 “A vacancy in the office of a judge of the circuit court
22 shall be filled in the same manner as is provided for in
23 the case of a vacancy in the office of a judge of the
24 supreme court of appeals.

25 “There shall be at least one judge for each circuit and
26 as many more as may be necessary to transact the busi-
27 ness of such circuit. If there be two or more judges of a
28 circuit, the business shall be apportioned among them by
29 the chief judge of the circuit in the manner provided by
30 law. The judge longest in continuous service as a circuit
31 court judge shall be chief judge of the circuit. If two
32 or more have so served for the same period, the senior
33 in years of these shall be chief judge: *Provided*, That if
34 such judge declines to serve as chief judge, then another
35 judge of the circuit shall be designated chief judge in
36 accordance with the rules of that circuit. If the chief
37 judge is temporarily disqualified or unable to serve, one

38 of the judges of the circuit designated in accordance
39 with the rules of that circuit shall serve temporarily in
40 his stead.

41 "The Legislature may, by appropriate legislation at the
42 session thereof next after the time of the ratification of
43 this amendment, provide for the continuance of the legis-
44 lative courts of record of limited jurisdiction in existence
45 at the time of such ratification, or make one or more of
46 the judges thereof judges of the judicial circuits in which
47 they shall then reside: *Provided, however,* That the term
48 of any circuit judge, whether originally elected to office
49 as judge of a judicial circuit or originally elected to office
50 as judge of a legislative court of record of limited juris-
51 diction, shall not extend beyond the thirty-first day of
52 December, one thousand nine hundred seventy-six."

Sec. 2. Amendment to Be Known as the "Judicial Cir-
2 **cuit Amendment.**"—For convenience in referring to said
3 proposed amendment, and in the preparation of the
4 form of the ballot hereinafter provided for, said proposed
5 amendment is hereby designated as the "Judicial Circuit
6 Amendment."

Sec. 3. Form of Ballot; Election.—For the purpose of
2 enabling the voters of the state to vote on the question
3 of this proposed amendment to the constitution and any
4 other amendments that may be submitted to the consti-
5 tution at the said general election to be held in the year
6 one thousand nine hundred sixty-six, the board of ballot
7 commissioners of each county is hereby required to place
8 upon, and at the foot of, the official ballot to be voted at
9 that election under the heading reading "Ballot on Consti-
10 tutional Amendment(s)," in the third position under
11 said heading, the following:

12 **No. 3. Judicial Circuit Amendment**

13 For Ratification.

14 Against Ratification.

15 The said election on the proposed amendment at each
16 place of voting shall be superintended, conducted and
17 returned, and the result thereof ascertained by the same
18 officers and in the same manner as the election of officers
19 to be voted for at said election, and all the provisions of

20 the law relating to general elections, including all duties
 21 to be performed by any officer or board, as far as prac-
 22 ticable, and not inconsistent with anything herein con-
 23 tained, shall apply to the election held under the pro-
 24 visions of this act, except when it is herein otherwise
 25 provided. The ballots cast on the question of said proposed
 26 amendment shall be counted as other ballots cast at said
 27 election.

Sec. 4. Certificates of Election Commissioners; Can-
 2 **vass of Vote; Certifying Result.**—As soon as the result is
 3 ascertained, the commissioners, or a majority of them, and
 4 the canvassers (if there be any), or a majority of them,
 5 at each place of voting, shall make out and sign two cer-
 6 tificates thereof in the following form or to the following
 7 effect:

8 “We, the undersigned, who acted as commissioners (or
 9 canvassers, as the case may be) of the election held at
 10 Precinct No. _____, in the district of _____,
 11 in the county of _____, on the _____ day of
 12 _____, one thousand nine hundred sixty-
 13 six, upon the question of the ratification or rejection of
 14 the proposed constitutional amendment, do hereby certify
 15 that the result of said election is as follows:

16 “Amendment No. 3. Judicial Circuit Amendment

17 “For ratification _____ votes.

18 “Against ratification _____ votes.

19 “Given under our hands this _____ day of _____,
 20 one thousand nine hundred sixty-six.”

21 The said two certificates shall correspond with each
 22 other in all respects and contain the full and true returns
 23 in said election at each place of voting on said question.
 24 The said commissioners, or any one of them (or said
 25 canvassers or any one of them, as the case may be),
 26 shall, within four days, excluding Sunday, after that on
 27 which said election was held, deliver one of said certifi-
 28 cates to the clerk of the county court of the county, to-
 29 gether with the ballots, and the other to the clerk of the
 30 circuit court of the county.

31 The said certificates, together with the ballots cast on
 32 the question of said proposed amendment, shall be laid be-
 33 fore the commissioners of the county court at the court-

34 house at the same time the ballots, poll books and the
 35 certificates of election of the members of the Legislature
 36 are laid before them; and as soon as the result of said
 37 election in the county upon the question of such ratifica-
 38 tion or rejection is ascertained, two certificates of such
 39 result shall be made out and signed by said commissioners
 40 as a board of canvassers, in the form or to the following
 41 effect:

42 "We, the board of canvassers of the county of.....
 43, having carefully and impartially examined
 44 the returns of the election held in said county, in each
 45 district thereof, on the day of November, one
 46 thousand nine hundred sixty-six, do certify that the result
 47 of the election in said county, on the question of the
 48 ratification or rejection of the proposed amendment is
 49 as follows:

50 "Amendment No. 3. Judicial Circuit Amendment

51 "For ratification votes.

52 "Against ratification votes.

53 "Given under our hands this day of,
 54 one thousand nine hundred sixty-six."

55 One of the certificates shall be filed in the office of the
 56 clerk of the county court, and the other forwarded by
 57 mail to the secretary of state, who shall file and preserve
 58 the same until the day on which the result of said election
 59 in the state is to be ascertained, as hereinafter stated.

Sec. 5. Proclamation of Result of Election by Gov-
 2 **ernor.**—On the twenty-fifth day after the election is held,
 3 or as soon thereafter as practicable, the said certificates
 4 shall be laid before the governor, whose duty it shall be
 5 to ascertain therefrom the result of said election in the
 6 state, and declare the same by proclamation published
 7 in one or more newspapers printed in the seat of govern-
 8 ment. If a majority of the votes cast at said election upon
 9 said question be for ratification of said amendment, the
 10 proposed amendment so ratified shall be in force and
 11 effect from and after the time of such ratification, as part
 12 of the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Gov-
 2 **ernor.**—The governor shall cause the said proposed

3 amendment, with the proper designation for the same
4 as hereinbefore adopted, to be published one time at least
5 three months before such election in some newspaper
6 in every county in which a newspaper is printed, at a
7 price to be agreed upon in advance, in writing, and the
8 cost of such advertising shall in the first instance, if
9 found necessary by him, be paid out of the governor's
10 contingent fund and be afterwards repaid to such fund
11 by appropriation of the Legislature.

CHAPTER 13

(Com. Sub. for House Bill No. 295—By Mr. Auvil)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending sections twenty-two and thirty-three, article six thereof, relating to the Legislature of the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Legislative Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "Legislative Amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Section 1. Submitting an Amendment to the State Constitution.—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine

8 hundred sixty-six, which proposed amendment is as
9 follows:

10 That sections twenty-two and thirty-three, article six
11 of the constitution be amended to read as follows:

“Article VI—The Legislature.

“Section 22. Length of Legislative Session.—The regu-
2 lar session of the Legislature held in the year one thou-
3 sand nine hundred sixty-seven and every year there-
4 after shall not exceed sixty days. Any such regular
5 session may be extended by the concurrence of two thirds
6 of the members elected to each house.

“Sec. 33. Compensation and Expenses of Members.—
2 Each member of the Legislature shall receive for his
3 services the sum of two thousand five hundred dollars
4 a year, and such expenses in connection with any session
5 and party caucuses and the performance of authorized
6 interim assignments as may be provided for by general
7 law.

8 “Notwithstanding any other provisions of the Consti-
9 tution, the compensation herein provided for, and such
10 expenses as may be provided for by general law, shall
11 be paid to each member of the Legislature on and after
12 the ratification of this amendment.”

**Sec. 2. Amendment to Be Known as the “Legislative
2 Amendment.”—**For convenience in referring to said pro-
3 posed amendment, and in the preparation of the form
4 of the ballot hereinafter provided for, said proposed
5 amendment is hereby designated as the “Legislative
6 Amendment.”

Sec. 3. Form of Ballot; Election.—For the purpose of
2 enabling the voters of the state to vote on the question
3 of said proposed amendment to the constitution at the
4 said general election to be held in the year one thousand
5 nine hundred sixty-six, the board of ballot commissioners
6 of each county is hereby required to place upon, and at
7 the foot of, the official ballot to be voted at that election,
8 under the heading reading “Ballot on Constitutional
9 Amendment(s),” in the fourth position under said head-
10 ing, the following:

11 No. 4. Legislative Amendment

12 For Ratification13 Against Ratification

14 The said election on the proposed amendment at each
 15 place of voting shall be superintended, conducted and
 16 returned, and the result thereof ascertained by the same
 17 officers and in the same manner as the election of officers
 18 to be voted for at said election, and all the provisions of
 19 the law relating to general elections, including all duties
 20 to be performed by any officer or board, as far as prac-
 21 ticable, and not inconsistent with anything herein
 22 contained, shall apply to the election held under the
 23 provisions of this act, except when it is herein otherwise
 24 provided. The ballots cast on the question of said pro-
 25 posed amendment shall be counted as other ballots cast
 26 at said election.

Sec. 4. Certificates of Election Commissioners; Can-
 2 **vass of Vote; Certifying Result.**—As soon as the result
 3 is ascertained, the commissioners, or a majority of them,
 4 and the canvassers (if there be any), or a majority of
 5 them, at each place of voting, shall make out and sign
 6 two certificates thereof in the following form or the
 7 following effect:

8 “We, the undersigned, who acted as commissioners (or
 9 canvassers, as the case may be) of the election held at
 10 Precinct No. _____, in the district of _____,
 11 in the county of _____, on the _____ day of
 12 _____, one thousand nine hundred sixty-
 13 six, upon the question of the ratification or rejection of
 14 the proposed constitutional amendment, do hereby certify
 15 that the result of said election is as follows:

16 “Amendment No. 4. Legislative Amendment

17 “For ratification _____ votes.

18 “Against ratification _____ votes.

19 “Given under our hands this _____ day of _____,
 20 one thousand nine hundred sixty-six.”

21 The said two certificates shall correspond with each
 22 other in all respects and contain the full and true returns
 23 in said election at each place of voting on said question.
 24 The said commissioners, or any one of them (or said can-
 25 vassers or any one of them, as the case may be), shall,

26 within four days, excluding Sunday, after that on which
27 said election was held, deliver one of said certificates
28 to the clerk of the county court of the county, together
29 with the ballots, and the other to the clerk of the circuit
30 court of the county.

31 The said certificates, together with the ballots cast on
32 the question of said proposed amendment, shall be laid
33 before the commissioners of the county court at the
34 courthouse at the same time the ballots, poll books and
35 the certificates of election of the members of the Legis-
36 lature are laid before them; and as soon as the result
37 of said election in the county upon the question of such
38 ratification or rejection is ascertained, two certificates
39 of such result shall be made out and signed by said
40 commissioners as a board of canvassers, in the form or
41 to the following effect:

42 "We, the board of canvassers of the county of _____,
43 having carefully and impartially examined the returns
44 of the election held in said county, in each district there-
45 of, on the _____ day of November, one thousand nine
46 hundred sixty-six, do certify that the result of the elec-
47 tion in said county, on the question of the ratification or
48 rejection of the proposed amendment is as follows:

49 "Amendment No. 4. Legislative Amendment

50 "For ratification _____ votes.

51 "Against ratification _____ votes.

52 "Given under our hands this _____ day of _____,
53 one thousand nine hundred sixty-six."

54 One of the certificates shall be filed in the office of the
55 clerk of the county court, and the other forwarded by
56 mail to the secretary of state, who shall file and preserve
57 the same until the day on which the result of said election
58 in the state is to be ascertained, as hereinafter stated.

Sec. 5. Proclamation of Result of Election by Governor.

2 —On the twenty-fifth day after the election is held, or
3 as soon thereafter as practicable, the said certificates
4 shall be laid before the governor, whose duty it shall be
5 to ascertain therefrom the result of said election in the
6 state, and declare the same by proclamation published
7 in one or more newspapers printed in the seat of govern-
8 ment. If a majority of the votes cast at said election

9 upon said question be for ratification of said amendment,
 10 the proposed amendment so ratified shall be in force
 11 and effect from and after the time of such ratification,
 12 as part of the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Gov-
 2 **ernor.**—The governor shall cause the said proposed
 3 amendment, with the proper designation for the same
 4 as hereinbefore adopted, to be published one time at least
 5 three months before such election in some newspaper
 6 in every county in which a newspaper is printed, at a
 7 price to be agreed upon in advance, in writing, and the
 8 cost of such advertising shall in the first instance, if
 9 found necessary by him, be paid out of the governor's
 10 contingent fund and be afterwards repaid to such fund
 11 by appropriation of the Legislature.

CHAPTER 14

(Senate Bill No. 80—Originating in the Senate
 Committee on Finance)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the
 Governor]

AN ACT to provide for the submission to the voters of the state
 of an amendment to the constitution of the state of West
 Virginia, amending section ten of article ten thereof, known
 and designated as the "Better Schools Amendment," and
 ratified by the voters in the year one thousand nine hun-
 dred fifty-eight.

Be it enacted by the Legislature of West Virginia:

Amendment to the Better Schools Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "Amendment to the Better Schools Amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Section 1. Submitting an Amendment to the State Constitution.—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:
That section ten, article ten of the constitution of the state of West Virginia be amended to read as follows:

“Article X. Taxation and Finance.

“Section 10. Better Schools Amendment.—Notwithstanding any other provision of the Constitution to the contrary, the maximum rates authorized and allocated by law for tax levies on the several classes of property for the support of public schools may be increased in any school district for a period not to exceed five years, and in an amount not to exceed one hundred per cent of such maximum rates, if such increase is approved, in the manner provided by law, by at least a majority of the votes cast for and against the same.

“Notwithstanding any other provision of the Constitution to the contrary, the maximum rates provided for tax levies by school districts on the several classes of property may be used entirely for current expense purposes; and all levies required for principal and interest payments on any bonded indebtedness, now or hereafter contracted, not to exceed five per centum on the value of the taxable property therein, the value to be ascertained in accordance with section eight of this article, shall be laid separate and apart and in addition to such maximum rates, but in the same proportions as such maximum rates are levied on the several classes of property.

“Notwithstanding the provisions of section eight of this article to the contrary, or any other provisions of the Constitution to the contrary, a county board of education may contract indebtedness and issue bonds for public school purposes as provided by law, if, when submitted to a vote of the people of the county, in the manner provided by

30 law, the question of contracting indebtedness and issuing
31 bonds is approved by a majority of the votes cast for and
32 against the same.”

**Sec. 2. Amendment to Be Known as the “Amendment
2 to the Better Schools Amendment.”**—For convenience in
3 referring to said proposed amendment, and in the prepara-
4 tion of the form of the ballot hereinafter provided for,
5 said proposed amendment is hereby designated as the
6 “Amendment to the Better Schools Amendment.”

Sec. 3. Form of Ballot; Election.—For the purpose of
2 enabling the voters of the state to vote on the question
3 of said proposed amendment to the constitution at the said
4 general election to be held in the year one thousand nine
5 hundred sixty-six, the board of ballot commissioners of
6 each county is hereby required to place upon, and at the
7 foot of, the official ballot to be voted at that election,
8 a heading reading “Ballot on Constitutional Amend-
9 ment(s).” In the fifth position under said heading the
10 board of ballot commissioners of each county shall place
11 the following:

12 No. 5. Amendment to the Better Schools Amendment.

13 For Ratification.

14 Against Ratification.

15 The said election on the proposed amendment at each
16 place of voting shall be superintended, conducted and
17 returned, and the result thereof ascertained by the same
18 officers and in the same manner as the election of officers
19 to be voted for at said election, and all the provisions of
20 the law relating to general elections, including all duties
21 to be performed by any officer or board, as far as practi-
22 cable, and not inconsistent with anything herein con-
23 tained, shall apply to the election held under the provi-
24 sions of this act, except when it is herein otherwise
25 provided. The ballots cast on the question of said pro-
26 posed amendment shall be counted as other ballots cast
27 at said election.

**Sec. 4. Certificates of Election Commissioners; Canvass
2 of Vote; Certifying Result.**—As soon as the result is as-
3 certained, the commissioners, or a majority of them, and
4 the canvassers (if there be any), or a majority of them,

5 at each place of voting, shall make out and sign two
6 certificates thereof in the following form or to the follow-
7 ing effect:

8 "We, the undersigned, who acted as commissioners (or
9 canvassers, as the case may be) of the election held at
10 Precinct No., in the District of, in
11 the County of, on the day of
12 November, one thousand nine hundred sixty-six, upon
13 the question of the ratification or rejection of the pro-
14 posed constitutional amendment, do hereby certify that
15 the result of said election is as follows:

16 "Amendment No. 5. Amendment to the Better Schools
17 Amendment.

18 "For ratification.....votes.

19 "Against ratification.....votes.

20 "Given under our hands this day of,
21 one thousand nine hundred sixty-six."

22 The said two certificates shall correspond with each
23 other in all respects and contain the full and true returns
24 in said election at each place of voting on said question.
25 The said commissioners, or any one of them (or said can-
26 vassers or any one of them, as the case may be), shall
27 within four days, excluding Sunday, after that on which
28 said election was held, deliver one of said certificates to
29 the clerk of the county court of the county, together with
30 the ballots, and the other to the clerk of the circuit court
31 of the county.

32 The said certificates, together with the ballots cast on
33 the question of said proposed amendment, shall be laid
34 before the commissioners of the county court at the court-
35 house at the same time the ballots, poll books, and the
36 certificates of election of the members of the Legislature
37 are laid before them; and as soon as the result of said
38 election in the county upon the question of such ratifi-
39 cation or rejection is ascertained, two certificates of such
40 result shall be made out and signed by said commissioners
41 as a board of canvassers, in the form or to the following
42 effect:

43 "We, the board of canvassers of the county of
44, having carefully and impartially examined
45 the returns of the election held in said county, in each

46 district thereof, on the _____ day of November, one thou-
 47 sand nine hundred sixty-six, do certify that the result
 48 of the election in said county, on the question of the rati-
 49 fication or rejection of the proposed amendment is as
 50 follows:

51 "Amendment No. 5. Amendment to the Better Schools
 52 Amendment.

53 "For ratification.....votes.

54 "Against ratification.....votes.

55 "Given under our hands this _____ day of _____,
 56 one thousand nine hundred sixty-six."

57 One of the certificates shall be filed in the office of the
 58 clerk of the county court, and the other forwarded by
 59 mail to the secretary of state, who shall file and preserve
 60 the same until the day on which the result of said election
 61 in the state is to be ascertained, as hereinafter stated.

Sec. 5. Proclamation of Result of Election by Governor.

2 —On the twenty-fifth day after the election is held, or as
 3 soon thereafter as practicable, the said certificates shall
 4 be laid before the governor, whose duty it shall be to
 5 ascertain therefrom the result of said election in the state,
 6 and declare the same by proclamation published in one
 7 or more newspapers printed in the seat of government.
 8 If a majority of the votes cast at said election upon said
 9 question be for ratification of said amendment, the pro-
 10 posed amendment so ratified shall be in force and effect
 11 from and after the time of such ratification, as part of the
 12 constitution of the state.

Sec. 6. Publication of Proposed Amendment by Govern-

2 **nor.**—The governor shall cause the said proposed amend-
 3 ment, with the proper designation for the same as here-
 4 inbefore adopted, to be published one time at least three
 5 months before such election in some newspaper in every
 6 county in which a newspaper is printed, at a price to be
 7 agreed upon in advance, in writing, and the cost of such
 8 advertising shall in the first instance, if found necessary
 9 by him, be paid out of the governor's contingent fund and
 10 be afterwards repaid to such fund by appropriation of
 11 the Legislature.

CHAPTER 15

(Senate Bill No. 82—By Mr. Davis)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section sixteen, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to boards of directors of corporations; powers, number, qualifications, terms, quorum, and classes of directors; committees; designation, composition, appointment, powers and action of committees; and protections extended to directors.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Provisions Relating to Corporations Generally.

Section

16. Board of directors; qualifications; committees; classes; reliance upon corporate records.

Section 16. Board of Directors; Qualifications; Committees; Classes; Reliance upon Corporate Records.—(a)
The business of every corporation organized under the provisions of this chapter, or existing under the laws of this state, shall be managed by a board of directors, except as hereinafter or in its charter otherwise provided.
(b) The number of directors which shall constitute the whole board shall be such as from time to time shall be fixed by, or in the manner provided in, the by-laws, but in no case shall the number be less than three: *Provided*, That when all the shares of a corporation are owned beneficially and of record by either one or two stockholders, the number of directors may be less than three but not less than the number of stockholders. Directors need not be stockholders unless so required by the charter or the by-laws. The directors shall hold office until their successors are respectively elected and qualified, and a majority of them shall constitute a quorum for the transaction of busi-

19 ness, unless the by-laws shall provide that a different num-
20 ber shall constitute a quorum, which in no case shall be
21 less than one third of the total number of directors nor less
22 than two directors: *Provided, however,* That when a
23 board of one director is authorized under the provisions of
24 this section, then one director shall constitute a quorum.

25 (c) The board of directors may, by resolution or reso-
26 lutions passed by a majority of the whole board, designate
27 one or more committees, each committee to consist of two
28 or more of the directors of the corporation. Any such com-
29 mittee, to the extent provided in the resolution or resolu-
30 tions or in the by-laws, shall have and may exercise the
31 powers of the board of directors in the management of the
32 business and affairs of the corporation, and may authorize
33 the seal of the corporation to be affixed to all papers which
34 may require it. The by-laws may provide that, in the ab-
35 sence or disqualification of any member of any such com-
36 mittee, the member or members thereof present at any
37 meeting and not disqualified from voting, whether or not
38 he or they constitute a quorum, may unanimously appoint
39 another member of the board of directors to act at the
40 meeting in the place of any such absent or disqualified
41 member. Such committee or committees shall have such
42 name or names as may be stated in the by-laws or as may
43 be determined from time to time by resolution adopted by
44 the board of directors. Unless otherwise provided in the
45 by-laws or ordered by the board, any such committee
46 may act by a majority of its members at a meeting or
47 by a writing signed by all of its members and filed with
48 the minutes of proceedings of the board.

49 (d) The directors of any corporation may, by the char-
50 ter or any amendment thereto, or by a vote of the stock-
51 holders, be divided into one, two or three classes; the
52 term of office of those of the first class to expire at the
53 annual meeting next ensuing; of the second class one year
54 thereafter; of the third class two years thereafter; and
55 at each annual election held after such classification and
56 election, directors shall be chosen for a full term, as the
57 case may be, to succeed those whose terms expire.

58 (e) A director of any corporation, or a member of any
59 committee designated by the board of directors pursuant

60 to this section, shall, in the performance of his duties, be
61 fully protected in relying in good faith upon the books
62 of account or reports made to the corporation by any of
63 its officials, or by an independent certified public ac-
64 countant, or by an appraiser selected with reasonable
65 care by the board of directors or by any such committee,
66 or in relying in good faith upon other records of the
67 corporation.

CHAPTER 16

(House Bill No. 277—By Mr. Myles and Mr. Armistead)

[Passed February 7, 1966: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to penalties for attempted crimes.

Be it enacted by the Legislature of West Virginia:

That section eight, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 11. General Provisions Concerning Crimes.

Section

8. Attempts; classification and penalties therefor.

Section 8. Attempts; Classification and Penalties Therefor.—Every person who attempts to commit an offense, but fails to commit or is prevented from committing it, shall, where it is not otherwise provided, be punished as follows: If the offense attempted be punishable with life imprisonment, the person making such attempt shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than five years. If it be punishable by confinement in the penitentiary for a term less than life, he shall be guilty of a misdemeanor, and, upon conviction,

12 shall be confined in jail not less than six nor more than
13 twelve months, and fined not exceeding five hundred
14 dollars. If it be punishable by confinement in jail, he
15 shall be guilty of a misdemeanor, and, upon conviction,
16 shall be confined in jail not more than six months, or
17 fined not exceeding one hundred dollars.

CHAPTER 17

(House Bill No. 299—By Mr. Madden)

[Passed February 9, 1966; in effect July 1, 1966 Approved by the Governor.]

AN ACT to amend and reenact section fourteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salaries of probation and parole officers.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 12. Probation and Parole.

Section

14. Officers and staff.

Section 14. Officers and Staff.—The director shall have

2 authority to appoint such state probation and parole
3 officers as may be necessary to the proper administration
4 of this article, and to employ clerical assistants. He shall
5 determine the qualifications of probation and parole offi-
6 cers and may from time to time conduct competitive
7 examinations as a basis for their selection.

8 The director shall fix the salaries of state probation and
9 parole officers and all clerical assistants. All persons ap-
10 pointed or employed by the director shall be paid all
11 necessary expenses incurred in the discharge of their
12 duties.

CHAPTER 18

(House Bill No. 286—By Mr. Speaker, Mr. White, and Mr. Cann)

[Passed February 9, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article thirteen, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of the director and deputy director of the division of correction, and empowering the commissioner of public institutions to fix their salaries.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 13. Division of Correction.

Section

6. Compensation of director and employees fixed by commissioner; traveling and other expenses; payment of salaries.

Section 6. Compensation of Director and Employees

- 2 **Fixed by Commissioner; Traveling and Other Expenses;**
- 3 **Payment of Salaries.**—The commissioner of public institu-
- 4 tions shall fix the salaries of the director, deputy direc-
- 5 tors and of the other officers and employees employed
- 6 pursuant to the provisions of this article. All persons
- 7 employed hereunder shall receive necessary traveling
- 8 and other expenses. The compensation, salaries, expenses
- 9 and appropriations provided for the division of correction
- 10 and its employees shall be paid in the same manner as
- 11 are those of other state employees and agencies upon rec-
- 12 ommendation of the director and certification and ap-
- 13 proval of the commissioner of public institutions.

CHAPTER 19

(Senate Bill No. 84—By Mr. Brotherton)

[Passed February 9, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to time for trial of criminal cases; depositions of witnesses for accused; counsel, copy of indictment, and lists of jurors for accused; and remuneration for appointed counsel.

Be it enacted by the Legislature of West Virginia:

That section one, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Trial of Criminal Cases.

Section

1. Time for trial; depositions of witnesses for accused; counsel, copy of indictment, and lists of jurors for accused; remuneration for appointed counsel.

Section 1. Time for Trial; Depositions of Witnesses for Accused; Counsel, Copy of Indictment, and Lists of Jurors for Accused; Remuneration for Appointed Counsel.—

- 4 When an indictment is found in a court having jurisdiction, in any county, against a person for a felony, the accused, if in custody, or if he appear in discharge of his recognizance, or voluntarily, shall, unless good cause be shown for a continuance, be tried at the same term. If any witness for the accused be a nonresident of the state, or absent therefrom in any service or employment, so that service of a subpoena cannot be had upon him in this state, or is aged or infirm so that he cannot attend upon the court at the trial, the accused may present to the court in which the case is pending, or to the judge thereof in vacation, an affidavit showing such facts, and stating therein what he expects to prove by any such

17 witness, his name, residence, or place of service or em-
18 ployment; and if such court or judge be of the opinion
19 that the evidence of any such witness, as stated in such
20 affidavit, is necessary and material to the defense of the
21 accused on his trial, an order may be made by such court
22 or judge for the taking of the deposition of any such
23 witness upon such notice to the prosecuting attorney, of
24 the time and place of taking the same, as the court or
25 judge may prescribe; and in such order the court or
26 judge may authorize the employment of counsel, prac-
27 ticing at or near the place where the deposition is to be
28 taken, to cross-examine the witness on behalf of the state,
29 the reasonable expense whereof shall be paid out of the
30 treasury of the state, upon certificate of the court wherein
31 the case is pending. Every deposition so taken may, on
32 motion of the defendant, so far as the evidence therein
33 contained is competent and proper, be read to the jury
34 on the trial of the case as evidence therein. A court of
35 record having criminal jurisdiction may appoint counsel
36 to assist an accused in criminal cases, except traffic viola-
37 tions and violations of municipal ordinances, at any time
38 upon request. A copy of the indictment and of the
39 list of the jurors selected or summoned for his trial,
40 as provided in the third section of this article, shall be
41 furnished him, upon his request, at any time before the
42 jury is impaneled. In every case where the court appoints
43 counsel for the accused and the accused presents an
44 affidavit showing that he cannot pay therefor, the court,
45 may, in its discretion, by order entered of record allow
46 an attorney so appointed a fee of not to exceed twenty-
47 five dollars in any misdemeanor case, and a fee of not
48 to exceed fifty dollars in any felony case. In misdemeanor
49 cases, the fee so allowed shall be paid out of the general
50 county fund, and in felony cases shall be paid by the state
51 auditor as other fees in felony cases are paid. The amount
52 so paid, in the event the accused shall not prevail, shall
53 be and constitute a judgment of said court against the
54 accused to be recovered as any other judgment for costs.

CHAPTER 20

(Senate Bill No. 37—By Mr. Carson, Mr. President,
and Mr. Jasper)

[Passed February 5, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirteen-f, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a supplemental retirement plan for persons employed by the state board of education at institutions of higher education under its control.

Be it enacted by the Legislature of West Virginia:

That section thirteen-f, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. State Board of Education.

Section

13-f. Payroll deductions for employees participating in supplemental retirement plan; authority to match employee contributions.

Section 13-f. Payroll Deductions for Employees Participating in Supplemental Retirement Plan; Authority to Match Employee Contributions.—The state board of education shall have the authority to contract for retirement benefits for any or all persons employed by the board at institutions of higher education under its control to supplement the benefits such employees will receive under the state teachers' retirement system. The board shall have the authority to make additional periodic deductions from the salary payments due such employees in the amount they are required to contribute for the supplemental retirement plan selected by the board. The additional deductions shall not exceed five per cent of the salary of employees thirty through thirty-four years of age, six per cent of the salary of those thirty-five through forty-four years of age, and seven and one-half per cent of the salary of those forty-five years of age and above,

18 and shall not cover any portion of an employee's salary
19 which is covered by the state teachers' retirement system.
20 The board is further authorized, by way of additional
21 compensation to such employees, to pay an amount equal
22 to the contributions of such employees into such retire-
23 ment plan from funds appropriated for personal services
24 at the several institutions of higher education under its
25 control. Each participating employee shall have a full and
26 immediate vested interest in the retirement and death
27 benefits accrued from all the moneys paid into such sup-
28 plemental retirement plan for his benefit. Upon proper
29 requisition of the board, the auditor shall periodically is-
30 sue a warrant, payable as specified in the requisition, for
31 the total contributions so withheld from the salaries of
32 all participating employees and for the board's matching
33 funds.

34 The provisions of this section as hereby amended shall
35 apply to all calendar years beginning on and after Decem-
36 ber thirty-one, one thousand nine hundred sixty-five, and
37 to the entirety of the year beginning January one, one
38 thousand nine hundred sixty-six, including that part of
39 said year that has elapsed prior to the effective date of
40 this section.

CHAPTER 21

(Com. Sub. for Senate Bill No. 58—By Mr. Carson,
Mr. President, and Mr. McKown)

[Passed February 10, 1968; in effect from passage. Approved by the Governor.]

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven-a, relating to the sale or exchange of school property included in federal flood control projects to the United States of America, its instrumentalities, agencies or political subdivisions.

Be it enacted by the Legislature of West Virginia:

That article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seven-a, to read as follows:

Article 5. District Board of Education.

Section

7-a. Disposition of school property in flood control projects.

Section 7-a. Disposition of School Property in Flood Control Projects.—If at any time the board shall ascertain that any land or part thereof then being used for school purposes is to be included in any federal flood control project the board may (a) sell, dismantle, remove or relocate any buildings thereon; (b) contract with the United States of America, or any instrumentality, agency or political subdivision thereof, for the sale or exchange of its interest in such land or any part thereof; and (c) without auction sell or exchange its interest in such land or any part thereof to the United States of America, or any instrumentality, agency or political subdivision thereof, in accordance with the terms and provisions of such contract. Notwithstanding the provisions of section seven of this article, neither the grantor of such land or any part thereof nor his heirs or assigns shall have the right to purchase said land or any part thereof or have any other rights whatever under section seven of this article.

⊙

CHAPTER 22

(House Bill No. 233—By Mr. Lohr and Mr. Boiarsky)

[Passed February 9, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact section two-b, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sick-leave compensation for full-time nonteaching personnel.

Be it enacted by the Legislature of West Virginia:

That section two-b, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Teachers.

Section

2-b. Sick-leave compensation for full-time nonteaching personnel.

Section 2-b. Sick-leave Compensation for Full-time Nonteaching Personnel.—The county board of education shall establish and maintain in its annual budget a separate fund to be known as the “Nonteaching Personnel Sick-leave Fund.” In allocating money to this fund, the board shall provide and maintain a reasonable reserve to meet the cost of any accumulated sick leave that may occur.

Any full-time nonteaching employee employed by a county board of education shall be entitled to at least five days of sick leave per year, accumulative to a total of twenty school days. Money allocated to the sick-leave fund shall be used to pay the salary of any full-time nonteaching employee who loses time from assigned duties due to personal accident, sickness, death in the immediate family, or any other emergency cause that may be authorized or approved by the board.

All sick-leave benefits shall be paid at the end of the school year. If funds budgeted for sick leave are insufficient to pay the amount due, the per diem salaries for all nonteaching employees claiming sick-leave benefits shall be reduced proportionately. The board is authorized to prescribe such other regulations as it may deem necessary.

CHAPTER 23

(House Bill No. 221—By Mr. Speaker, Mr. White,
and Mr. Boiarsky)

[Passed January 28, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article nine-a,

chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to computation of local share in allocation of state aid for schools and appraisal and assessment of property.

Be it enacted by the Legislature of West Virginia:

That section four, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 9-a. Allocation of State Aid for Schools.

Section

4. Computation of local share; appraisal and assessment of property.

Section 4. Computation of Local Share; Appraisal and Assessment of Property.—On the basis of the most recent survey of property valuations in the state, completed as to all classes of property in all counties determined by the tax commissioner under present or former provisions of this article, the state board shall for each county compute by application of the levies for general current expense purposes, as defined in section two of this article, the amount of revenue which such levies would produce if levied upon one hundred per cent of the appraised value of each of the several classes of property contained in the report or revised report of such value, made to it by the tax commissioner as follows: (1) The state board shall first take ninety-seven and one-half per cent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county. (2) The state board shall then apply these rates to the appraised value of other property in each classification in the county as determined by the tax commissioner and shall deduct therefrom five per cent as an allowance for the usual losses in collections due to discounts, exemptions, delinquencies and the like. Fifty per cent of the amount so determined shall be added to the ninety-seven and one-half per cent of public utility taxes computed as provided above and this total shall be the local share of the particular county.

28 The tax commissioner shall make or cause to be made
29 an appraisal in the several counties of the state of all
30 nonutility real property and of all nonutility personal
31 property which shall be based upon true and actual value
32 as set forth in article three, chapter eleven of this code.
33 In determining the value of personal property—other
34 than all machinery, equipment, furniture and fixtures of
35 any industrial plant, mine, quarry or installation and of
36 any commercial, industrial, or professional establishment
37 —the tax commissioner shall prescribe accepted methods
38 of determining such values. The tax commissioner shall
39 in accordance with such methods determine the value
40 of such property.

41 For the purpose of appraising commercial, industrial,
42 and professional properties the tax commissioner after
43 consultation with the county court shall employ a com-
44 petent property appraisal firm or firms which appraisals
45 shall be under his supervision and direction.

46 In making or causing to be made such appraisal, the
47 tax commissioner shall employ such assistants as available
48 appropriations will permit and shall prescribe and use
49 such accepted methods and procedures for checking
50 property values and determining the amount of property
51 in the several classes of property provided by law as are
52 customarily employed for appraisal purposes.

53 Such appraisal of all said property in the several coun-
54 ties shall be completed prior to the first day of July, one
55 thousand nine hundred sixty-seven. Each year after the
56 completion of the property appraisal in a county the tax
57 commissioner shall maintain the appraisal by making
58 or causing to be made such surveys, examinations, audits,
59 maps and investigations of the value of the several classes
60 of property in each county which should be listed and
61 taxed under the several classifications, and shall deter-
62 mine the appraised value thereof. On the basis of in-
63 formation so ascertained, the tax commissioner shall an-
64 nually revise his reports to the Legislature and to the
65 state board concerning such appraisals, such reports to
66 be made not later than the first day of January of each
67 year.

68 As information from such appraisal of property in a
69 county under the provisions of this section becomes avail-
70 able for a district, municipality and county, the tax
71 commissioner shall notify the county court and the as-
72 sessor of said county that such information is available
73 and shall make available to said county court and asses-
74 sor all data, records, and reports or other information
75 relating to said work, along with a list of any properties
76 in said district, municipality, and county which are en-
77 tered on the assessment rolls but for which no appraisal
78 has been made, a list of any properties which were ap-
79 praised but which cannot be found on the assessment
80 rolls and a list of all properties carried on the assess-
81 ment rolls which have not been identified on the maps.
82 Said lists shall set forth the name of the owner and a
83 description of the property and the reason, if known, for
84 its failure to have been entered on the assessment rolls
85 or to have been appraised or to have been identified on
86 the map, as the case may be.

87 As such appraisal of property in a county, under this
88 section, is completed to the extent that a total valuation
89 for each class of property can be determined, such ap-
90 praisal shall be delivered to the assessor and the county
91 court, and in each assessment year commencing after
92 such appraisal is so delivered and received, the county
93 assessor and the county court, sitting as a board of equali-
94 zation and review, shall use such appraised valuations as
95 a basis for determining the true and actual value for
96 assessment purposes of the several classes of property.
97 The total assessed valuation in each of the four classes
98 of property shall be not less than fifty per cent nor more
99 than one hundred per cent of the appraised valuation of
100 each said class of property: *Provided*, That (1) until the
101 completion of the appraisal herein provided for in all
102 fifty-five counties of the state; and (2) upon completion
103 of the appraisal of any county and delivery of the ap-
104 praised valuations to the county by the tax commissioner;
105 and (3) when it shall appear that the total assessed
106 valuations of any class of property in such county are less
107 than fifty per cent of the total appraised valuations of

108 such class of property; then in such events the tax com-
109 missioner may authorize a total assessed valuation in each
110 such class of less than fifty per cent of the total appraised
111 valuation of such class of property; except that such
112 authorized total assessed valuation shall be increased
113 each year thereafter, as nearly as practicable in equal
114 steps, so that in the third assessment year after the de-
115 livery of the appraised valuations in each class of prop-
116 erty, as required above, the total assessed valuation of
117 each class of property shall be not less than fifty per cent
118 nor more than one hundred per cent of the appraised
119 valuation of each class of property as delivered by the
120 tax commissioner: *Provided further*, That upon the
121 tax commissioner's delivery of the appraised valuation
122 to a county, such appraised valuations shall serve as the
123 basis for the spot check appraisal in said county until all
124 of the fifty-five counties of the state have been reap-
125 praised.

126 The determination of appraised values in those coun-
127 ties where the full appraisal has not been completed as
128 defined above and delivered to the assessor and the coun-
129 ty court prior to the first day of the assessment year shall
130 be continued by the tax commissioner on the annual spot
131 survey basis. Beginning with the fiscal year one thou-
132 sand nine hundred sixty and for each year thereafter
133 until the full survey is so completed and delivered in
134 a county, the assessed value in each of the four classes
135 of property in such county shall be not less than fifty
136 per cent nor more than one hundred per cent of the ap-
137 praised valuation of each said class of property as deter-
138 mined by the last previous state-wide report of the tax
139 commissioner: *Provided, however*, That in those counties
140 where the full appraisal has not been completed and
141 delivered, as aforesaid, to the county assessor and the
142 county court prior to the first day of the assessment year,
143 the requirements of this paragraph shall be satisfied if:

144 (1) The total tax yield from the four classes of prop-
145 erty based upon the allowable school levy rates defined
146 in section two of this article equals or exceeds the amount
147 required to meet the local share as provided in this sec-
148 tion; or

149 (2) For the assessment year one thousand nine hun-
150 dred sixty-one, the assessor has increased the total valua-
151 tions of property in an amount not less than thirty-three
152 and one-third per cent of the difference between the to-
153 tal assessed valuations for the assessment year one thou-
154 sand nine hundred sixty and the valuations required by
155 this section; or

156 (3) For the assessment year one thousand nine hun-
157 dred sixty-two, the assessor has increased the total valu-
158 ations of property in an amount not less than fifty per
159 cent of the difference between the total assessed valua-
160 tions of property for the assessment year one thousand
161 nine hundred sixty-one and the total valuations for such
162 class required by this section; or

163 (4) For the assessment year one thousand nine hun-
164 dred sixty-three, the assessor has increased the total
165 valuation of property so that the same meet the require-
166 ments of this section.

167 Whenever in any year a county assessor and/or county
168 court shall fail or refuse to comply with the provisions
169 of this section in setting the valuations of property for
170 assessment purposes in any class or classes of property
171 in the county, the state tax commissioner shall review
172 the valuations for assessment purposes made by the
173 county assessor and the county court and shall direct
174 the county assessor and county court to make such cor-
175 rections in the valuations as may be necessary so that they
176 shall comply with the requirements of chapter eleven
177 and of this section and the tax commissioner shall enter
178 the county and fix the assessments at the required ratios.
179 Refusal of the assessor and/or the county court to make
180 such corrections shall constitute grounds for removal
181 from office.

182 In any year in which the total assessed valuation of
183 a county shall fail to meet the minimum requirements
184 above set forth, the county court of such county shall
185 allocate for such year to the county board of education
186 from the tax levies allowed to the county court a suffi-
187 cient portion of its levies as will, when applied to the
188 valuations for assessment purposes of such property in

189 the county, provide a sum of money equal to the differ-
190 ence between the amount of revenue which will be pro-
191 duced by application of the allowable school levy rates
192 defined in section two of this article upon the valuations
193 for assessment purposes of such property and the amount
194 of revenue which would be yielded by the application
195 of such levies to fifty per cent of the total of appraised
196 valuations of such property. In the event the county
197 court shall fail or refuse to make the reallocation of levies
198 as provided for herein, the county board of education,
199 the tax commissioner, the state board of school finance,
200 or any other interested party, shall have the right to
201 enforce the same by writ of mandamus in any court of
202 competent jurisdiction.

203 In conjunction with and as a result of the appraisal
204 herein set forth the tax commissioner shall have the
205 power and it shall be his duty, to establish a permanent
206 records system for each county in the state, consisting of:

207 (1) Tax maps of the entire county drawn to scale or
208 aerial maps, which maps shall indicate all property and
209 lot lines, set forth dimensions or areas, indicate whether
210 the land is improved, and identify the respective par-
211 cels or lots by a system of numbers, or symbols and num-
212 bers, whereby the ownership of such parcels and lots
213 can be ascertained by reference to the property record
214 cards and property owner's index;

215 (2) Property record cards arranged geographically
216 according to the location of property on the tax maps,
217 which cards shall set forth the location and description
218 thereof, the acreage or dimensions, description of im-
219 provements, if any, the owner's name, address and date
220 of acquisition, the purchase price, if any, set forth in the
221 deed of acquisition, the amount of tax stamps, if any,
222 on the deed, the assessed valuation, and the identifying
223 number or symbol and number, shown on the tax map;

224 (3) Property owner's index consisting of an alpha-
225 betical listing of all property owners, setting forth brief
226 descriptions of each parcel or lot owned, and cross-
227 indexed with the property record cards and the tax map.

228 The tax commissioner is hereby authorized and em-

229 powered to enter into such contracts as may be neces-
230 sary, and for which funds may be available, to establish
231 the permanent records system herein provided for, or
232 may through his staff and employees, prepare and com-
233 plete such system.

234 All microfilm, photography and original copies of tax
235 maps created under the provisions of this section are the
236 property of the state of West Virginia and the repro-
237 duction, copying, distribution or sale of such microfilm,
238 photography or tax maps or any copies thereof without
239 the written permission of the state tax commissioner is
240 prohibited. Any person who shall violate the provisions
241 of this paragraph shall be guilty of a misdemeanor, and,
242 upon conviction thereof, shall be fined not less than
243 fifty dollars nor more than three hundred dollars or
244 imprisoned for not less than thirty days nor more than
245 one year, or both, in the discretion of the court. Jus-
246 tices of the peace shall have concurrent jurisdiction with
247 other courts having jurisdiction for the trial of all mis-
248 demeanors arising under this paragraph.

249 The tax commissioner shall by uniform regulations^a
250 establish a procedure for the sale of reproduction of
251 microfilm, photography and maps and may pay for hav-
252 ing such reproductions made from the appropriation for
253 "Property Appraisal." Any funds received as a result
254 of the sale of such reproductions shall be deposited to the
255 appropriated account from which the payment for re-
256 productions is made.

257 The cost of conducting the appraisal herein provided
258 for shall be borne jointly by the state and the several
259 counties in the following manner and terms: There shall
260 be appropriated from the general revenue fund not less
261 than one million five hundred thousand dollars for each
262 fiscal year until sufficient funds have been appropriated
263 to complete the appraisal in all counties of the state.
264 Each county shall furnish, through its county court, not
265 more than ten per cent of the cost of such appraisal or
266 reappraisal and permanent records system for such coun-
267 ty. Such county costs may be paid over a period of three
268 years with the approval of the tax commissioner. In

269 those instances where the cost of the appraisal, reap-
270 praisal or permanent records system required by this
271 section has been paid by the tax commissioner from funds
272 appropriated for these purposes, the share of such cost
273 allocated to each county shall, upon receipt thereof by
274 the tax commissioner, be deposited to the appropriated
275 account from which such payments have been made. If
276 a county has employed a professional appraisal firm to
277 conduct an appraisal or reappraisal of all or a part of
278 nonutility property within the past five years, and such
279 appraisal, or any other appraisal or reappraisal has been
280 or shall have been accepted by the tax commissioner,
281 credit shall be allowed to such county for its portion of
282 the statewide appraisal costs and any contract with ap-
283 praisal firm or firms shall not be made for appraisal or
284 reappraisal of such property except and unless requested
285 by such county, or shown to be necessary by the tax
286 commissioner: *Provided*, That until the completion of
287 the appraisal herein provided for in all of the fifty-five
288 counties of the state, the local share for each county shall
289 be determined on the basis of the annual spot survey of
290 property valuations by the tax commissioner in this state,
291 as heretofore provided, but in no way shall this be in-
292 terpreted as affecting the assessment provisions set forth
293 above; however, in any county having accepted and used
294 appraised valuations developed by an appraisal made by
295 the tax commissioner or accepted by him as a basis in
296 determining the true and actual valuation for assessment
297 purposes, the county board of education may annually
298 request that the local share shall be that which was in
299 effect under the last applicable spot survey preceding such
300 acceptance and usage and until the full reappraisal has
301 been completed in all counties the board of school finance
302 shall comply with such request: *Provided further*, That
303 the sample pieces of property employed in making the
304 annual spot survey shall be used by the tax commissioner
305 for this purpose only and shall be open to none other
306 than the Legislature by its request through a resolution
307 approved by both the Senate and the House of Delegates
308 and as otherwise provided in this section; however, if on

309 the basis of the current state-wide report of the tax com-
310 missioner available the first day of January of each year,
311 it appears that any county shall not have complied with
312 the requirements regarding the ratio of assessed valua-
313 tions, the tax commissioner shall notify the assessor and
314 the county court of each such county and, if they file a
315 request for review of the appraisals which they believe
316 to be in error, he shall review the appraisal of such prop-
317 erties and shall correct such errors as he may discover
318 in such individual appraisal and/or in the preparation
319 or recording of the report by the tax commissioner. The
320 corrected figures shall be reported to the board of school
321 finance prior to the first day of June and shall be used
322 in determining the allocations of state aid to the county
323 boards of education for the subsequent fiscal year.

324 The county assessor and the county court shall comply
325 with the provisions of chapter eleven of this code in de-
326 termining the true and actual value of property for as-
327 sessment purposes and shall not arbitrarily use a direct
328 percentage application to the appraisal valuations (wheth-
329 er complete appraisal or spot survey) of any class of
330 property or property within a class for such purpose.

331 The provisions of this section shall not be construed
332 to alter or repeal in any manner the provisions of chap-
333 ter eleven of this code, but shall be construed in pari
334 materia therewith, and compliance with this section by
335 the assessor and county court shall be considered, pro
336 tanto, as compliance with said chapter eleven.

CHAPTER 24

(Senate Bill No. 38—By Mr. Moreland)

[Passed February 5, 1966: In effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five-c, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a supple-

mental retirement plan for employees of the board of governors of West Virginia University.

Be it enacted by the Legislature of West Virginia:

That section five-c, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 11. West Virginia University.

Section

5-c. Payroll deductions for employees participating in supplemental retirement plan; authority to match employee contributions.

Section 5-c. Payroll Deductions for Employees Participating in Supplemental Retirement Plan; Authority to Match Employee Contributions.—The board of governors of West Virginia University shall have the authority to contract for retirement benefits for any or all of its employees to supplement the benefits such employees will receive under the state teachers' retirement system. The board shall have the authority to make additional periodic deductions from the salary payments due such employees in the amount they are required to contribute for the supplemental retirement plan selected by the board. The additional deductions shall not exceed five per cent of the salary of employees thirty through thirty-four years of age, six per cent of the salary of those thirty-five through forty-four years of age, and seven and one-half per cent of the salary of those forty-five years of age and above, and shall not cover any portion of an employee's salary which is covered by the state teachers' retirement system. The board is further authorized, by way of additional compensation to such employees, to pay an amount equal to the contributions of such employees into such retirement plan from funds appropriated for personal services at the university and at Potomac State College. Each participating employee shall have a full and immediate vested interest in the retirement and death benefits accrued from all the moneys paid into such supplemental retirement plan for his benefit. Upon proper requisition of the board, the auditor shall periodically issue a warrant, payable as specified in the requisition, for the total con-

30 tributions so withheld from the salaries of all participating
31 employees and for the board's matching funds.

32 The provisions of this section as hereby amended shall
33 apply to all calendar years beginning on and after Decem-
34 ber thirty-one, one thousand nine hundred sixty-five, and
35 to the entirety of the year beginning January one, one
36 thousand nine hundred sixty-six, including that part of
37 said year that has elapsed prior to the effective date of
38 this section.

CHAPTER 25

(Senate Bill No. 20—By Mr. McCourt and Mr. Floyd)

[Passed February 5, 1966; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven-b, relating to the authority of the board of governors of West Virginia University to issue revenue bonds to finance the construction of new facilities, buildings and structures, including the cost of acquisition of land therefor and the necessary equipment thereof, for West Virginia University, and to issue revenue bonds to refund bonds issued and outstanding under the provisions of said article eleven-b and preceding article eleven-a, and to pledge as security for such bonds certain enrollment, tuition and other fees collected at the university.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eleven-b, to read as follows:

Article 11-b. Revenue Bonds for University Facilities, Buildings and Structures.

Section

1. Board of governors of West Virginia University authorized to issue revenue bonds for certain capital improvements.

2. Special university capital improvements fund continued in state treasury; collections to be paid into special fund; authority of board of governors to pledge such collections as security for revenue bonds.
3. Board of governors to fix fees.
4. Issuance of revenue bonds.
5. Issuance of revenue refunding bonds.
6. Bonds may be issued for combined purposes.
7. Bonds shall be negotiable instruments.
8. Trust agreements for holders of bonds.
9. Sinking fund for payment of bonds.
10. Credit of state not pledged.
11. Bonds exempt from taxation.
12. Conflicting laws repealed.

Section 1. Board of Governors of West Virginia University Authorized to Issue Revenue Bonds for Certain Capital Improvements.—The board of governors of West Virginia University shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed twenty million dollars in principal amount thereof, to refund bonds issued and outstanding under and pursuant to the provisions of article eleven-a of this chapter and this article and to finance the cost of providing new facilities, buildings and structures for West Virginia University including, but not limited to, buildings and structures suitable for use as an academic building, library, laboratory, research facility, maintenance or storage or utility facility and other facilities related thereto or essential or convenient for the instruction of students or the conducting of research or the operation of West Virginia University as an institution for higher education, and also including athletic facilities and stadia as well as parking and other facilities, buildings or structures essential or convenient for the orderly conduct of West Virginia University as an institution for higher education, together with, in each case, land for current or future use in connection therewith and equipment and machinery and other similar items essential or convenient for the operation of a particular facility, building or structure in the manner for which its use is intended but not including such items as books, fuel, supplies or other items which are customarily deemed to result in a current operating charge. The principal of and interest on such bonds shall be payable solely from the special non-revolving fund herein provided for such payment. The

32 cost of any such facility, building or structure shall in-
33 clude the cost of acquisition of land, the construction and
34 equipment of any such facility, building or structure and
35 the provision for roads, utilities and other services neces-
36 sary, appurtenant or incidental to such facilities, build-
37 ings or structures, and shall also include all other charges
38 or expenses necessary, appurtenant or incidental to the
39 construction, financing and placing in operation of any
40 such facility, building or structure.

Sec. 2. Special University Capital Improvements Fund
2 **Continued in State Treasury; Collections to Be Paid into**
3 **Special Fund; Authority of Board of Governors to Pledge**
4 **Such Collections as Security for Revenue Bonds.**—The
5 special nonrevolving university capital improvements
6 fund heretofore created in the state treasury pursuant
7 to the provisions of article eleven-a of this chapter shall
8 be continued and shall exist so long as any bonds issued
9 pursuant to said article eleven-a or this article remain
10 outstanding and unpaid. Subject only to the prior lien
11 thereon of outstanding bonds heretofore issued pursuant
12 to the provisions of article eleven-a of this chapter, on
13 and after the first day of July, one thousand nine hundred
14 sixty-six, there shall be paid into such special university
15 capital improvements fund all fees collected under the
16 provisions of section one, article one-a, chapter twenty-
17 five of this code, from students at the university other
18 than students in the schools of medicine, medical tech-
19 nology, dentistry, dental technology, nursing and phar-
20 macy, except such fees as are now required by that section
21 to be paid into other special funds: *Provided*, That any
22 future allocation of all or any of such fees to other spe-
23 cial funds shall, so long as any bonds issued pursuant
24 to said article eleven-a or this article remain outstanding
25 and unpaid, be expressly subordinate, junior and in-
26 ferior to the requirements of and pledges made pursuant
27 to this section.

28 The board of governors shall have authority to pledge
29 all or such part of the revenue paid into the special uni-
30 versity capital improvements fund as may be needed to
31 meet the requirements of the sinking fund established in
32 connection with any revenue bond issue authorized by

33 this article, including a reserve fund for the payment of
34 the principal of and interest on such revenue bond issue
35 when other moneys in the sinking fund are insufficient
36 therefor and including such additional margin of safety
37 as may be provided in the resolution authorizing any
38 issue of such bonds and in any trust agreement made in
39 connection therewith, and may provide in the resolution
40 authorizing any issue of such bonds, and in any trust
41 agreement made in connection therewith, for such priori-
42 ties on the revenues paid into the special fund as may
43 be necessary for the protection of the prior rights of the
44 holders of bonds issued at different times under the pro-
45 visions of this article.

46 Any balance remaining in the special university capital
47 improvements fund after the board has issued the maxi-
48 mum of twenty million dollars worth of bonds authorized
49 by this article, and after the requirements of all sinking
50 funds and reserve funds established in connection with
51 the bonds issued pursuant to this article have been satis-
52 fied, may and shall be used solely for the redemption of
53 any of the outstanding bonds issued hereunder which
54 by their terms are then redeemable, or for the purchase
55 of such bonds at the market price, but at not exceeding
56 the price, if any, at which such bonds shall in the same
57 year be redeemable, and all bonds redeemed or purchased
58 shall forthwith be cancelled and shall not again be issued.
59 Whenever all outstanding bonds issued hereunder shall
60 have been paid, the special university capital improve-
61 ments fund shall cease to exist and any balance then re-
62 maining in such fund shall be transferred to the general
63 revenue fund of the state. Thereafter all fees formerly
64 paid into such special fund shall be paid into the gen-
65 eral revenue fund of the state.

Sec. 3. Board of Governors to Fix Fees.—The board of
2 governors shall fix, establish, maintain and collect the
3 fees provided for in section one, article one-a, chapter
4 twenty-five of this code, from students at the university
5 other than students in the schools of medicine, medical
6 technology, dentistry, dental technology, nursing and
7 pharmacy, in amounts at least sufficient, at all times,
8 after depositing in the other special funds such fees as

9 are now required to be deposited therein pursuant to sec-
10 tion one, article one-a, chapter twenty-five of this code,
11 to provide revenues for deposit in the special university
12 capital improvements fund which are adequate to pay the
13 principal of and interest on the outstanding bonds here-
14 tofore issued pursuant to article eleven-a of this chapter
15 as the same mature and become due and to make all
16 reserve and other payments required by the proceedings
17 which authorized such outstanding bonds, to pay the
18 principal of and interest on any outstanding bonds issued
19 pursuant to this article as the same mature and become
20 due and to provide any margin of safety and reserve or
21 other payments required by the resolution authorizing
22 any issue of bonds pursuant to this article and any trust
23 agreement made in connection therewith, and to make
24 all other payments required by this article or any such
25 proceedings, resolutions or trust agreements.

Sec. 4. Issuance of Revenue Bonds.—The issuance of
2 revenue bonds under the provisions of this article shall
3 be authorized by a resolution of the board of governors,
4 which shall recite an estimate by the board of the cost of
5 the proposed facilities, buildings or structures; and shall
6 provide for the issuance of bonds in an amount sufficient,
7 when sold as hereinafter provided, to provide moneys
8 sufficient to pay such cost, less the amount of any other
9 funds available for the construction of the facilities,
10 buildings or structures from any appropriation, grant or
11 gift therefor. Such resolution shall prescribe the rights
12 and duties of the bondholders and the board, and for such
13 purpose may prescribe the form of the trust agreement
14 hereinafter referred to. The bonds shall be of such series,
15 bear such date or dates, mature at such time or times not
16 exceeding thirty years from their respective dates, bear
17 interest at such rate or rates not exceeding five per cent
18 per annum, payable semiannually; be in such denomi-
19 nations; be in such form, either coupon or fully registered
20 without coupons, carrying such registration, exchange-
21 ability and interchangeability privileges; be payable in
22 such medium of payment and at such place or places;
23 be subject to such terms of redemption at such prices not
24 exceeding one hundred five per cent of the principal

25 amount thereof, and be entitled to such priorities on the
26 revenues paid into the special university capital improve-
27 ments fund as may be provided in the resolution authoriz-
28 ing the issuance of the bonds or in any trust agreement
29 made in connection therewith. The bonds shall be signed
30 by the governor, and by the president of the board of
31 governors, under the great seal of the state, attested by
32 the secretary of state, and the coupons attached thereto
33 shall bear the facsimile signature of the president of the
34 board. In case any of the officers whose signatures appear
35 on the bonds or coupons cease to be such officers before
36 the delivery of such bonds, such signatures shall never-
37 theless be valid and sufficient for all purposes the same
38 as if such officers had remained in office until such de-
39 livery.

40 Such bonds shall be sold in such manner as the board
41 may determine to be for the best interest of the state,
42 taking into consideration the financial responsibility of
43 the purchaser, the terms and conditions of the purchase,
44 and especially the availability of the proceeds of the bonds
45 when required for payment of the cost of such facilities,
46 buildings or structures, such sale to be made at a price
47 not lower than a price which, when computed upon
48 standard tables of bond values, will show a net return of
49 not more than five per cent per annum to the purchaser
50 upon the amount paid therefor. The proceeds of such
51 bonds shall be used solely for the payment of the cost of
52 such facilities, buildings or structures, and shall be de-
53 posited in the state treasury in a special fund and checked
54 out as provided by law for the disbursement of other
55 state funds. If the proceeds of such bonds, by error in
56 calculation or otherwise, shall be less than the cost of
57 such facilities, buildings or structures, additional bonds
58 may in like manner be issued to provide the amount of the
59 deficiency; and unless otherwise provided for in the reso-
60 lution or trust agreement hereinafter mentioned, shall be
61 deemed to be of the same issue, and shall be entitled to
62 payment from the same fund, without preference or
63 priority, as the bonds before issued for such facilities,
64 buildings or structures. If the proceeds of bonds issued
65 for such facilities, buildings or structures shall exceed the

66 cost thereof, the surplus shall be paid into the sinking
67 fund to be established for payment of the principal and
68 interest of such bonds as hereinafter provided. Prior to
69 the preparation of definitive bonds, the board may, under
70 like restrictions, issue temporary bonds with or without
71 coupons, exchangeable for definitive bonds upon their
72 issuance. The term "cost," as used in this section, shall be
73 deemed to include all of the items contemplated by the
74 use of this term in section one of this article.

Sec. 5. Issuance of Revenue Refunding Bonds.—The
2 issuance of revenue refunding bonds under the provisions
3 of this article shall be authorized by resolution of the
4 board of governors and shall otherwise be subject to the
5 limitations, conditions and provisions of section four of
6 this article. Such revenue refunding bonds may be issued
7 in an amount sufficient to pay (1) the principal of any
8 outstanding bonds heretofore issued pursuant to the pro-
9 visions of article eleven-a of this chapter or this article
10 (hereinafter referred to as "outstanding bonds"); (2) the
11 redemption premium, if any, on such outstanding bonds
12 on the prior redemption thereof; (3) the interest due and
13 payable on such outstanding bonds to and including the
14 first date upon which said outstanding bonds are callable
15 prior to maturity, not exceeding, however, ten years from
16 the date of issuance of such revenue refunding bonds, or
17 the dates upon which the principal of said outstanding
18 bonds matures before such first date on which the same
19 are callable prior to maturity, including any interest
20 theretofore accrued and unpaid; and (4) all expenses of
21 the issuance and sale of said revenue refunding bonds,
22 including all necessary financial and legal expenses, and
23 also including the creation of initial debt service reserve
24 funds. Any moneys in the sinking or reserve funds or
25 other funds for the outstanding bonds may be used for
26 the purposes stated in (1), (2), (3) and (4) above or may
27 be deposited in a sinking fund or reserve fund or other
28 funds for the issue of bonds which have been issued
29 wholly or in part for the purpose of such refunding. Such
30 amount of the proceeds of the revenue refunding bonds
31 as shall be sufficient for the payment of the principal,
32 interest and redemption premiums, if any, on such out-

33 standing bonds which will not be due and payable im-
34 mediately shall be deposited in trust, for the sole purpose
35 of making such payments, with the treasurer of the state
36 of West Virginia. Any of the moneys so deposited in
37 trust may, prior to the date on which such moneys will
38 be needed for the payment of principal, interest and re-
39 demption premiums, if any, on such outstanding bonds,
40 be invested and reinvested in direct obligations of the
41 United States of America.

Sec. 6. Bonds May Be Issued for Combined Purposes.—

2 The board of governors may authorize by one resolution
3 a single issue of bonds for the combined purposes of re-
4 funding the outstanding bonds as herein authorized and
5 financing one or more of the facilities, buildings and
6 structures herein authorized.

Sec. 7. Bonds Shall Be Negotiable Instruments.—The

2 revenue bonds, revenue refunding bonds and bonds issued
3 for combined purposes under the provisions of this article
4 shall, independently of the requirements of any other
5 provision of law and solely by virtue of the provisions of
6 this section, be and have all the qualities and incidents
7 of negotiable instruments.

Sec. 8. Trust Agreements for Holders of Bonds.—The

2 board may enter into an agreement or agreements with
3 any trust company, or with any bank having the powers
4 of a trust company, either within or outside the state, as
5 trustee for the holders of bonds issued hereunder, setting
6 forth therein such duties of the board in respect to the
7 payment of the bonds, the fixing, establishing and collect-
8 ing of the fees hereinbefore referred to, the acquisition,
9 construction, improvement, maintenance, operation, re-
10 pair and insurance of authorized facilities, buildings or
11 structures, the conservation and application of all moneys,
12 the security for moneys on hand or on deposit, and the
13 rights and remedies of the trustee and the holders of the
14 bonds, as may be agreed upon with the original purchas-
15 ers of such bonds; and including therein provisions re-
16 stricting the individual right of action of bondholders as
17 is customary in trust agreements respecting bonds and
18 debentures of municipal corporations, protecting and en-

19 forcing the rights and remedies of the trustee and the
20 bondholders, and providing for approval by the original
21 purchasers of the bonds of the appointment of consulting
22 engineers and of the security given by those who contract
23 to construct such facilities, buildings or structures and
24 for approval by the consulting engineers of all contracts
25 for construction. Any such agreement entered into by the
26 board shall be binding in all respects on such board and
27 its successors from time to time in accordance with its
28 terms; and all the provisions thereof shall be enforceable
29 by appropriate proceedings at law or in equity, or other-
30 wise.

Sec. 9. Sinking Fund for Payment of Bonds.—From the
2 special university capital improvements fund the board
3 shall, subject only to the prior lien thereon of the out-
4 standing bonds heretofore issued pursuant to the pro-
5 visions of article eleven-a of this chapter, make periodic
6 payments to the state sinking fund commission in an
7 amount sufficient to meet the requirements of any issue of
8 bonds sold under the provisions of this article, as specified
9 in the resolution of the board authorizing the issue thereof
10 and in any trust agreement entered into in connection
11 therewith. The payments so made shall be placed by the
12 commission in a special sinking fund which is hereby
13 pledged to and charged with the payment of the principal
14 of the bonds of such issue and the interest thereon, and
15 to the redemption or repurchase of such bonds, such sink-
16 ing fund to be a fund for all bonds of such issue without
17 distinction or priority of one over another, except as may
18 be provided in the resolution authorizing such issue of
19 bonds. The moneys in the special sinking fund, less such
20 reserve for payment of principal and interest as may be
21 required by the resolution of the board authorizing the
22 issue and any trust agreement made in connection there-
23 with, may be used for the redemption of any of the out-
24 standing bonds payable from such fund which by their
25 terms are then redeemable, or for the purchase of bonds
26 at the market price, but at not exceeding the price, if any,
27 at which such bonds shall in the same year be redeemable;
28 and all bonds redeemed or purchased shall forthwith be
29 cancelled and shall not again be issued.

Sec. 10. Credit of State Not Pledged.—No provisions
2 of this article shall be construed to authorize the board at
3 any time or in any manner to pledge the credit or taxing
4 power of the state, nor shall any of the obligations or
5 debts created by the board under the authority herein
6 granted be deemed to be obligations of the state.

Sec. 11. Bonds Exempt from Taxation.—All bonds
2 issued by the board under the provisions of this article,
3 and the interest thereon, shall be exempt from taxation
4 by the state of West Virginia, or by any county, school
5 district, municipality or other political subdivision thereof.

Sec. 12. Conflicting Laws Repealed.—The powers con-
2 ferred by this article shall be in addition and supple-
3 mental to the existing powers of the board of governors.
4 The provisions of any other law or laws conflicting with
5 the provisions of this article shall be and the same are
6 hereby superseded to the extent of any such conflict.

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CHAPTER 26

(House Bill No. 303—By Mr. Slonaker)

[Passed February 8, 1966; In effect from passage. Approved by the Governor.]

AN ACT to amend article seventeen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven, relating to sale of lands comprising the West Virginia schools for the deaf and the blind.

Be it enacted by the Legislature of West Virginia:

That article seventeen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seven, to read as follows:

Article 17. West Virginia Schools for the Deaf and the Blind.

Section

7. Sale of lands; application of proceeds.

- Section 7. Sale of Lands; Application of Proceeds.—**
2 The state board of education may, from time to time,
3 sell and transfer such part or portion of the lands com-
4 prising the West Virginia schools for the deaf and the
5 blind as the board may deem surplus to the needs of such
6 schools, and shall expend the proceeds therefrom for the
7 maintenance, operation and improvement of such schools.

CHAPTER 27

(Com. Sub. for Senate Bill No. 8—By Mr. Moreland
and Mr. Floyd)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections four, five, six, eight and nine, article two; and sections six, seven and eight, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, abolishing the voting machine commission and transferring its duties and functions to the state election commission; terminating the terms of the members of the state election commission and changing the composition thereof; providing for the appointment of members of the state election commission and prescribing their qualifications, term, duties and functions; and relating to the general powers, authority, functions and duties of the secretary of state with respect to elections, and certain rules, regulations and orders concerning elections.

Be it enacted by the Legislature of West Virginia:

That sections four, five, six, eight and nine, article two; and sections six, seven and eight, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article

2. Registration of Voters.
4. Voting Machines.

Article 2. Registration of Voters.**Section**

4. Election commission continued; composition; chairman; traveling expenses.
5. Qualification of members of commission.
6. Terms of office of commission members; termination of terms of present members; filling vacancies.
8. Commission's powers and duties.
9. Election rules; powers and duties of secretary of state; exercise of powers by appointees.

Section 4. Election Commission Continued; Composition; Chairman; Traveling Expenses.—The “State Election Commission,” heretofore created, is hereby continued and, on and after the effective date of this section, shall be composed of the secretary of state, and four persons appointed by the governor, by and with the advice and consent of the senate. The commission shall, from this membership, elect a chairman for a term of two years. Each member of the commission shall receive his actual and necessary traveling expense incurred in the performance of his duties.

Sec. 5. Qualification of Members of Commission.—No member of the commission appointed by the governor shall be a candidate for or hold any public office other than that of membership in the commission; nor shall such appointed member be a member of any committee of a political party. Any person who, directly or indirectly, (1) designs, owns, manufactures, distributes or sells any voting machine, or (2) owns any patent rights or contract rights thereto, or (3) has any interest in any joint venture, partnership, firm, corporation or association designing, owning, manufacturing, distributing or selling any voting machine, or owning any patent rights or contract rights thereto, shall be disqualified from serving as a member of the commission. At least one member appointed by the governor shall be selected with special reference to his expert knowledge as a student of the problems of public elections. Not more than two members appointed by the governor shall be members of the same political party. In case a member appointed by the governor becomes a candidate for or is appointed to any other public office or political committee, his office as member of the commission shall be deemed immediately vacated.

Sec. 6. Terms of Office of Commission Members; Termination of Terms of Present Members; Filling Vacancies.
—The terms of office of the members of the commission shall be six years. Members in office shall continue until the fourth day of June, one thousand nine hundred sixty-six, when their terms shall terminate. The governor shall then appoint two members for terms of three years expiring on the fourth day of June, one thousand nine hundred sixty-nine, and two members for terms of six years expiring on the fourth day of June, one thousand nine hundred seventy-two. Thereafter appointments shall be made every six years. Appointments to fill vacancies shall be for the unexpired term.

Sec. 8. Commission's Powers and Duties.—The commission shall have the power and duty to approve or disapprove applications for approval of any voting machine as provided in section seven, article four of this chapter. The commission also shall serve as a body advisory to the secretary of state, and, as such, shall have the following powers and duties:

- (1) To recommend policies and practices pertaining to the registration of voters and the conduct of elections generally;
- (2) To investigate the work of the office of secretary of state pertaining to the duties of that office with respect to elections, and for this purpose to have access at reasonable times to pertinent records, books, papers and documents;
- (3) To consider and study the election practices of other jurisdictions, with a view to determining the techniques used in eliminating fraud in elections and in simplifying election procedure;
- (4) To advise or make recommendations to the governor relative to election practices and policy in the state; and
- (5) To keep minutes of the transactions of each meeting of the commission, which shall be public records and filed with the secretary of state.

Sec. 9. Election Rules; Powers and Duties of Secretary

2 **of State; Exercise of Powers by Appointees.**—The secre-
3 tary of state shall be the chief registration official of the
4 state. He shall have authority, upon consultation with
5 the state election commission, of which he is a member,
6 to make, amend and rescind such rules, regulations and
7 orders as may be necessary to carry out the policy of the
8 Legislature, as contained in this article. It shall be the duty
9 of all registration officials to abide by such rules, regula-
10 tions and orders, which shall include:

11 (a) Uniform rules of procedure for registrars and other
12 registration officials in the performance of their duties,
13 as to time and manner of performance;

14 (b) Uniform rules for the purging of registration rec-
15 ords;

16 (c) Uniform rules for challenging registrants; and

17 (d) Any other rules, regulations, or directions neces-
18 sary to standardize and make effective the administration
19 of the provisions of this article.

20 It shall be his further duty to advise with registration
21 officials; to furnish to the registration officials a sufficient
22 number of indexed copies of the current registration laws
23 of West Virginia and the administrative orders issued
24 thereunder; to investigate the administration of registra-
25 tion laws, frauds, and irregularities in any registration;
26 to report violations of registration laws to the appropriate
27 prosecuting officials, and to prepare an annual report of
28 registration.

29 The secretary of state shall also have the power to issue
30 subpoenas, administer oaths and affirmations, summon
31 witnesses, compel the production of books, papers, records
32 and other evidence, and fix the time and place for hearing
33 any matters relating to the administration and enforce-
34 ment of this article. In case of disobedience to a subpoena
35 or other process, he may invoke the aid of any circuit
36 court in requiring the evidence and testimony of wit-
37 nesses and the production of papers, books and documents.

38 All powers and duties vested in the secretary of state
39 under this article may be exercised by appointees of the
40 secretary of state at his discretion, but the secretary of
41 state shall be responsible for their acts.

Article 4. Voting Machines.**Section**

6. Bids and contracts for voting machines; false swearing or failure to disclose facts.
7. Approval of voting machines by state election commission; expenses.
8. Minimum requirements of voting machines.

Section 6. Bids and Contracts for Voting Machines;

2 **False Swearing or Failure to Disclose Facts.**—Contracts
3 for the purchase or lease of voting machines shall be
4 based on competitive bids. The county court shall solicit
5 sealed bids by sending requests by mail to all known man-
6 ufacturers and suppliers of voting machines which have
7 been previously approved by the state election commission
8 as hereinafter provided. The award of contracts of pur-
9 chase or lease shall be based on the quality, cost, specifica-
10 tions and suitability of the particular voting machines.

11 No bid shall be accepted by the county court unless
12 accompanied by a contract which shall provide that in
13 the event the bid is accepted the party or parties making
14 the sale or lease shall:

15 (1) Guarantee in writing to keep the machine or ma-
16 chines in good working order for five years without addi-
17 tional cost to the county court.

18 (2) Warrant to defend and indemnify the county court
19 against any claim for patent infringement, and in case any
20 machine or machines shall be held to be an infringement
21 of a valid patent, to obtain a license for the use of such
22 patent on the machines sold or leased to the county court
23 or to modify the machines so that the offending infringe-
24 ment is removed without altering the mechanical effi-
25 ciency or statutory requirements of the machines; all at
26 the sole cost and expense of the supplier of the voting ma-
27 chines.

28 (3) Provide a bond with good corporate surety duly
29 qualified to do business in West Virginia conditioned
30 upon the due performance of said guaranty and said war-
31 ranty, in a penal sum to be fixed by the county court.

32 No bid shall be accepted by the county court unless the
33 party or parties submitting the bid shall file with the bid
34 an affidavit:

35 (1) Disclosing the name and address of, and the amount
36 of any contribution paid or to be paid to, any individual,
37 partnership, corporation or association hired regularly
38 and specially for the purpose, or partly for the purpose, of
39 attempting to influence directly or indirectly the purchase
40 or lease of the voting machine represented by the bid.

41 (2) Declaring that no individual, partnership, corpo-
42 ration or association not disclosed in said affidavit shall
43 thereafter be regularly or specially hired and no contri-
44 bution shall thereafter be paid for the purpose or partly
45 for the purpose of attempting to influence directly or in-
46 directly the purchase or lease of the voting machine
47 represented by the bid.

48 For the purpose of this affidavit, the word "contribution"
49 shall mean payment, distribution, loan, advance, deposit,
50 gift of money, property, benefit or other consideration,
51 or any agreement providing for a payment, distribution,
52 loan, advance, deposit, or gift of money, property, benefit,
53 or other consideration at any future time.

54 Any person who shall knowingly or wilfully make any
55 false or fraudulent statement, or who shall knowingly or
56 wilfully fail to disclose any material fact in the affidavit
57 required by this section shall be guilty of a felony, and,
58 upon conviction thereof, shall be punished by a fine of not
59 less than one thousand dollars nor more than five thousand
60 dollars or imprisonment in the state penitentiary for not
61 less than one year nor more than three years, or both,
62 in the discretion of the court.

63 In construing this section, the term "person" shall in-
64 clude an individual, partnership, committee, association,
65 and any other organization or group of persons.

Sec. 7. Approval of Voting Machines by State Election

2 **Commission; Expenses.**—Any person or corporation own-
3 ing or being interested in any voting machine may apply
4 to the state election commission to the end that such
5 machine may be examined and a report be made on its
6 accuracy, efficiency, capacity and safety. The state elec-
7 tion commission shall appoint two mechanical experts
8 who are not members of the same political party to
9 examine the machine and make full report thereon to the

10 commission. They shall state in the report whether or
11 not the machine so examined complies with the require-
12 ments of this article and can be safely used by voters at
13 elections under the conditions prescribed in this article.
14 If the report be in the affirmative upon said question,
15 the machine may be approved by the commission and, if
16 approved by the commission, the machine of its make and
17 design may be adopted for use at elections as herein pro-
18 vided. Any form of voting machine not so approved shall
19 not be used at any election. Each of the two mechanical
20 experts appointed by the commission shall be entitled
21 to two hundred dollars for his compensation and expenses
22 in making such examination and report, and such com-
23 pensation shall be paid by the person or corporation ap-
24 plying for such examination, which sum shall be paid in
25 advance of making the examination and which sum shall
26 be the sole compensation to be received by any such ex-
27 pert for his work hereunder.

Sec. 8. Minimum Requirements of Voting Machines.—

2 A voting machine of particular make and design shall
3 not be approved by the state election commission or be
4 purchased, leased, or used, by any county court unless it
5 shall fulfill the following requirements:

6 (1) It shall secure or insure the voter absolute secrecy
7 in the act of voting, or, at the voter's election, shall pro-
8 vide for open voting;

9 (2) It shall be so constructed that no person except in
10 instances of open voting, as herein provided for, can see
11 or know for whom any voter has voted or is voting, and
12 that no voter or other person can, while the machine is
13 unlocked for operation, see or otherwise ascertain the
14 numerical total of votes cast for any candidate or for or
15 against any question;

16 (3) It shall permit each voter to vote at any election
17 for all persons and offices for whom and which he is law-
18 fully entitled to vote, whether or not the name of any such
19 person appears on a ballot label as a candidate; and it
20 shall permit each voter to vote for as many persons for an
21 office as he is lawfully entitled to vote for; and to vote for

22 or against any question upon which he is lawfully entitled
23 to vote;

24 (4) It shall preclude each voter from voting for any
25 person or office or upon any question for whom or which
26 and upon which he is not lawfully entitled to vote and
27 from voting for more persons for any office than he is
28 lawfully entitled to vote for, and from voting for any
29 candidate for the same office and upon any question more
30 than once;

31 (5) It shall permit each voter to deposit, write in, or
32 affix upon devices to be provided for that purpose, ballots
33 containing the names of persons for whom he desires to
34 vote whose names do not appear upon the machine ballot
35 labels;

36 (6) It shall permit each voter to change his vote for
37 any candidate and upon any question appearing upon
38 the ballot labels up to the time when he starts to register
39 his vote;

40 (7) It shall correctly register and accurately count all
41 votes cast for each candidate and for and against each
42 question appearing upon the ballot labels;

43 (8) It shall permit each voter at any election other
44 than primary elections, to vote a straight party ticket by
45 one device, and by one device to vote for all candidates
46 of one party for presidential electors; and to vote a mixed
47 ticket selected from the candidates of any and all parties
48 and from independent candidates;

49 (9) It shall be capable of adjustment by election of-
50 ficers at a primary election so as to permit each voter to
51 vote only for the candidates of the party with which he
52 has declared his affiliation, and so as to preclude him from
53 voting for any candidate seeking nomination by any other
54 political party, and so as to permit each voter to vote for
55 the candidates, if any, for nonpartisan nomination or elec-
56 tion and on public questions;

57 (10) It shall have separate voting devices for candi-
58 dates and questions, which shall be arranged in separate
59 rows or columns. It shall also be arranged so that one or
60 more adjacent rows or columns may be assigned to the
61 candidates of each political party at primary elections;

62 (11) It shall have a public counter or other device, the
63 register of which is visible on the outside of the machine
64 and which shall show the total number of voters who
65 have voted on that machine in the election; also candidate
66 and question counters or other devices which shall not be
67 visible on the outside of the machine when the machine
68 is unlocked for operation, and upon which are registered
69 numerically the total votes cast for each candidate and
70 question appearing on the ballot labels; also a protective
71 counter or other device which will record the cumulative
72 total number of movements of the registering mechanism;

73 (12) It shall be provided with locks and seals by the
74 use of which all movement of the registering mechanism
75 is prevented, both before the polls are open or before the
76 operation of the machine for an election is begun and
77 immediately after the polls are closed or after the opera-
78 tion of the machine for an election is completed;

79 (13) It shall have the capacity to contain the names of
80 candidates constituting the tickets of at least nine politi-
81 cal parties, and to accommodate the wording of at least
82 fifteen questions;

83 (14) It shall be durably constructed of material of good
84 quality and in a workmanlike manner and in a form
85 which shall make it safely transportable;

86 (15) It shall be so constructed with frames for the
87 placing of ballot labels and with transparent devices for
88 the protection of such labels, that the labels on which are
89 printed the names of candidates and their respective
90 parties, titles of offices, and wording of questions shall be
91 reasonably protected from mutilation, disfigurement or
92 disarrangement;

93 (16) It shall bear a number that will identify it or dis-
94 tinguish it from any other machine;

95 (17) It shall be so constructed that a voter may easily
96 learn the method of operating it and may expeditiously
97 cast his vote for all candidates of his choice; and

98 (18) It shall be accompanied by a mechanically oper-
99 ated instruction model which shall show the arrangement
100 of ballot labels, party columns or rows, and questions.

CHAPTER 28

(House Bill No. 306—By Mr. Board)

[Passed February 10, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, three, five and seven, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to voting of persons outside the continental limits of the United States.

Be it enacted by the Legislature of West Virginia:

That sections one, three, five and seven, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Voting by Absentees.

Section

1. Persons eligible to vote as absentees.
3. Form of application; declaration; physician's statement as to disability.
5. Mailing of ballots; time.
7. Marking and mailing ballot by absent voter.

Section 1. Persons Eligible to Vote as Absentees.—

- 2 Any qualified voter of the state of West Virginia, being
- 3 duly registered, (a) who by reason of the nature of his
- 4 employment, business, or on account of other unavoidable
- 5 causes, which cause or causes shall be stated in the
- 6 application for an absentee ballot, expects to be absent
- 7 from the county on the date of any primary, general or
- 8 special election, (b) who by reason of physical disability,
- 9 illness or injury will be unable to vote in person at the
- 10 polls at such election as otherwise required by law, (c)
- 11 who is a student attending any college or university, or
- 12 is the spouse of any such student, outside the county
- 13 wherein he or she is legally registered to vote, or (d) who
- 14 is: (1) A member of the armed forces of the United
- 15 States; (2) a member of the merchant marine of the
- 16 United States; (3) a member of a religious or welfare
- 17 organization assisting servicemen; (4) a civilian employed

18 by the United States government outside the United States
 19 (continental); (5) a spouse or dependent of a person
 20 listed in (1), (2) or (3) above; or (6) a spouse or depen-
 21 dent residing with a person described in (4) above, may
 22 vote by absent voter's ballot as provided in this article,
 23 at any such election.

24 The provisions of this article shall apply only to voters
 25 necessarily absent from the county or from the polls on
 26 election day for the reasons specified in this section.

Sec. 3. Form of Application; Declaration; Physician's
 2 **Statement as to Disability.**—(a) Application for an absent
 3 voter's ballot shall be made in person or by mail, on a
 4 blank to be furnished by the clerk of any circuit court of
 5 the state. Such blank shall, upon request, be sent to
 6 the applicant by mail by any such clerk, or delivered
 7 to such applicant in person upon his appearance at the
 8 office of any such clerk. Such completed application may
 9 be returned only to the clerk of the circuit court of the
 10 county in which the applicant is a qualified elector.
 11 Application for an absent voter's ballot shall be substan-
 12 tially in the following form, and shall be signed by the
 13 applicant, as hereinafter provided:

14 APPLICATION FOR ABSENT
 15 VOTER'S BALLOT

16 State of _____,
 17 County of _____, to wit;
 18 I, _____, hereby declare that I
 19 am now, or will have been, a resident of the State of
 20 West Virginia for twelve months, and of the county of
 21 _____ for sixty days, next preceding the date of
 22 the ensuing election to be held on the _____ day of
 23 _____ 19____; that I am now a resident of
 24 election precinct No. _____, in the magisterial district
 25 of _____, in said county; that I am a duly qualified
 26 voter entitled to vote in such election; that I am registered
 27 in the precinct of my residence as provided by law; that
 28 (as the case may be) I am _____
 29 (stating business), and because of the nature of my busi-
 30 ness or employment, or for the following reasons _____
 31 _____ (relating unavoidable cause of absence),
 32 I expect to be absent from the said county on the date

33 of such election, or I am a (college or university student,
 34 member of armed forces, spouse, etc., as specified in
 35 section one of this article) and will be unable to vote
 36 in person at such election, or because of physical dis-
 37 ability, illness or injury (here state reason, whether
 38 physical disability, illness or injury) I will be unable
 39 to vote in person at such election, as evidenced below
 40 by the statement of a duly licensed physician; and I
 41 hereby make application for an official ballot (or ballots
 42 if more than one are to be used) to be voted by me at
 43 such election; and that I will return such ballot (or
 44 ballots) to the officer issuing them not later than four
 45 days prior to the day of such election.

46 (If application is made for a primary ballot, the appli-
 47 cant shall also designate the party whose candidates he
 48 expects to vote for:)

49 I hereby declare under penalty of false swearing, as
 50 provided in section three, article nine, chapter three of
 51 the Code of West Virginia, as amended, that the state-
 52 ments and declarations contained in this application are
 53 true and correct to the best of my knowledge and belief.

54 Signed.....

55 Home address of applicant

56 P. O. address to which ballot is to be sent.....

57 The following statement must be executed if the reason
 58 stated is physical disability of the voter:

59 STATEMENT OF PHYSICIAN

60 I,, a physician duly licensed to
 61 practice in the State of, do hereby
 62 certify under penalty of false swearing, as provided in
 63 section three, article nine, chapter three of the Code of
 64 West Virginia, as amended, that I have examined
 65, the applicant whose
 66 signature appears above, and that in my opinion, because
 67 of physical disability, illness or injury.....
 68 (here state reason, whether physical disability, illness
 69 or injury), he will be unable to vote in person at such
 70 election.

71 Signed.....

72 The term "physician," wherever used in this article,
 73 shall also include a chiropractor.

74 (b) In lieu of the application for an absent voter's
75 ballot, provided for in subsection (a) of this section, those
76 persons specified in subparagraph (d) of section one of
77 this article may use a properly completed copy of federal
78 standard form number seventy-six, issued by the federal
79 government under authority of Public Law No. 296,
80 or any revision or replacement of such form, whether
81 designated in the same or a different manner. Upon
82 receipt of a properly completed copy of such form, the cir-
83 cuit clerk shall process the same as he would any other
84 application for an absent voter's ballot. Any such prop-
85 erly completed copy may be returned only to the clerk
86 of the circuit court of the county in which the appli-
87 cant is a qualified elector.

Sec. 5. Mailing of Ballots; Time.—Between the thir-
2 tieth day and the fourth day next prior to the election
3 in which the absent voter's ballot is to be used, the clerk
4 of the circuit court of the county in which an applicant
5 is a qualified voter shall mail, postage prepaid, to each
6 duly registered applicant who has executed and filed
7 his application, to the address shown therein, an official
8 ballot or ballots (if more than one are to be voted at
9 such election), except that the clerk shall not, after the
10 fifteenth day next prior to such election, mail any such
11 ballot to an applicant whose address is shown to be out-
12 side the continental limits of the United States of Amer-
13 ica. All absentee ballots mailed upon the basis of appli-
14 cations therefor made on federal standard form num-
15 ber seventy-six, issued by the federal government under
16 authority of Public Law No. 296, or any revision or
17 replacement of such form, whether designated in the
18 same or a different manner, shall be mailed by the clerk
19 in envelopes embossed with the words "Official Election
20 Balloting Material Via Air Mail," printed in red, with
21 the notation in the upper right-hand corner, "Free of
22 U. S. Postage Including Air Mail." The clerk shall, with-
23 out delay, mail all such absent voter ballots as soon after
24 the thirtieth day next prior to the election as he shall
25 have in his office properly executed applications therefor.
26 The applicant may obtain the absent voter ballot or
27 ballots by applying personally at the office of the clerk

28 of the circuit court not more than thirty days before such
29 election and thereafter may vote such ballot or ballots in
30 the clerk's office during regular business hours on any
31 day up to and including the Saturday next preceding
32 the date of the primary or general election or, in the
33 case of special elections, up to and including the third
34 day next preceding the day of any such special election.
35 In computing the thirtieth, fifteenth, fourth and third
36 day before the election day, the day of the election shall
37 be excluded. Before any ballot is mailed or delivered
38 the clerk shall affix his official seal and he and the other
39 members of the board of ballot commissioners shall place
40 their signatures near the lower left-hand corner on the
41 back thereof.

Sec. 7. Marking and Mailing Ballot by Absent Voter.

2 —Such absent voter shall make and subscribe to the
3 declaration provided for in section six of this article,
4 and such voter shall thereupon, in the presence of no
5 other person, mark such ballot or ballots, and such ballot
6 or ballots shall then be folded by such voter so that each
7 ballot will be separate and so as to conceal the marking,
8 and shall be enclosed in such envelope, together with
9 any unused ballot, and the envelope shall be securely
10 sealed. The envelope shall then be mailed by such voter,
11 postage prepaid, to the officer issuing the ballot, or, if more
12 convenient, it may be delivered in person, or, if the voter
13 be for any reason disabled, the envelope may be so mailed
14 or delivered by a person selected and designated by the
15 voter for that purpose. When any absent voter who ob-
16 tained an absentee ballot or ballots upon the basis of
17 an application therefor made on federal standard form
18 number seventy-six, issued by the federal government
19 under authority of Public Law 296, or any revision or
20 replacement of such form, whether designated in the
21 same or a different manner, desires to return his ballot
22 or ballots by mail, he shall mail the same in an envelope
23 provided by the circuit clerk embossed with the words
24 "Official Election Balloting Material Via Air Mail"
25 printed in red, with the notation in the upper right-hand
26 corner, "Free of U. S. Postage Including Air Mail" to the
27 officer issuing the ballot or ballots. Any such ballot to be

28 valid shall be received by the clerk of the circuit court
29 of the county in time for him to deliver the same to the
30 election commissioners before the closing of the polls.

CHAPTER 29

(Senate Bill No. 7—By Mr. Carson, Mr. President,
and Mr. McCourt)

[Passed January 21, 1966; in effect from passage. Approved by the Governor.]

AN ACT to repeal article two-a, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the departmental retirement system of the department of employment security.

Be it enacted by the Legislature of West Virginia:

Article 2-a. Departmental Retirement System.

Section

1. Repeal of article creating the departmental retirement system of the department of employment security.

Section 1. Repeal of Article Creating the Departmental Retirement System of the Department of Employment Security.—Article two-a, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, is hereby repealed.

CHAPTER 30

(Senate Bill No. 50—By Mr. Moreland and Mr. McCourt)

[Passed February 10, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article three, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the advisory council in the department of employment

security; abolishing the terms of the present members of such council; providing for the appointment of new members for staggered terms; and relating to the removal of such members.

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Advisory Council.

Section

3. Termination of terms; appointment; terms; removal.

Section 3. Termination of Terms; Appointment; Terms;

2 **Removal.**—Each of the terms of the nine members of the
3 state advisory council in the department of employment
4 security shall terminate on the thirtieth day of June, one
5 thousand nine hundred sixty-six. On or before the first
6 day of July, one thousand nine hundred sixty-six, the
7 governor shall appoint nine members of the state advisory
8 council for terms commencing the first day of July, one
9 thousand nine hundred sixty-six, and for the following
10 duration: Three members for a term of two years, three
11 members for a term of four years, and three members for
12 a term of six years. As these appointments expire, all
13 subsequent appointments shall be for six-year terms.

14 In case of a vacancy, the governor shall make an ap-
15 pointment for the remainder of the unexpired term.

16 Members shall be subject to removal at the will and
17 pleasure of the governor.

CHAPTER 31

(Senate Bill No. 10—By Mr. Carson, Mr. President,
and Mr. Moreland)

[Passed January 24, 1966; in effect from passage. Approved by the Governor.]

AN ACT to repeal section seven, article three, chapter five-a of the code of West Virginia, one thousand nine hundred

thirty-one, as amended, relating to the preference to be given by the director of the purchasing division in the purchasing of commodities and printing to commodities and printing produced in this state and to commodities and printing produced and offered for sale by nonprofit workshops as that term is defined.

Be it enacted by the Legislature of West Virginia:

Article 3. Purchasing Division.

Section

1. Repeal of statute relating to the preference to be given by the director of the division of purchases to state products and nonprofit workshop products.

- Section 1. Repeal of Statute Relating to the Preference**
- 2 **to Be Given by the Director of the Division of Purchases**
 - 3 **to State Products and Nonprofit Workshop Products.—**
 - 4 That section seven, article three, chapter five-a of the
 - 5 code of West Virginia, one thousand nine hundred thirty-
 - 6 one, as amended, be repealed.

CHAPTER 32

(House Bill No. 279—By Mr. Speaker, Mr. White,
and Mr. Armistead)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section twelve, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to purchases of commodities and printing by the director of the purchasing division.

Be it enacted by the Legislature of West Virginia:

That section twelve, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Purchasing Division.

Section

12. Publication of solicitation for sealed bids; purchase of products of nonprofit workshops.

Section 12. Publication of Solicitation for Sealed Bids; Purchase of Products of Nonprofit Workshops.—The director shall solicit sealed bids for the purchase of commodities and printing that is estimated to exceed two thousand dollars. No spending unit shall issue a series of requisitions which would circumvent this two thousand dollar maximum. Bids shall be obtained by public notice inserted at least twice in a newspaper having a general circulation in the county where the department or agency making the requisition is located and in a daily newspaper of general circulation at least two weeks before the final date of submitting bids and by any other advertising medium the director may deem advisable. The director may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in his office: *Provided, however,* That nothing contained in this article shall prevent the director from purchasing commodities and printing produced and offered for sale by nonprofit workshops, without the necessity of competitive bidding.

CHAPTER 33

(Senate Bill No. 3—By Mr. Davis and Mr. Moreland)

[Passed February 10, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-b, relating to the establishment and operation of clinics for family planning and child spacing.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-b, to read as follows:

Article 2-b. Family Planning and Child Spacing.**Section**

1. Section of family planning and child spacing created in state department of health; authorized functions; funds.
2. Local boards of health authorized to establish clinics; supervision; purposes; procedures not approved; approval by state board of programs.
3. State and local health and welfare agency employees to advise indigent and medically indigent of availability of services; compulsory acceptance of services prohibited; acceptance not condition to receiving other services and benefits.
4. Exemption of employees from offering services when such duty is contrary to religious beliefs.

Section 1. Section of Family Planning and Child Spacing Created in State Department of Health; Authorized Functions; Funds.—There is hereby created a section of family planning and child spacing in the maternal and child health division of the state department of health. The section, under the supervision of the state board of health, is authorized to provide printed material, guidance, advice, financial assistance, appliances, devices, drugs, approved methods, and medicines to local boards of health requesting the same for use in the operation of family planning and child spacing clinics to the extent of funds appropriated by the Legislature and any federal funds made available for such purpose.

Sec. 2. Local Boards of Health Authorized to Establish Clinics; Supervision; Purposes; Procedures Not Approved; Approval by State Board of Programs.—A local board of health, created and maintained pursuant to the provisions of article two or article two-a of this chapter, is authorized to establish and operate within its jurisdiction, one or more family planning and child spacing clinics under the supervision of a licensed physician for the purpose of disseminating information, conducting medical examinations and distributing family planning and child spacing appliances, devices, drugs, approved methods and medication without charge to indigent and medically indigent persons who are married and living with their spouses on request and with the approval of said licensed physician. Such information, appliances, devices, drugs, approved methods and medication shall be dispensed only in accordance with the recipients' expressed wishes and beliefs and in accordance with all state and federal laws for

19 the dispensing of legend drugs: *Provided, however,* That
20 the procedures of sterilization and abortion shall not be
21 considered approved methods of family planning and
22 child spacing within the intent of this section and are
23 expressly excluded from the programs herein authorized.
24 All local boards of health receiving state or federal funds
25 for family planning or child spacing programs shall first
26 receive approval by the state board of health of their
27 general plan of operation of such programs.

Sec. 3. State and Local Health and Welfare Agency Employees to Advise Indigent and Medically Indigent Availability of Services; Compulsory Acceptance of Services Prohibited; Acceptance Not Condition to Receiving Other Services and Benefits.—The state director of health and commissioner of the department of welfare are directed to instruct their employees who work with the indigent and medically indigent to advise such indigent persons of the availability of the family planning and child spacing services offered by the state and local health departments: *Provided, however,* That no employee of the state of West Virginia or any employee of its agencies or of its political subdivisions, including but not limited to local health, or welfare agencies may compel any individual or family, either directly or indirectly, to accept or practice family planning, or any particular family planning method as a condition for receiving other public services or governmental benefits in any form nor shall any such employee or person represent to any individual or family, either directly or indirectly, that the acceptance or practice of family planning is a condition for receiving any public services or governmental benefits. Any violation of this section shall be grounds for dismissal or other appropriate disciplinary action.

Sec. 4. Exemption of Employees from Offering Services When Such Duty Is Contrary to Religious Beliefs.—Any employee of the state of West Virginia or any of its agencies or political subdivisions, including, but not limited to, local health or welfare agencies, may refuse to accept the duty of offering family planning services to the extent that such duty is contrary to his personal religious

8 beliefs and such refusal shall not be grounds for any
 9 disciplinary action, for dismissal, for any interdepart-
 10 mental transfer, or any other discrimination in his em-
 11 ployment, or for suspension from employment, or for any
 12 loss in pay or any other benefits.

CHAPTER 34

(Senate Bill No. 26—By Mr. Carson, Mr. President,
 and Mr. Mullins)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-c, relating to the establishment of a home health services program by the state department of health; enabling local health boards to participate in such program; authorizing the receipt and providing for the expenditure of funds for home health services; and providing for the collection of fees for services rendered.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-c, to read as follows:

Article 2-c. Home Health Services.

Section

1. Definitions.
2. Department authorized to provide services; charges for services; authority to employ personnel; purchase of supplies and equipment; assistance to nonprofit agencies.
3. Local boards' authority respecting home health services.
4. Funds received for home health services.
5. Collection of fees for home health services.

Section 1. Definitions.—For the purposes of this article:

- 2 "Home health services" shall mean and include the fol-
 3 lowing services furnished to an individual who is under
 4 the care of a physician, such services to be provided on
 5 a visiting basis in a place of residence used as the indi-
 6 vidual's home: (1) Part-time or intermittent nursing

7 care provided by or under the supervision of a registered
8 professional nurse; (2) physical, occupational or speech
9 therapy; (3) medical social services under the direction
10 of a physician; (4) part-time or intermittent services of
11 a home health aide.

12 "Department" shall mean the state department of
13 health.

14 "Local boards" shall mean local health boards estab-
15 lished pursuant to the provisions of article two or two-a
16 of this chapter.

**Sec. 2. Department Authorized to Provide Services;
2 Charges for Services; Authority to Employ Personnel;
3 Purchase of Supplies and Equipment; Assistance to Non-
4 profit Agencies.**—The department is hereby authorized
5 to provide home health services to those persons living
6 in areas of the state in which adequate home health serv-
7 ices are not available otherwise. For such services the
8 department shall, and is hereby authorized to, charge fees
9 to individuals to whom it renders such services or to any
10 governmental agency purchasing such services for indi-
11 viduals, except for demonstration and public health pro-
12 gram activities.

13 In order that it may effectively render home health
14 services, the department is authorized to employ the nec-
15 essary personnel including nursing and supervisory per-
16 sonnel and shall have the further authority to purchase
17 equipment and materials necessary to maintain an effec-
18 tive program of home health services.

19 The department shall, wherever possible, assist and
20 advise nonprofit agencies or associations in the develop-
21 ment of a home health services program to be carried out
22 by such agencies or associations and, for that purpose,
23 may enter into agreements with these agencies or asso-
24 ciations specifying the type of assistance and advice it
25 will render them.

**Sec. 3. Local Boards' Authority Respecting Home Health
2 Services.**—Local boards are hereby authorized to enter
3 into written agreements with the department for the
4 purpose of rendering home health services to persons
5 within their respective counties and municipalities. Such

6 agreements shall provide for the maintenance of stand-
7 ards established by the department for home health serv-
8 ices by the local boards and for such supervision by the
9 department as is deemed necessary to implement an ef-
10 fective program of home health services on the part of
11 the local boards.

12 Whenever any local board has entered into an agree-
13 ment with the department as is herein provided, it may
14 render such home health services as are authorized by
15 this article and for that purpose may charge fees and
16 expend moneys to the same extent as this article author-
17 izes for the department. Any local board may render such
18 service anywhere within the area which it serves.

Sec. 4. Funds Received for Home Health Services.—

2 The department and local boards are authorized to receive
3 moneys from any source for home health services. All
4 such moneys as the department and local boards may
5 receive for this service shall be used to carry out the pro-
6 visions of this article.

Sec. 5. Collection of Fees for Home Health Services.—

2 The department and local boards are authorized to main-
3 tain legal action through the prosecuting attorneys of the
4 several counties for the collection of fees charged for home
5 health services which have been rendered to any person.

— c —

CHAPTER 35

(Senate Bill No. 78—By Mr. Carrigan and Mr. Moreland)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article six, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definition of hotels and restaurants; and hotels and restaurants not subject to the provisions of this article.

Be it enacted by the Legislature of West Virginia:

That section three, article six, chapter sixteen of the code

of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 6. Hotels and Restaurants.

Section

3. Hotel and restaurant defined; hotels and restaurants not subject to provisions of article.

Section 3. Hotel and Restaurant Defined; Hotels and Restaurants Not Subject to Provisions of Article.—For the purpose of this article, every building where food and lodging are usually furnished to guests and payment required therefor shall be deemed a hotel, and every place where food without lodging is usually furnished to guests and payment required therefor shall be deemed a restaurant. But the provisions of this article, except those of sections twenty and twenty-two, shall not apply to any hotel wherein there are fewer than ten bed chambers, nor to any hotel known as a “summer hotel” which is not open for guests from November fifteenth to May fifteenth. The provisions of this article shall not apply to temporary food sales, not exceeding two weeks in length, by religious, educational, charitable or nonprofit organizations.

CHAPTER 36

(House Bill No. 275—By Mr. Holliday and Mrs. Withrow)

[Passed February 7, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article twenty-two, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the detection of phenylketonuria in newborn children.

Be it enacted by the Legislature of West Virginia:

That section three, article twenty-two, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 22. Detection and Control of Phenylketonuria in Newborn Children.

Section

3. Tests for phenylketonuria; reports; assistance to afflicted children.

Section 3. Tests for Phenylketonuria; Reports; Assistance to Afflicted Children.—The physician attending a newborn child or any person attending a newborn child not under the care of a physician shall cause to be made a test for phenylketonuria approved by the state department of health. Any test found positive for phenylketonuria shall be promptly reported to the state department of health by the director of the laboratory performing such test.

The state department of health, in cooperation with other state departments and agencies, and with attending physicians, is authorized to provide medical, dietary and related assistance to children determined to be afflicted with phenylketonuria.

CHAPTER 37

(Senate Bill No. 22—By Mr. Carson, Mr. President,
and Mr. Jackson)

[Passed February 1, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact section twenty-four, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state fire marshal's office and the tax to pay for the operation thereof.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. State Fire Marshal; Protection against Fire.

Section

24. Tax on insurance companies for maintenance of office of state fire marshal.

Section 24. Tax on Insurance Companies for Maintenance of Office of State Fire Marshal.—For the purpose of

3 maintaining the office of state fire marshal and paying
4 the expenses incidental thereto, every insurance company
5 other than life doing business in this state, except farmers'
6 mutual fire insurance companies, shall pay to the state fire
7 marshal annually on or before the first day of March, in ad-
8 dition to the taxes now required by law to be paid by such
9 companies, one half of one per cent of the net direct premi-
10 um receipts of such companies on insurance against the haz-
11 ard of fire and on that portion of all other net direct premi-
12 ums reasonably applicable to insurance against the hazard
13 of fire which are included in other coverages, and received
14 by it for insurance on property or risks in this state during
15 the calendar year next preceding as shown by their an-
16 nual statement under oath to the insurance department.
17 The money so received by the state fire marshal shall be
18 paid by him into the treasury and credited to the state
19 fund general revenue.

20 In the event of a controversy as to the proper determi-
21 nation of the premium base on which this tax is to be
22 computed, a hearing may be had by said fire marshal on
23 the application of any interested person, corporation, or
24 association, which hearing shall be held after reasonable
25 notice. Appeal from any finding or holding of said fire
26 marshal may be by petition to the circuit court of Ka-
27 nawha county within thirty days of such finding or
28 holding.

CHAPTER 38

(Senate Bill No. 59—By Mr. McCourt)

[Passed February 4, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact section thirteen, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the disposition of fees and charges collected by the insurance commissioner.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted as follows:

Article 3. Licensing, Fees and Taxation of Insurers.

Section

13. Fees and charges.

Section 13. Fees and Charges.—(a) Except where it is
2 otherwise specially provided, the commissioner shall de-
3 mand and receive the following fees from all insurers: For
4 annual fee for each license, fifty dollars; for receiving and
5 filing annual reports, fifty dollars; for valuation of policies
6 of life insurers organized under the laws of this state, one
7 and one-half cents for each one thousand dollars of insur-
8 ance; for valuation of policies of life insurers organized
9 under the laws of any other state licensed to transact
10 insurance in this state such rate for each one thousand
11 dollars of insurance valued as is imposed by such other
12 state upon any similar insurer organized under the laws
13 of this state licensed to transact insurance in such other
14 state; for filing certified copy of articles of incorporation,
15 twenty-five dollars; for filing copy of its charter, twenty-
16 five dollars; for filing statements preliminary to admission,
17 fifty dollars; for filing any additional paper required by
18 law or furnishing copies thereof, one dollar; for every
19 certificate of valuation, copy of report or certificate of
20 condition of company to be filed in any other state, five
21 dollars; for each licensed agent, five dollars. The com-
22 missioner may by regulation set reasonable charges for
23 printed forms for the annual statements required by law.
24 He may sell at cost publications purchased by, or printed
25 on behalf of, the commissioner.

26 (b) The commissioner shall pay into the state treasury
27 for the benefit of the state fund general revenue all fees
28 and charges collected by him under the provisions of this
29 section.

CHAPTER 39

(Com. Sub. for House Bill No. 217—By Mr. Speaker,
Mr. White, and Mr. Cann)

[Passed February 8, 1966; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-c, relating to minimum wage and maximum hour standards for certain employees, providing certain powers and duties of the commissioner of labor, the establishing of a wage and hour division of the department of labor, providing employee's remedies and a limitation of action thereon; injunction and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-c, to read as follows:

Article 5-c. Minimum Wage and Maximum Hours Standards for Employees.

Section

1. Definitions.
2. Minimum wages.
3. Maximum hours; overtime compensation.
4. Credits.
5. Keeping of records.
6. Duties and powers of commissioner of labor.
7. Offenses and penalties.
8. Civil remedy of employee, limitation of actions.
9. Wage and hour division; wage and hour director; duties.
10. Relation to other laws.
11. Severability.

Section 1. Definitions.—As used in this article:

- 2 (a) "Commissioner" means the commissioner of la-
3 bor or his duly authorized representatives.
- 4 (b) "Wage and Hour Director" means the wage and
5 hour director appointed by the commissioner of labor
6 as chief of the wage and hour division.
- 7 (c) "Wage" means compensation due an employee
8 by reason of his employment.

9 (d) "Employ" means to hire or permit to work.

10 (e) "Employer" includes the state of West Virginia,
11 its agencies, departments, and all its political subdivi-
12 sions, any individual, partnership, association, public or
13 private corporation, or any person or group of persons
14 acting directly or indirectly in the interest of any
15 employer in relation to an employee, and who employs
16 during any calendar week six or more employees as herein
17 defined in any one separate, distinct and permanent loca-
18 tion or business establishment: *Provided*, That the term
19 "employer" shall not include any individual, partner-
20 ship, association, corporation, person or group of persons
21 or similar unit if eighty per cent of the persons employed
22 by him are subject to any federal act relating to mini-
23 mum wage, maximum hours and overtime compensation.

24 (f) "Employee" includes any individual employed by
25 an employer but shall not include (1) any individual
26 employed in agriculture as the word agriculture is de-
27 fined in the Fair Labor Standards Act of 1938, as amended;
28 (2) any individual employed by the United States and
29 any individual employed as a fire fighter by the state or
30 any agency thereof; (3) any individual subject to any
31 federal act relating to minimum wage, maximum hours
32 and overtime compensation; (4) any individual engaged
33 in the activities of an educational, charitable, reli-
34 gious, fraternal, or nonprofit organization where the
35 employer-employee relationship does not in fact exist,
36 or where the services rendered to such organizations are
37 on a voluntary basis; (5) newsboys, shoeshine boys, golf
38 caddies, pin boys and pin chasers in bowling lanes, ushers
39 in theatres; (6) traveling salesmen or outside salesmen;
40 (7) services performed by an individual in the employ
41 of his parent, son, daughter or spouse; (8) any individual
42 employed in a bona fide professional, executive or admin-
43 istrative capacity; (9) any individual employed on a
44 part-time basis and who is a student at any recognized
45 school or college; (10) any individual engaged in edu-
46 cational programs in any hospital licensed by the state
47 of West Virginia; (11) any individual employed in a non-
48 profit nursing home, or a nursing home licensed by the
49 state of West Virginia and primarily engaged in the care

50 of the aged or infirmed; (12) any person whose employ-
51 ment is for the purpose of on-the-job training; (13) any
52 person having a physical or mental handicap so severe
53 as to prevent his employment or employment training
54 in any training or employment facility other than a non-
55 profit sheltered workshop; (14) any individual employed
56 by a local or interurban motorbus carrier; (15) any indi-
57 vidual employed in a boys or girls summer camp; (16)
58 any person sixty-two years of age or over who receives
59 old age or survivors benefits from the social security
60 administration.

61 (g) "Workweek" means a regularly recurring period
62 of one hundred sixty-eight hours in the form of seven
63 consecutive twenty-four hour periods, need not coincide
64 with the calendar week, and may begin any day of the
65 calendar week and any hour of the day.

66 (h) "Hours Worked," in determining for the purposes
67 of sections two and three, the hours for which an em-
68 ployee is employed, there shall be excluded any time
69 spent in changing clothes or washing at the beginning
70 or end of each workday, time spent in walking, riding
71 or traveling to and from the actual place of performance
72 of the principal activity or activities which such employee
73 is employed to perform and activities which are prelimi-
74 nary to or postliminary to said principal activity or activi-
75 ties, subject to such exceptions as the commissioner may
76 by rules and regulations define.

Sec. 2. Minimum Wages.—On January one, one thou-
2 sand nine hundred sixty-seven, and thereafter, every em-
3 ployer shall pay to each of his employees wages at a rate
4 not less than one dollar an hour.

Sec. 3. Maximum Hours; Overtime Compensation.—(a)
2 On and after January one, one thousand nine hundred
3 sixty-seven, no employer shall employ any of his em-
4 ployees for a workweek longer than forty-eight hours,
5 unless such employee receives compensation for his em-
6 ployment in excess of the hours above specified at a rate
7 not less than one and one-half times the regular rate at
8 which he is employed.

9 (b) As used in this section the "regular rate" at which
10 an employee is employed shall be deemed to include all
11 remuneration for employment paid to, or on behalf of,
12 the employee, but shall not be deemed to include:

13 (1) Sums paid as gifts; payments in the nature of gifts
14 made at Christmas time or on other special occasions, as
15 a reward for service, the amounts of which are not meas-
16 ured by or dependent on hours worked, production, or
17 efficiency;

18 (2) Payments made for occasional periods when no
19 work is performed due to vacation, holiday, illness, fail-
20 ure of the employer to provide sufficient work, or other
21 similar cause; reasonable payments for traveling ex-
22 penses, or other expenses, incurred by an employee in
23 the furtherance of his employer's interests and properly
24 reimbursable by the employer; and other similar pay-
25 ments to an employee which are not made as compen-
26 sation for his hours of employment;

27 (3) Sums paid in recognition of services performed
28 during a given period if either, (a) both the fact that
29 payment is to be made and the amount of the payment
30 are determined at the sole discretion of the employer at
31 or near the end of the period and not pursuant to any
32 prior contract, agreement, or promise causing the em-
33 ployee to expect such payments regularly; or (b) the
34 payments are made pursuant to a bona fide profit-shar-
35 ing plan or trust or bona fide thrift or savings plan, meet-
36 ing the requirements of the commissioner set forth in
37 appropriate regulation which he shall issue, having due
38 regard among other relevant factors, to the extent to
39 which the amounts paid to the employee are determined
40 without regard to hours of work, production, or effi-
41 ciency; or (c) the payments are talent fees (as such talent
42 fees are defined and delimited by regulations of the com-
43 missioner) paid to performers, including announcers, on
44 radio and television programs;

45 (4) Contributions irrevocably made by an employer
46 to a trustee or third person pursuant to a bona fide plan
47 for providing old-age, retirement, life, accident, or health
48 insurance or similar benefits for employees;

49 (5) Extra compensation provided by a premium rate
50 paid for certain hours worked by the employee in any
51 day or workweek because such hours are hours worked
52 in excess of eight in a day or in excess of the maximum
53 workweek applicable to such employee under subsec-
54 tion (a) or in excess of the employee's normal working
55 hours or regular working hours, as the case may be;

56 (6) Extra compensation provided by a premium rate
57 paid for work by the employee on Saturdays, Sundays,
58 holidays, or regular days of rest, or on the sixth or sev-
59 enth day of the workweek, where such premium rate
60 is not less than one and one-half times the rate estab-
61 lished in good faith for like work performed in non-
62 overtime hours on other days; or

63 (7) Extra compensation provided by a premium rate
64 paid to the employee, in pursuance of an applicable
65 employment contract or collective-bargaining agreement,
66 for work outside of the hours established in good faith
67 by the contract or agreement as the basic, normal, or
68 regular workweek where such premium rate is not less
69 than one and one-half times the rate established in good
70 faith by the contract or agreement for like work per-
71 formed during such workweek.

72 (c) No employer shall be deemed to have violated sub-
73 section (a) by employing any employee for a workweek
74 in excess of the maximum workweek applicable to such
75 employee under subsection (a) if such employee is em-
76 ployed pursuant to a bona fide individual contract, or
77 pursuant to an agreement made as a result of collective
78 bargaining by representatives of employees, if the duties
79 of such employee necessitate irregular hours of work,
80 and the contract or agreement (1) specifies a regular
81 rate of pay of not less than the minimum hourly rate
82 provided in section two and compensation at not less
83 than one and one-half times such rate for all hours worked
84 in excess of such maximum workweek, and (2) provides
85 a weekly guaranty of pay for not more than sixty hours
86 based on the rates so specified.

87 (d) No employer shall be deemed to have violated
88 subsection (a) by employing any employee for a work-

89 week in excess of the maximum workweek applicable
90 to such employee under such subsection if, pursuant to
91 an agreement or understanding arrived at between the
92 employer and the employee before performance of the
93 work, the amount paid to the employee for the number
94 of hours worked by him in such workweek in excess of
95 the maximum workweek applicable to such employee
96 under such subsection:

97 (1) In the case of an employee employed at piece
98 rates, is computed at piece rates not less than one and
99 one-half times the bona fide piece rates applicable to the
100 same work when performed during nonovertime hours;
101 or

102 (2) In the case of an employee performing two or
103 more kinds of work for which different hourly or piece
104 rates have been established, is computed at rates not
105 less than one and one-half times such bona fide rates
106 applicable to the same work when performed during
107 nonovertime hours; or

108 (3) Is computed at a rate not less than one and one-
109 half times the rate established by such agreement or
110 understanding as the basic rate to be used in computing
111 overtime compensation thereunder: *Provided*, That the
112 rate so established shall be authorized by regulation by
113 the commissioner as being substantially equivalent to
114 the average hourly earnings of the employee, exclusive
115 of overtime premiums, in the particular work over a
116 representative period of time; and if (i) the employee's
117 average hourly earnings for the workweek exclusive of
118 payments described in paragraphs (1) through (7) of
119 subsection (b) are not less than the minimum hourly
120 rate required by applicable law, and (ii) extra over-
121 time compensation is properly computed and paid on
122 other forms of additional pay required to be included
123 in computing the regular rate.

124 (e) Extra compensation paid as described in para-
125 graphs (5), (6) and (7) of subsection (b) shall be credit-
126 able toward overtime compensation payable pursuant
127 to this section.

Sec. 4. Credits.—In determining whether an employer

2 is paying an employee a wage rate of not less than one
3 dollar an hour or at a rate of one and one-half times his
4 regular rate for work in excess of forty-eight hours in
5 one workweek, there shall be provided in accordance
6 with regulations which shall be promulgated by the com-
7 missioner a credit of forty cents an hour for an employee
8 customarily receiving gratuities, and a reasonable credit
9 for board and lodging furnished to the employee. The
10 commissioner shall promulgate regulations relating to
11 maximum allowances to employees for room and board
12 furnished to employees.

Sec. 5. Keeping of Records.—Every employer subject
2 to the provisions of this article shall make or cause to
3 be made, and shall keep and preserve at his place of
4 business for a period of two years, a written record or
5 records of the name and address of each of his employees
6 as herein defined, his rate of pay, hours of employment,
7 payroll deductions, and amount paid him for each pay
8 period.

Sec. 6. Duties and Powers of Commissioner of Labor.

2 —(a) It shall be the duty of the commissioner to enforce
3 and administer the provisions of this article, and to pro-
4 mulgate such rules and regulations, in accordance with
5 chapter twenty-nine-a of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended, as shall
7 be needful to give effect to the provisions of this article.

8 (b) The commissioner is authorized at reasonable
9 times to enter the place of business of an employer sub-
10 ject to the provisions of this article, for purposes of:
11 (1) Inspecting and examining, and copying, photograph-
12 ing or otherwise reproducing all payroll records of the em-
13 ployer directly relating to wages and hours of employment
14 of persons employed by him; (2) questioning or otherwise
15 examining persons employed by the employer on the
16 subject of wages and hours of their employment, and
17 gratuities received or earned in such employment.

18 (c) The commissioner is authorized and empowered
19 to make investigations to determine whether there is
20 reasonable cause to believe that any person is an employer
21 as defined in section one of this article, or whether there

22 is reasonable cause to believe that any provision of this
23 article is being or has been violated.

24 (d) The commissioner is authorized and empowered
25 to file criminal complaints against persons whom the com-
26 missioner has reasonable cause to believe have com-
27 mitted any offense created or defined by the provisions
28 of this article.

29 (e) The commissioner is authorized and empowered
30 to institute civil actions seeking appropriate injunctive
31 relief to compel an employer subject to this article to
32 comply with the provisions of this article, but nothing
33 herein shall authorize or require the commissioner to
34 seek or obtain recovery of unpaid wages for the benefit
35 of any employee or employees.

Sec. 7. Offenses and Penalties.—(a) Any employer
2 who wilfully discharges or in any manner wilfully dis-
3 criminate against any employee because such employee
4 has made complaint to his employer, or to the commis-
5 sioner, that he has not been paid wages in accordance
6 with the wage and hour provisions of this article, or
7 because such employee has instituted or is about to insti-
8 tute any civil action, or file any petition or criminal com-
9 plaint against the employer by reason of the provisions
10 of this article, or because such employee has testified
11 or is about to testify in any administrative proceeding,
12 civil action, or criminal action under this article, shall
13 be guilty of a misdemeanor, and, upon conviction thereof,
14 shall be fined not less than one hundred dollars nor more
15 than five hundred dollars.

16 (b) Any employer who wilfully violates any other
17 provision of this article shall be guilty of a misdemeanor,
18 and, upon conviction thereof, shall be fined not more
19 than one hundred dollars.

Sec. 8. Civil Remedy of Employee, Limitation of
2 **Actions.**—Any employer who pays an employee less
3 than the applicable wage rate to which such employee
4 is entitled under or by virtue of this article shall be
5 liable to such employee for the unpaid wages; an agree-
6 ment by an employee to work for less than the appli-
7 cable wage rate is hereby declared by the Legislature

8 of West Virginia to be against public policy and unen-
9 forceable.

10 In any such action the amount recoverable shall be
11 limited to such unpaid wages as should have been paid
12 by the employer within two years next preceding the
13 commencement of such action. Nothing in this article
14 shall be construed to limit the right of an employee to
15 recover upon a contract of employment.

Sec. 9. Wage and Hour Division; Wage and Hour Director; Duties.—The commissioner of labor shall establish within the department of labor a division to be known as the wage and hour division, which shall be a separate administrative division with respect to personnel and duties. The division shall be in charge of a wage and hour director. The wage and hour director, employees, and representatives within the wage and hour division shall, under the direction of the commissioner of labor, carry out such duties and functions as are necessary to effectuate the provisions of this article. The wage and hour director, representatives and employees within the wage and hour division shall be selected by the commissioner of labor in the same manner as other employees of the department of labor.

Sec. 10. Relation to Other Laws.—Any standards relating to minimum wages, maximum hours, overtime compensation or other working conditions in effect under any other law of this state on the effective date of this article, which are more favorable to employees than those applicable to such employees under this article shall not be deemed to be amended, rescinded or otherwise affected by this article but shall continue in full force and effect and may be enforced as provided by law.

Sec. 11. Severability.—If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

CHAPTER 40

(Com. Sub. for Senate Bill No. 64—By Mr. Carson,
Mr. President)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections four, five and six, article one-a, and section two, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the director of mental health; the division of administration and the powers and duties of the supervisor thereof; the division of professional services; the powers and duties of the supervisor thereof; and hospital superintendents and other employees.

Be it enacted by the Legislature of West Virginia:

That sections four, five and six, article one-a, and section two, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article

- 1-a. Department of Mental Health.
2. State Hospitals and Colin Anderson Center.

Article 1-a. Department of Mental Health.

Section

4. Powers and duties of director.
5. Division of administration; powers and duties of supervisor.
6. Division of professional services.

Section 4. Powers and Duties of Director.—The director shall be the executive and administrative head of the department and as such shall have the following powers and duties:

- (1) To supervise and coordinate the administration and operation of the state hospitals named in article two of this chapter and any other state hospitals, centers or institutions hereafter created for the care and treatment of the mentally ill or mentally retarded or both.
- (2) To make rules, regulations and policies relating to and determine the administrative pattern for the adminis-

12 tration and operation of said hospitals and the divisions
13 of the department.

14 (3) To appoint the supervisors of the divisions of the
15 department, the superintendents of the state hospitals,
16 and such other assistants and employees as may be neces-
17 sary for the efficient operation of the department and the
18 state hospitals.

19 (4) To delegate to any of his appointees, assistants or
20 employees all powers and duties vested in the director in-
21 cluding the power to execute contracts and agreements
22 in the name of the department as provided in this article,
23 but the director shall be responsible for the acts of such
24 appointees, assistants and employees.

25 (5) To transfer a patient from any state hospital to any
26 other state hospital or clinic under his control and, by
27 agreement with the state commissioner of public institu-
28 tions, transfer a patient from a state hospital to an institu-
29 tion, other than correctional, under the supervision of the
30 state commissioner of public institutions.

31 (6) To make periodic reports to the governor and to
32 the Legislature on the condition of the state hospitals or
33 on other matters within his authority, which shall include
34 recommendations for improvement of the state hospitals
35 and any other matters affecting the mental health of the
36 people of the state.

37 The director of mental health shall have all of the au-
38 thority vested in the divisions of the department as here-
39 inafter provided.

40 The director is hereby authorized and empowered to
41 accept and use for the benefit of a state hospital or hos-
42 pitals, or for any other mental health purpose specified in
43 this chapter, any gift or devise of any property or thing
44 which lawfully may be given. If such a gift or devise is
45 for a specific purpose or for a particular state hospital or
46 hospitals, it shall be used as specified. Any gift or devise
47 of any property or thing which lawfully may be given
48 and whatever profit may arise from its use or investment
49 shall be deposited in a special revenue fund with the state
50 treasurer, and shall be used only as specified by the
51 donor or donors.

52 Whenever it shall become necessary, the department
53 of mental health may condemn any interest, right or
54 privilege, land or improvement which in its opinion may
55 be necessary, in the manner provided by law for the ac-
56 quisition by this state of property for public purposes.

**Sec. 5. Division of Administration; Powers and Duties
2 of Supervisor.**—There shall be a division of administra-
3 tion in the department of mental health. The supervisor
4 of this division shall be an experienced administrator with
5 broad knowledge of accounting, purchasing and personnel
6 practices and shall have the following powers and duties:

7 (1) To keep the records of the department, including
8 records transferred from the board of control.

9 (2) To receive and disburse funds for the department
10 as the agent of the director of the department.

11 (3) To assemble and analyze departmental budget esti-
12 mates, review requests for transfer of funds, and main-
13 tain departmental appropriation and fiscal records.

14 (4) To make rules and regulations governing the ad-
15 ministration and business management of the state hos-
16 pitals, formulate standard fiscal procedures, and make
17 recommendations for improvement; to make regulations
18 concerning any superintendent's trustee funds heretofore
19 established by authority of section three-a, article one,
20 chapter twenty-five of the official code of West Virginia,
21 one thousand nine hundred thirty-one, as amended.

22 (5) To have the responsibility for the maintenance of
23 the land, buildings and equipment of state hospitals.

24 (6) To review requisitions for supplies and equipment,
25 and cooperate with the division of purchases in develop-
26 ment and drafting of specifications.

27 (7) To handle the personnel records of the department
28 and to process payrolls.

29 (8) To enter into contracts for the department con-
30 sistent with his assigned duties.

31 (9) To develop a civil service system, based on merit
32 and including job classification and standardization, for
33 the professional employees of the department and of the
34 institutions and for any other employees thereof who are

35 not made subject to such a system by other provisions of
36 law.

37 (10) To perform any other duties assigned to the di-
38 vision by the director of the department.

Sec. 6. Division of Professional Services.—There shall
2 be a division of professional services in the department of
3 mental health. The supervisor of this division shall assist
4 the director in the operation of the programs or services
5 of the department and shall be a qualified psychiatrist.

6 The supervisor of this division shall have the following
7 powers and duties:

8 (1) To develop professional standards, provide super-
9 vision of state hospitals, analyze hospital programs and
10 inspect individual hospitals.

11 (2) To assist in recruiting professional staff.

12 (3) To take primary responsibility for the education
13 and training of professional and subprofessional person-
14 nel.

15 (4) To carry on or stimulate research activities related
16 to medical and psychiatric facilities of the department,
17 and render specialized assistance to hospital superintend-
18 ents.

19 (5) To establish liaison with appropriate state agencies
20 and with private groups interested in mental health, such
21 as the state department of health, the board of probation
22 and parole, the department of education, the board of
23 governors of West Virginia University, and the West Vir-
24 ginia Association for Mental Health, Incorporated.

25 (6) To license, supervise and inspect any hospital,
26 center or institution, or part thereof, maintained and
27 operated by any political subdivision or by any person,
28 persons, association or corporation to provide in-patient
29 care and treatment for the mentally ill, or mentally re-
30 tardated, or both.

31 (7) To perform any other duties assigned to the divi-
32 sion by the director of the department.

Article 2. State Hospitals and Colin Anderson Center.

Section

2. Superintendents.

Section 2. Superintendents.—The superintendent of a
2 state hospital shall be appointed for an indefinite period.

3 The director of mental health may designate certain
4 officers or employees to receive living quarters, house-
5 hold furniture, board, fuel, and utilities for himself and
6 his family, as may be determined by the character of their
7 respective duties.

CHAPTER 41

(Com. Sub. for Senate Bill No. 47—By Mr. Smith and
Mr. McKown)

[Passed February 2, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend article one-a, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve, relating to that certain parcel of land known as the Lesage state forest tree nursery; providing that said property shall be held by the state of West Virginia for the sole use and benefit of the department of mental health for the establishment of a regional center for the care and treatment of the mentally retarded; and authorizing and empowering said department to lease said property to a political subdivision or any nonprofit group, agency or corporation for such purpose.

Be it enacted by the Legislature of West Virginia:

That article one-a, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twelve, to read as follows:

Article 1-a. Department of Mental Health.

Section

12. Lesage tree nursery transferred from department of natural resources to department of mental health; use as center for the mentally retarded.

Section 12. Lesage Tree Nursery Transferred from Department of Natural Resources to Department of Mental Health; Use as Center for the Mentally Retarded.—On and after the effective date of this section, that certain parcel of land known as the Lesage state forest tree nursery

6 located in Cabell county and owned by the state of West
7 Virginia for the use and benefit of the department of
8 natural resources shall be held for the sole use and benefit
9 of the department of mental health for the establishment
10 of a regional center for the care and treatment of the
11 mentally retarded, and shall be under the exclusive con-
12 trol and jurisdiction of said department of mental health,
13 and the department of natural resources shall thereupon
14 have no further rights or interests in, or privileges, re-
15 sponsibilities or obligations with respect to, said tract of
16 land.

17 In establishing and developing said center, the director
18 of the department of mental health is hereby authorized
19 and empowered to lease said premises on a long-term
20 basis for and on behalf of the state of West Virginia to
21 a political subdivision of this state or any nonprofit group,
22 agency or corporation qualified to operate a center for
23 the care and treatment of the mentally retarded.

24 Before the director shall enter into such a lease, said
25 political subdivision, local group, agency or corporation
26 shall first present to the director a comprehensive plan
27 for the use, development and establishment of said cen-
28 ter for his approval.

CHAPTER 42

(Senate Bill No. 81—Originating in the Senate
Committee on the Judiciary)

[Passed February 10, 1966: in effect from passage. Approved by the Governor.]

AN ACT to amend article three, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five, and to amend and reenact sections two and three, article five of said chapter, relating to the furnishing of transportation for persons to be hospitalized because of mental illness and relating to the custody of mentally ill persons in emergency situations and the hospitalization of such persons.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five, and that sections two and three, article five of said chapter, be amended and reenacted to read as follows:

Article

- 3. Mental Hygiene Commissions.**
- 5. Involuntary Hospitalization.**

Article 3. Mental Hygiene Commissions.

Section

- 5. Transportation for mentally ill persons.

Section 5. Transportation for Mentally Ill Persons.—

2 Whenever an individual is to be hospitalized under the
3 provisions of article four or article five of this chapter, the
4 clerk of the county court shall, upon the written request
5 under oath of a person having a proper interest in the in-
6 dividual's hospitalization, permit such person to arrange
7 for the individual's transportation to the hospital by such
8 means as may be suitable for his mental condition. Should
9 no such transportation be available, the clerk may arrange
10 for such, and if the mentally ill person is without financial
11 means to pay for such transportation, the cost thereof, not
12 to exceed the amount prescribed by the county court of
13 the county, may be paid out of the county treasury.

Article 5. Involuntary Hospitalization.

Section

- 2. Hospitalization on medical certification; emergency procedure; notice of admission to certain persons.
- 3. Custody for medical examination; emergency procedure; hospitalization or release; notice of admission to certain persons.

Section 2. Hospitalization on Medical Certification;

2 **Emergency Procedure; Notice of Admission to Certain**
3 **Persons.—**Any individual may be admitted to a state hos-
4 pital upon:

- 5 (a) Written application to the state hospital by a
6 health officer or police officer stating his belief that
7 the individual, because of symptoms of mental illness,
8 may cause injury to himself or others if not immediately
9 restrained, and the grounds for such belief, and

10 (b) A certification by at least one physician that he
11 has examined the individual and is of the opinion that the
12 individual is mentally ill, and because of his illness, may
13 injure himself or others if not immediately restrained.

14 Any individual with respect to whom such certification
15 has been issued may not be admitted on the basis thereof
16 at any time after the expiration of three days from the
17 date of such examination. The superintendent of the state
18 hospital admitting the individual shall forthwith make a
19 report thereof to the director of mental health.

20 When an individual is admitted to a state hospital pur-
21 suant to the provisions of this section, the superintendent
22 thereof shall immediately give notice of the individual's
23 admission to such hospital to the following persons: His
24 or her spouse and his or her parents or parent or guardian,
25 or if there be no such spouse, parents, parent or guardian,
26 to two of the individual's next of kin. Such notice shall be
27 in writing and shall be transmitted to such person or per-
28 sons at his, her or their last known address by registered
29 or certified mail, return receipt requested.

**Sec. 3. Custody for Medical Examination; Emergency
2 Procedure; Hospitalization or Release; Notice of Admis-
3 sion to Certain Persons.**—When any person, health officer
4 or police officer has reason to believe that an individual is
5 mentally ill and because of his illness may injure himself
6 or others if allowed to remain at liberty while awaiting an
7 examination and certification by a physician, such person,
8 health officer or police officer may make application under
9 oath to the clerk of the county court, giving such informa-
10 tion and stating such facts therein as may be required,
11 using forms provided by the department of mental health,
12 and the clerk shall thereupon issue a warrant ordering the
13 individual suspected and named in such application to be
14 taken into custody and detained, but not incarcerated in
15 a jail or penal institution, for the purpose of an imme-
16 diate examination by at least one physician. If that physi-
17 cian certifies that he has examined the individual and
18 is of the opinion that the individual is mentally ill and
19 because of his illness may injure himself or others if not
20 immediately hospitalized, the physician, health officer or
21 police officer shall apply for admission and immediately

22 transport the individual to a state hospital for hospitaliza-
23 tion therein, or to a cooperating private psychiatric facil-
24 ity or a psychiatric unit of a general hospital willing to
25 accept such individual for hospitalization therein. The ap-
26 plication for admission shall state the circumstances under
27 which the individual was taken into custody. If the physi-
28 cian certifies that he has examined the individual and is of
29 the opinion that the individual is not mentally ill and is
30 not apt to injure himself or others, such individual shall
31 be immediately released from custody and detention. Any
32 individual with respect to whom such certification has
33 been issued may not be admitted on the basis thereof at
34 any time after the expiration of three days from the date
35 of such examination. The superintendent of the state
36 hospital or the head of the private facility or hospital
37 admitting the individual shall forthwith make a report
38 thereof to the director of mental health.

39 When an individual is admitted to a state hospital or to
40 a private facility or hospital pursuant to the provisions
41 of this section, the superintendent of the state hospital or
42 the head of the private facility or hospital, as the case
43 may be, shall immediately give notice of the individual's
44 admission to such state hospital or private facility or hos-
45 pital to the following persons: His or her spouse and his
46 or her parents or parent or guardian, or if there be no
47 such spouse, parents, parent or guardian, to two of the
48 individual's next of kin. Such notice shall be in writing
49 and shall be transmitted to such person or persons at his,
50 her or their last known address by registered or certified
51 mail, return receipt requested.

CHAPTER 43

(Senate Bill No. 56—By Mr. Carson, Mr. President,
and Mr. Sharpe)

[Passed February 5, 1968; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two-a, article eight,
chapter twenty-seven of the code of West Virginia, one

thousand nine hundred thirty-one, as amended; and to further amend said article eight, chapter twenty-seven, by adding thereto a new section, designated section two-b, all relating to local mental health programs; approval; credits to amount due to state under preceding section; establishment of separate account for receiving and expending gifts, bequests, donations, fees and miscellaneous income.

Be it enacted by the Legislature of West Virginia:

That section two-a, article eight, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article eight, chapter twenty-seven, be further amended by adding thereto a new section, designated section two-b, to read as follows:

Article 8. Maintenance of Mentally Ill or Mentally Retarded Patients.

Section

- 2-a. Local mental health programs; approval; credits to amount due to state under preceding section.
- 2-b. Same—separate account for receiving and expending gifts, bequests, donations, fees and miscellaneous income.

Section 2-a. Local Mental Health Programs; Approval; Credits to Amount Due to State under Preceding Section.
—Any county court which elects to establish a local mental health program and has a completed comprehensive program ready for implementation, and which program is approved in advance by the state director of mental health, shall be allowed to deduct from its annual debt for the maintenance of resident patients in state mental institutions, as set forth in section two, an amount equal to the sum annually budgeted by said county court for the establishment and maintenance of said approved local mental health program.

Any county court which desires to establish a local mental health program may make application for approval of such program to the director of mental health on forms to be provided by the director and in accordance with procedures and standards which have been established by the director.

19 On or before the fifteenth day of January of each year
20 the director of the department of mental health shall cer-
21 tify to the auditor a statement of the amount budgeted
22 by each county court for the establishment, operation
23 and maintenance of a local mental health program: *Pro-*
24 *vided*, That for the fiscal year one thousand nine hundred
25 sixty-five—sixty-six the director may add additional coun-
26 ties to the approved list on or before the fifth day of
27 March, one thousand nine hundred sixty-six. The auditor
28 shall deduct such certified sums from the amount deter-
29 mined to be due the state of West Virginia, as provided in
30 section two: *Provided, however*, That on or before the
31 fifth day of July of each year, each county court which
32 has established an approved local mental health program
33 shall certify to the director a detailed statement of its
34 expenditures made for such local programs on a form to
35 be provided by the director and the director shall have
36 authority to delete or refuse to approve any expenditures
37 made by any county court which were not made in ac-
38 cordance with the approved comprehensive plan for that
39 county: *Provided further*, That any sums budgeted by
40 a county court and credited by the auditor as hereinabove
41 provided which are not actually expended by the county
42 court for the establishment of a local mental health pro-
43 gram by the end of the fiscal year for which it was bud-
44 geted shall be charged as a debt against the county due
45 the state for the maintenance of its patients. The director,
46 after determining the amount of such debt, if any, shall
47 immediately certify the same to the auditor, who shall
48 add said sum to the amount determined to be due the
49 state, as provided in section two, for the current year.

Sec. 2-b. Same—Separate Account for Receiving and
2 **Expending Gifts, Bequests, Donations, Fees and Miscel-**
3 **laneous Income.**—A county court establishing a local
4 mental health program as provided for in this article
5 shall have the power and authority to establish a separate
6 account and to deposit in said separate account all gifts,
7 bequests and donations from any person, corporation,
8 firm or association and any fees or other income derived
9 from the operation of such local mental health program
10 and may expend such funds accruing in said separate

11 account for the operation and maintenance of such local
12 program.

13 Any moneys remaining in said separate account at the
14 end of the fiscal year shall not revert to the general fund
15 of the county nor otherwise expire, but shall be carried
16 over from year to year until expended for the operation
17 and maintenance of said local mental health program.

CHAPTER 44

(Senate Bill No. 60—Originating in the Senate Committee
on the Judiciary)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the definitions of words and phrases used in said chapter seventeen-a, concerning motor vehicle administration, registration, certificates of title and antitheft provisions, and eliminating the definition of the word "resident."

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. Words and Phrases Defined.

Section

1. Definitions.

Section 1. Definitions.—The following words and phrases when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them in this article:

(a) *Vehicle*.—Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

9 (b) *Motor Vehicle*.—Every vehicle which is self-pro-
10 pelled and every vehicle which is propelled by electric
11 power obtained from overhead trolley wires, but not
12 operated upon rails.

13 (c) *Motorcycle*.—Every motor vehicle having a saddle
14 for the use of the rider and designed to travel on not more
15 than three wheels in contact with the ground but ex-
16 cluding a tractor.

17 (d) *School Bus*.—Every motor vehicle owned by a pub-
18 lic governmental agency and operated for the transpor-
19 tation of children to or from school or privately owned
20 and operated for compensation for the transportation of
21 children to or from school.

22 (e) *Bus*.—Every motor vehicle designed for carrying
23 more than seven passengers and used for the transpor-
24 tation of persons; and every motor vehicle, other than a
25 taxicab, designed and used for the transportation of per-
26 sons for compensation.

27 (f) *Truck Tractor*.—Every motor vehicle designed and
28 used primarily for drawing other vehicles and not so con-
29 structed as to carry a load other than a part of the weight
30 of the vehicle and load so drawn.

31 (g) *Farm Tractor*.—Every motor vehicle designed and
32 used primarily as a farm implement for drawing plows,
33 mowing machines, and other implements of husbandry.

34 (h) *Road Tractor*.—Every motor vehicle designed and
35 used for drawing other vehicles and not so constructed
36 as to carry any load thereon either independently or any
37 part of the weight of a vehicle or load so drawn.

38 (i) *Truck*.—Every motor vehicle designed, used, or
39 maintained primarily for the transportation of property.

40 (j) *Trailer*.—Every vehicle with or without motive
41 power designed for carrying persons or property and
42 for being drawn by a motor vehicle and so constructed
43 that no part of its weight rests upon the towing vehicle.

44 (k) *Semitrailer*.—Every vehicle with or without motive
45 power designed for carrying persons or property and for
46 being drawn by a motor vehicle and so constructed that
47 some part of its weight and that of its load rests upon or
48 is carried by another vehicle.

49 (l) *Pole Trailer*.—Every vehicle without motive power
50 designed to be drawn by another vehicle and attached to
51 the towing vehicle by means of a reach, or pole, or by
52 being boomed or otherwise secured to the towing vehicle,
53 and ordinarily used for transporting long or irregularly
54 shaped loads such as poles, pipes, or structural members
55 capable, generally, of sustaining themselves as beams
56 between the supporting connections.

57 (m) *Specially Constructed Vehicles*.—Every vehicle of
58 a type required to be registered hereunder not originally
59 constructed under a distinctive name, make, model, or
60 type by a generally recognized manufacturer of vehicles
61 and not materially altered from its original construction.

62 (n) *Reconstructed Vehicle*.—Every vehicle of a type
63 required to be registered hereunder materially altered
64 from its original construction by the removal, addition,
65 or substitution of essential parts, new or used.

66 (o) *Essential Parts*.—All integral and body parts of a
67 vehicle of a type required to be registered hereunder, the
68 removal, alteration, or substitution of which would tend
69 to conceal the identity of the vehicle or substantially alter
70 its appearance, model, type, or mode of operation.

71 (p) *Foreign Vehicle*.—Every vehicle of a type required
72 to be registered hereunder brought into this state from
73 another state, territory, or country other than in the
74 ordinary course of business by or through a manufacturer
75 or dealer and not registered in this state.

76 (q) *Implement of Husbandry*.—Every vehicle which is
77 designed for agricultural purposes and used by the owner
78 thereof primarily in the conduct of his agricultural opera-
79 tions.

80 (r) *Special Mobile Equipment*.—Every vehicle not
81 designed or used for the transportation of persons or
82 property and incidentally operated or moved over the
83 highways, including road construction or maintenance
84 machinery, ditch-digging apparatus, well-boring appara-
85 tus, concrete mixers, and farm tractors, when farm trac-
86 tors cannot be classified as an implement of husbandry
87 as defined in subparagraph (q) of this section. The fore-
88 going enumeration shall be deemed partial and shall not

89 operate to exclude other such vehicles which are within
90 the general terms of this subparagraph.

91 (s) *Pneumatic Tire*.—Every tire in which compressed
92 air is designed to support the load.

93 (t) *Solid Tire*.—Every tire of rubber or other resilient
94 material which does not depend upon compressed air for
95 the support of the load.

96 (u) *Metal Tire*.—Every tire the surface of which in
97 contact with the highway is wholly or partly of metal or
98 other hard, nonresilient material.

99 (v) *Commissioner*.—The commissioner of motor ve-
100 hicles of this state.

101 (w) *Department*.—The department of motor vehicles
102 of this state acting directly or through its duly authorized
103 officers and agents.

104 (x) *Person*.—Every natural person, firm, copartnership,
105 association, or corporation.

106 (y) *Owner*.—A person who holds the legal title of a
107 vehicle or in the event a vehicle is the subject of an agree-
108 ment for the conditional sale or lease thereof with the
109 right of purchase upon performance of the conditions
110 stated in the agreement and with an immediate right of
111 possession vested in the conditional vendee or lessee, or
112 in the event a mortgagor of a vehicle is entitled to pos-
113 session, then such conditional vendee or lessee or mort-
114 gator shall be deemed the owner for the purpose of this
115 chapter.

116 (z) *Nonresident*.—Every person who is not a resident
117 of this state.

118 (aa) *Dealer*.—Every person primarily engaged in the
119 business of buying, selling, or exchanging vehicles of a
120 type required to be registered hereunder and who has
121 an established place of business for such purpose in this
122 state which meets the requirements set out in sections
123 one and two, article seven of this chapter, except an
124 insurance company, a finance company or other type of
125 lending or financing agency, including banking institu-
126 tions, or any other person coming into possession of a
127 vehicle as an incident to such person's regular business
128 who shall sell such vehicle, or who shall sell such vehicle
129 under any contractual rights such persons may have with

130 respect thereto, shall not be a dealer hereunder: *Provided*,
131 That a person who engages exclusively in the wrecking
132 or dismantling of vehicles for junk or for resale of the
133 parts of such vehicles and who comes into possession of
134 a vehicle for the purpose of wrecking or dismantling same
135 as hereinabove stated shall not be a dealer hereunder.

136 (bb) *Transporter*.—Every person engaged in the busi-
137 ness of delivering vehicles of a type required to be reg-
138 istered hereunder from a manufacturing, assembling, or
139 distributing plant to dealers or sales agents of a manu-
140 facturer.

141 (cc) *Manufacturer*.—Every person engaged in the busi-
142 ness of constructing or assembling vehicles of a type re-
143 quired to be registered hereunder at an established place
144 of business in this state.

145 (dd) *Established Place of Business*.—The place actually
146 occupied either continuously or at regular periods by a
147 dealer or manufacturer where his books and records are
148 kept and a large share of his business is transacted.

149 (ee) *Street or Highway*.—The entire width between
150 boundary lines of every way publicly maintained when
151 any part thereof is open to the use of the public for pur-
152 poses of vehicular travel.

— c —

CHAPTER 45

(House Bill No. 218—By Mr. Marsteller and Mr. Buck)

[Passed February 1, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty-seven, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to general restrictions as to tire equipment; special permits for the operation of traction engines or tractors having movable tracks and certain farm tractors and machinery; the use on the highways of this state of tires fitted with blocks, studs, flanges, cleats, or spikes or any other protuberances of any material other than rubber;

and rules and regulations and approval of the state road commissioner with respect to such tires.

Be it enacted by the Legislature of West Virginia:

That section thirty-seven, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 15. Equipment.

Section

37. Restrictions as to tire equipment; rules and regulations as to certain tires.

Section 37. Restrictions as to Tire Equipment; Rules and Regulations as to Certain Tires.—(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, a person may use motor vehicle tires on the highways of this state which are fitted with blocks, studs, flanges, cleats, or spikes or any other protuberances of any material other than rubber if and when (1) the state road commissioner has prescribed rules and regulations authorizing such use, (2) such tires are used in strict conformity with any such rules and regulations, and (3) such tires are of a type approved by the state road commissioner. Any rules and regulations prescribed by the state road commissioner,

31 which he is hereby authorized to promulgate, shall relate
32 to the design, construction and use of such tires and the
33 procedure which shall be followed when such tires are
34 submitted for approval.

35 (e) The state road commission and local authorities
36 in their respective jurisdictions may in their discretion
37 issue special permits authorizing the operation upon the
38 highway of traction engines or tractors having movable
39 tracks with transverse corrugations upon the periphery
40 of such movable tracks or farm tractors or other farm
41 machinery, the operation of which upon a highway would
42 otherwise be prohibited under this chapter.

CHAPTER 46

(Senate Bill No. 55—By Mr. Moreland)

[Passed January 31, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-eight, relating to municipal public works and authorizing municipalities to acquire real property by lease for off-street parking facilities.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight 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-eight, to read as follows:

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

28. Off-street parking facility declared municipal public work; power and authority to lease, establish and operate.

Section. 28. Off-street Parking Facility Declared Municipal Public Work; Power and Authority to Lease, Establish and Operate.—Any municipality in this state,

4 however created, whether operating under a municipal
5 home rule charter or not, and notwithstanding the
6 provisions of section eleven, article one, chapter eight-a
7 of this code or any other provisions of law to the con-
8 trary, shall have the power and authority to enter into
9 a lease with the owner or owners of any real property
10 situate within the corporate limits of such municipality
11 by which such real property is demised, leased and
12 let to such municipality for an off-street parking facility
13 (including parking lots, buildings, ramps, parking meters
14 and other appurtenances deemed necessary, appropriate
15 or incidental to the regulation, control and parking of
16 motor vehicles), which off-street parking facility is here-
17 by declared to be a municipal public work, and any
18 such municipality shall have full power and authority
19 to establish and/or maintain and operate such parking
20 facility. Every such lease shall be authorized by an
21 ordinance adopted by the municipality. Any municipality
22 shall have this power and authority whether such real
23 property is at the time of the execution of such lease
24 already equipped, maintained and operated, in whole or
25 in part, as a parking facility or whether such real property
26 is at such time unimproved and is to be, under the terms
27 of the lease, improved by the installation of parking
28 meters, lighting equipment, pavement or other equipment
29 necessary, appropriate or incidental to the use of such
30 property for such purpose.

31 Any such ordinance may provide that the police force
32 of such municipality shall police the parking facility; and
33 that overtime parking at the facility or other violations
34 of the ordinance shall be a misdemeanor punishable as
35 provided in said ordinance. Any such ordinance shall also
36 provide for the collection of reasonable charges for the
37 use of such parking facility by the public generally, and
38 any such ordinance may be amended from time to time.
39 The lease entered into by and between any such munici-
40 pality and the owner or owners of any such real property
41 may contain such terms and conditions as may be agreed
42 upon between the parties, not inconsistent with any of
43 the provisions of this section or other provisions of law.
44 The ordinance authorizing any such lease may also specify

45 terms and conditions which must be contained in such
46 lease.

47 Under no circumstances whatever shall any obligation
48 incurred under the provisions of this section or any such
49 lease be deemed to be or create an indebtedness of the
50 municipality, the governing body or any member thereof,
51 any officer thereof, or other municipal officer, and all of
52 the expenses of whatever kind, nature or character inci-
53 dent to the establishment, and/or maintenance and oper-
54 ation of such parking facility, including but not limited
55 to such rental payments as are provided for in the lease
56 and the cost of policing the facility, shall be paid solely
57 from revenues derived from such parking facility, and
58 from revenues derived from other parking facilities or
59 meters not pledged to pay for such other parking facilities
60 or meters. No member of the governing body of any such
61 municipality, or any officer thereof, or other municipal
62 official, shall under any circumstances be personally liable
63 under any such lease or upon any obligation of any kind,
64 nature or character arising under the provisions of this
65 section.

66 The power and authority herein granted shall be in
67 addition to and not in derogation of any power and au-
68 thority vested in any municipality under any constitu-
69 tional, statutory or charter provisions which it may now
70 have, or may hereafter acquire or adopt. This section
71 shall, without reference to any other provisions of this
72 code or any other statute, be deemed full authority for
73 the acquisition of any such real property by lease for a
74 parking facility, for the establishment and/or mainte-
75 nance and operation of any such parking facility and for
76 the enactment of an ordinance as hereinbefore specified.
77 The section shall be construed as an additional alternative
78 method for providing off-street parking facilities, and
79 shall not in any way limit the provisions of article four-a
80 of this chapter authorizing the establishment, operation
81 and financing of such facilities by the issuance of revenue
82 bonds.

83 This section, being necessary for the public safety and
84 welfare, shall be liberally construed to effectuate its pur-
85 poses.

CHAPTER 47

(House Bill No. 241—By Mr. McCoy and Mr. Ours)

[Passed January 31, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seventeen-a, relating to disposition of proceeds of national forests in counties embracing Spruce Knob-Seneca Rocks National Recreation Area.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seventeen-a, to read as follows:

Article 3. Forests and Wildlife Areas.

Section

17-a. Same—counties embracing Spruce Knob-Seneca Rocks national recreation area.

Section 17-a. Same—Counties Embracing Spruce Knob-Seneca Rocks National Recreation Area.—Notwithstanding the provisions of section seventeen of this article, national forest receipts allocated by the auditor as provided in section seventeen of this article to any county in which is located any part of the Spruce Knob-Seneca Rocks National Recreation Area as established by Public Law 89-207, 89th Congress, shall be paid by the auditor to such county as follows: Sixty-three per cent to the board of education of the county to be expended by the board for the benefit of the public schools of the county, and thirty-seven per cent to the county court of the county to be expended by the court for general county purposes.

CHAPTER 48

(House Bill No. 265—By Mr. Speaker, Mr. White)

[Passed February 9, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article two-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation and membership of the medical licensing board.

Be it enacted by the Legislature of West Virginia:

That section one, article two-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2-a. Medical Licensing Board.

Section

1. Creation and membership.

Section 1. Creation and Membership.—There is hereby
2 created a medical licensing board to be known as “The
3 Medical Licensing Board of West Virginia.”
4 The medical licensing board shall consist of eleven
5 members. One of such members shall be the state direc-
6 tor of health ex officio whose term as such member shall
7 continue for the period that he holds office as state direc-
8 tor of health. The other ten members shall be appointed
9 by the governor with the advice and consent of the sen-
10 ate. The term of all members, except the state director
11 of health, shall be five years, except that the persons
12 originally appointed shall be designated to serve, two for a
13 term of one year, two for a term of two years, two for
14 a term of three years, two for a term of four years, and
15 two for a term of five years: *Provided*, That the members
16 of said board holding appointments on the effective date
17 of this section shall continue to serve until the expiration
18 of their term unless sooner removed. Upon the expiration
19 of such initial appointments, the term of each new appointee
20 shall be five years, except that any person appointed to
21 fill a vacancy occurring prior to the expiration of the term

22 for which his predecessor was appointed shall be appointed
23 only for the remainder of such term. Each member shall
24 serve until the appointment and qualification of his suc-
25 cessor. Before appointing any member, the governor shall
26 request the state professional society of the profession
27 practiced by any proposed appointee to furnish to the gov-
28 ernor a full and complete report concerning the qualifica-
29 tions and suitability of the proposed appointee.

30 Of the members to be appointed by the governor, eight
31 shall be physicians or surgeons holding the degree of doctor
32 of medicine and two shall be podiatrists. All persons
33 appointed to membership on the board shall be citizens of
34 this state and shall have been citizens and residents of the
35 state for at least five years prior to the date of their appoint-
36 ment. Each such person shall have been duly licensed to
37 practice his profession in this state on the date of his ap-
38 pointment and shall have been so licensed and have been
39 actively practicing his profession for at least five years
40 immediately preceding the date of such appointment.

41 The podiatrists who are members of the medical licens-
42 ing board, shall participate in its proceedings and vote as
43 members of the board only on matters pertaining to the
44 licensure, examination, or suspension, revocation, or rein-
45 statement of the licenses of podiatrists.

46 No more than four doctors of medicine and one podi-
47 atrist appointed by the governor as members of the board
48 shall belong to the same political party. No person shall
49 be eligible for membership on the board who is a member
50 of any political party executive committee, or, with the
51 exception of the state director of health, who holds any
52 public office or public employment under the federal gov-
53 ernment or under the government of this state, or any of
54 its political subdivisions, or who is an appointee or em-
55 ployee of the state board of health. All members shall be
56 eligible for reappointment.

57 In making appointments to the board, the governor shall,
58 so far as may be possible and practicable, select the several
59 members from different geographical sections of the state.

60 No member may be removed from office except for offi-
61 cial misconduct, incompetence, neglect of duty or gross im-

62 morality: *Provided, however,* That the expiration or revo-
63 cation of the professional license of a member of the board
64 shall be cause for his removal: *Provided further,* That the
65 state director of health shall cease to be a member of the
66 medical licensing board upon the expiration or termination
67 of his appointment as state director of health.

CHAPTER 49

(Senate Bill No. 65—Originating in the Senate Committee
on the Judiciary)

[Passed February 9, 1966; in effect from passage. Approved by the Governor.]

AN ACT to repeal section twenty-three, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section two-a, article five-a of said chapter; to amend and reenact sections one, two, six-a, sixteen and thirty, article five of said chapter; to amend and reenact sections one, two, three and five, article five-a of said chapter; and to amend and reenact section sixteen, article eleven of said chapter, relating to public assistance, medical services to the medically indigent, and the state of West Virginia public assistance medical services fund, and repealing any requirement that an aged person, as a condition of receiving public assistance, shall assign to the department of welfare any life insurance policy.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section two-a, article five-a of said chapter be repealed; that sections one, two, six-a, sixteen and thirty, article five of said chapter be amended and reenacted; that sections one, two, three and five, article five-a of said chapter be amended and reenacted; and that section sixteen, article eleven of said chapter be amended and reenacted, all to read as follows:

Article

5. **Public Assistance and Medical Services to the Medically Indigent.**

5-a. **The State of West Virginia Public Assistance Medical Services Fund.**

11. **General Provisions.**

Article 5. Public Assistance and Medical Services to the Medically Indigent.

Section

1. Purpose.

2. Definitions.

6-a. Commissioner's rule-making powers.

16. Hearing by board of review.

30. Grants conditional.

Section 1. Purpose.—The purpose of this article is to
2 provide public assistance for the indigent aged, the in-
3 digent blind, dependent children, the indigent relative
4 with whom any dependent child is living, the indigent
5 permanently and totally disabled, and medical services
6 to the medically indigent, that will conform to the re-
7 quirements for federal grants-in-aid under the federal
8 "Social Security Act," as amended.

9 Public assistance and medical services to the medically
10 indigent shall be granted only:

11 (1) To the extent that funds are available for the pur-
12 pose.

13 (2) To those actually in need.

14 (3) To the extent necessary to safeguard a decent and
15 healthful subsistence.

Sec. 2. Definitions.—Unless the context clearly requires
2 a different meaning, when used in this chapter:

3 "Public assistance" shall mean money payments to, or in
4 behalf of, aged persons, blind persons, dependent children,
5 the relative with whom any dependent child is living, or
6 permanently and totally disabled persons. Public assist-
7 ance may also include medical care or other type of
8 remedial care recognized by law: *Provided*, That public
9 assistance shall not include medical services for the medi-
10 cally indigent.

11 "Resources" shall mean all property, real and personal,
12 tangible and intangible, and all income, whether in the
13 form of money or otherwise.

14 "Applicant" shall mean the person for whose use and
15 benefit application is made.

16 "Recipient" shall mean the person for whose use and
17 benefit a grant of public assistance is made.

18 "Medically indigent person" shall mean any person
19 with net income or liquid assets of not more than the
20 amount set from time to time by rules and regulations of
21 the director, based upon services available and the num-
22 ber of persons who can be served within the limits of
23 available funds.

Sec. 6-a. Commissioner's Rule-making Powers.—The
2 rule-making powers of the commissioner of welfare shall
3 include authority to establish rules and regulations modi-
4 fying eligibility requirements for public assistance and
5 medical services to the medically indigent, and, in addi-
6 tion, shall include authority to provide the necessary pro-
7 cedures for the preparation of plans and for classifying
8 and reporting expenditures made with respect to recipi-
9 ents of public assistance and medical services to the medi-
10 cally indigent to the extent necessary and in such manner
11 as to permit the state and its citizens to obtain the maxi-
12 mum benefits provided under the Federal Social Security
13 Act and any laws amendatory of or supplementary there-
14 to that may hereafter be enacted.

Sec. 16. Hearing by Board of Review.—An applicant
2 for or a recipient of public assistance or medical services
3 to the medically indigent under this chapter shall be
4 afforded an opportunity for a hearing before the board
5 of review of the state department when:

6 (1) His application is denied or he is denied the op-
7 portunity to apply.

8 (2) His application is not acted upon with reasonable
9 promptness.

10 (3) His grant of assistance is not forthcoming with rea-
11 sonable promptness after he has been determined to be
12 eligible therefor.

13 (4) He deems the grant inadequate.

14 (5) The grant is revoked.

15 (6) The grant is reduced.

16 The state department shall inform applicants and re-
17 cipients in writing of their right to a hearing, and such a
18 hearing shall be afforded upon request in writing setting
19 forth the reasons for which it is desired.

Sec. 30. Grants Conditional.—A grant of public assist-
2 ance or medical services to the medically indigent shall
3 be subject to:

4 (1) Reconsideration, revocation, or change.

5 (2) Appropriation by the Legislature of public funds.

6 (3) Amendment or repeal.

7 (4) Continuation of federal grants-in-aid.

**Article 5-a. The State of West Virginia Public Assistance Medi-
cal Services Fund.**

Section

1. Medical services fund.
2. Payments into medical services fund.
3. Payments from medical services fund.
5. Definitions.

Section 1. Medical Services Fund.—In order that the
2 state of West Virginia may receive full advantage of the
3 provisions of the Federal Social Security Act, as amended,
4 whereby federal grants-in-aid may be used on behalf of
5 recipients of public assistance and medically indigent
6 persons for medical care or any other type of remedial
7 care recognized by law, the state department of welfare
8 may establish a special fund to be known as “The State
9 of West Virginia Public Assistance Medical Services
10 Fund,” hereinafter referred to as “the fund.” The fund
11 shall be only for the purpose of providing necessary medi-
12 cal services for recipients of assistance and other medi-
13 cally indigent persons, and any balance in the fund at
14 the end of any fiscal year shall remain in the fund and
15 shall not expire or revert. Payments shall be made out
16 of the fund upon requisition of the director by means of
17 a warrant signed by the auditor and treasurer.

Sec. 2. Payments into Medical Services Fund.—The fund
2 shall consist of payments made into the fund with respect

3 to recipients of assistance and recipients of medical serv-
4 ices to the medically indigent out of state money ap-
5 propriated for the purposes of providing medical services
6 to recipients of public assistance and to the medically
7 indigent, and such federal grants-in-aid as are available
8 for these purposes under the Federal Social Security Act,
9 as amended.

Sec. 3. Payments from Medical Services Fund.—Recipi-
2 ents of assistance and medically indigent persons shall
3 be entitled to have costs of necessary medical services
4 paid out of the fund, in such amounts, and to the extent
5 and in the manner determined from time to time to be
6 feasible by the director pursuant to rules, regulations and
7 standards established by him. Such rules, regulations and
8 standards shall be established on the basis of money
9 available for the purpose, the number of recipients, the
10 experience with respect to the incidence of illness, disease,
11 accidents, and other causes among such recipients causing
12 them to require medical services and the costs thereof,
13 the amounts which recipients require otherwise in order
14 to maintain a subsistence compatible with decency and
15 health, and any other factors considered relevant and
16 proper by the director.

Sec. 5. Definitions.—As used in this article and in
2 article five of this chapter:

3 (1) "Medical services" means medical, surgical, dental
4 and nursing services, and other remedial services recog-
5 nized by law, in the home, office, hospital, clinic and any
6 other suitable place, provided or prescribed by persons
7 permitted or authorized by law to give such services;
8 such services to include drugs and medical supplies,
9 appliances, laboratory, diagnostic and therapeutic services,
10 nursing home and convalescent care and such other medi-
11 cal services and supplies as may be prescribed by such
12 persons.

13 (2) "Costs of necessary medical services" means such
14 fees and charges as are approved and scheduled by the
15 director upon consultation with the advisory council.

Article 11. General Provisions.**Section****16. Public assistance lists and records; misuse.****Section 16. Public Assistance Lists and Records; Misuse.**

2 —The department of public assistance shall make avail-
3 able for public inspection by the tenth of each month a
4 separate alphabetical list of the names and addresses
5 of all persons receiving any form of relief assistance
6 except services to the medically indigent during the
7 preceding month together with the amounts of such re-
8 lief assistance. This information shall be delivered to
9 the clerk of each county court in the state who shall im-
10 mediately file the same in his office with respect to persons
11 receiving such assistance as residents of that county. Such
12 information shall be retained in the files of said clerks of
13 the county courts for a period of two years from the
14 date of receipt thereof. All information other than names,
15 addresses and amounts of such relief assistance shall be
16 considered as confidential.

17 It shall be unlawful, for commercial or political pur-
18 poses of any nature, for any person or persons, body, as-
19 sociation, firm, corporation or other agency to solicit,
20 disclose, receive, make use of, or to authorize, knowingly
21 permit, participate in, or acquiesce in the use of, any lists
22 of names of, or any information concerning, persons ap-
23 plying for or receiving relief assistance, directly or in-
24 directly derived from the records, papers, files, or com-
25 munications of the department of public assistance or
26 acquired in the course of performance of official duties.
27 The violation of this provision is a misdemeanor, punish-
28 able upon conviction, by a fine of not more than one thou-
29 sand dollars or imprisonment of not more than six months,
30 or both.

31 For the protection of applicants and recipients of relief
32 assistance, the department of public assistance shall be
33 required to establish reasonable rules and regulations
34 governing the custody, use, and preservation of the rec-
35 ords, papers, files and communications of the department.

CHAPTER 50

(House Bill No. 307—By Mr. Seabright)

[Passed February 10, 1966; in effect from passage. Approved by the Governor.]

AN ACT authorizing and empowering the public land corporation to sell certain public land to the urban renewal authority of Wheeling.

Be it enacted by the Legislature of West Virginia:

Section

1. Public land corporation authorized to sell certain public land to the urban renewal authority of Wheeling.

Section 1. Public Land Corporation Authorized to Sell Certain Public Land to the Urban Renewal Authority of Wheeling.—The public land corporation is hereby authorized and empowered to sell to the urban renewal authority of Wheeling that part of the former state capitol lands located in Wheeling, West Virginia, that is occupied by the addition to “Independence Hall” which addition was made circa one thousand nine hundred fourteen and which is a part of what is known as the old customs house property.

CHAPTER 51

(Com. Sub. for Senate Bill No. 6—By Mr. Carson, Mr. President, and Mr. McCourt)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, abolishing the board of

finance and transferring its duties to the board of public works.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. State Depositories.

Section

6. Board of finance abolished; board of public works to determine proportion of state funds treated as active; basis upon which inactive funds distributed; depositors' agreements; reports showing balances in depositories.

Section 6. Board of Finance Abolished; Board of Public

2 Works to Determine Proportion of State Funds Treated as
3 Active; Basis upon Which Inactive Funds Distributed;
4 Depositors' Agreements; Reports Showing Balances in
5 Depositories.—The board of finance is hereby abolished.
6 On and after the effective date of this section, the board
7 of public works shall have the authority to determine
8 the proportion of all state funds that shall be treated
9 as active funds and shall have the authority to determine
10 the basis upon which the inactive funds due any county
11 shall be distributed among its inactive depositories and to
12 establish any other rules and regulations that it may deem
13 necessary or expedient to protect the interests of the state,
14 its depositories and taxpayers.

15 The board shall also have the authority to enter into
16 any depositors' agreements for the purpose of reorganizing
17 or rehabilitating any state or national bank in which
18 state funds are deposited, and for the purpose of transfer-
19 ring the assets, in whole or in part, of any such state or
20 national bank to any other banking institution existing
21 or to be formed, when, in the judgment of the board, the
22 interests of the state will be promoted thereby, and upon
23 condition that no right of the state to preferred payment
24 be waived, and that the sureties on the depository bond,
25 or so many thereof as in the opinion of the board are
26 sufficient therefor, in writing consent to such participa-

27 tion on behalf of the state of West Virginia and agree
28 that their liability as sureties shall not in any way be
29 affected thereby. The treasurer shall furnish said board
30 of public works, not later than the tenth of each month,
31 a statement showing the balances on the last day of the
32 preceding month in each active and inactive depository.

CHAPTER 52

(Com. Sub. for Senate Bill No. 35—By Mr. Carson,
Mr. President, and Mr. Tompos)

[Passed February 4, 1966; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article one-a, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-a, relating to the adjutant general; authorizing employees of the adjutant general's department to participate in group insurance programs; and authorizing payroll deductions for the payment of premiums for such group insurance.

Be it enacted by the Legislature of West Virginia:

That article one-a, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one-a, to read as follows:

Article 1-a. Adjutant General.

Section

1-a. Employee participation in group insurance programs; payroll deductions; custodian of funds.

Section 1-a. Employee Participation in Group Insurance Programs; Payroll Deductions; Custodian of Funds.—The adjutant general is hereby authorized and empowered to negotiate for, secure and adopt for all employees of the adjutant general's department, whether civilian or mili-

6 tary and whether paid with state or federal funds, a policy
7 or policies of group insurance written by a carrier or car-
8 riers chartered under the laws of this state or the laws of
9 any other state and duly licensed to do business in this
10 state and covering life; health; hospital care; surgical or
11 medical diagnosis, care and treatment; drugs and medi-
12 cines; remedial care; other medical supplies and services;
13 or any other combination of these; and any other policy or
14 policies under group insurance which in the discretion of
15 the adjutant general bear a reasonable relationship to the
16 foregoing coverages. All premiums and other costs of
17 preparation for any such group insurance shall be paid
18 solely by such employees. Whenever such employees shall
19 indicate in writing that they have subscribed to any of the
20 aforesaid insurance plans on a group basis, the adjutant
21 general is hereby authorized and empowered to approve
22 periodic premium deductions from the salary payments
23 due such employees as specified in a written assignment
24 furnished the adjutant general by each such employee
25 subscribing to a group insurance plan, which deductions
26 shall be made by the auditor of the state of West Virginia.

27 Upon proper requisition of the adjutant general, the
28 auditor shall periodically issue a warrant, payable as
29 specified in the requisition, for the total deductions from
30 the salaries of employees participating in any such group
31 insurance plan. To promote efficiency and economy in
32 making deductions and issuing warrants as provided
33 herein, the auditor is authorized to promulgate rules and
34 regulations specifying the form and the time and manner
35 of presentation of requisitions issued pursuant to this
36 section. When a participating employee shall retire from
37 his employment, he may, if he so elects, and the insurance
38 carrier or carriers agree, remain a member of the group
39 plan by continuing to pay the premium for the coverage
40 involved.

41 The state treasurer shall be custodian of the funds
42 under the aforesaid group insurance plans, and disburse-
43 ments from the funds to pay all premiums shall be made
44 only upon warrants signed by the state auditor and the
45 state treasurer.

CHAPTER 53

(House Bill No. 214—By Mr. Speaker, Mr. White, and
Mr. Pauley, of McDowell)

[Passed February 5, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact sections two and three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of inspector, other commissioned officers, noncommissioned officers, troopers and civilian employees by the superintendent of the department of public safety; to companies and platoons of the department of public safety and how constituted; to training of members and other peace officers of the department of public safety; and to salaries and bonds of members of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Department of Public Safety.

Section

2. Appointment of inspector, other commissioned officers, noncommissioned officers, troopers and civilian employees.
3. Companies and platoons and how constituted; training of members and other peace officers; salaries and bonds of members.

Section 2. Appointment of Inspector, Other Commissioned Officers, Noncommissioned Officers, Troopers and Civilian Employees.—The superintendent shall appoint, from the enlisted membership of the department, an inspector with the rank of lieutenant colonel who shall be next in authority to the superintendent, and for the purpose of operating and maintaining the executive offices, training school, scientific laboratory, keeping records relating to crimes and criminals, coordinating traffic safety activities and maintaining a system of supplies and accounting and carrying on other necessary services,

12 he shall appoint not more than one major, one captain,
13 four lieutenants, two master sergeants, four sergeants,
14 three corporals and six troopers. In addition the super-
15 intendent may appoint, from the enlisted membership
16 of the department, not more than four other lieutenants
17 for duties consisting of technical or scientific examina-
18 tion of evidence in criminal cases, but no member
19 shall be appointed to fill these vacancies in the grade of
20 lieutenant unless (1) he shall have completed four years'
21 study at an accredited college or university and hold a
22 bachelor's degree from such college or university and
23 (2) such member shall have actually conducted numerous
24 examinations of physical evidence in criminal cases and
25 have been qualified in a court of record of this state
26 to testify as an expert witness with respect thereto.

27 The superintendent shall appoint such civilian em-
28 ployees as may be necessary whose salaries shall be fixed
29 by the board of public works.

30 The inspector, major, captains, lieutenants, master ser-
31 geants, sergeants, corporals and troopers shall be enrolled
32 and enlisted as members of the department of public
33 safety and shall be entitled to wear the insignia of rank
34 as provided by law or authorized by department regula-
35 tions.

**Sec. 3. Companies and Platoons and How Constituted;
2 Training of Members and Other Peace Officers; Salaries
3 and Bonds of Members.—**The superintendent shall create,
4 appoint and equip a department of public safety, which
5 shall, in addition to the personnel provided for in sec-
6 tion two of this article, consist of four companies or
7 platoons. They shall be designated as companies "A,"
8 "B," "C," and "D." Each company or platoon shall be
9 composed of one captain, one lieutenant, one first ser-
10 geant, seven sergeants, not more than seventeen corporals
11 and such number of troopers as the superintendent may
12 decide best, but such number of troopers in any company
13 or platoon shall not at any time be less than twenty-
14 five nor more than sixty-five.

15 The superintendent shall provide adequate facilities
16 for the training of all members of the department and

17 shall prescribe a basic training course for newly enlisted
18 members. He shall also provide advanced or in-service
19 training from time to time for all members of the
20 department. The superintendent may, in his discretion,
21 hold training classes for other peace officers in the
22 state without cost to such officers, except actual expenses
23 for food, lodging and school supplies.

24 Members of the department shall receive salaries, as
25 follows:

26 The inspector shall receive an annual salary of eight
27 thousand eight hundred twenty dollars; the major shall
28 receive an annual salary of seven thousand nine hundred
29 twenty dollars; captains shall each receive an annual sal-
30 ary of seven thousand twenty dollars; lieutenants shall
31 each receive an annual salary of six thousand six hun-
32 dred dollars; the master sergeants and first sergeants
33 shall each receive an annual salary of six thousand one
34 hundred twenty dollars; sergeants shall each receive an
35 annual salary of five thousand nine hundred sixteen dol-
36 lars; corporals shall each receive an annual salary of
37 five thousand six hundred sixteen dollars; and each
38 newly enlisted trooper shall receive a salary of three
39 hundred sixty-three dollars per month during the
40 period of his basic training, and upon the satisfac-
41 tory completion of such training and assignment to
42 active duty each trooper shall receive during the
43 remainder of his first year's service a salary of four
44 hundred thirteen dollars monthly. During the sec-
45 ond year of his service in the department each
46 trooper shall receive an annual salary of five thou-
47 sand seventy-six dollars; during the third year of his
48 service each trooper shall receive an annual salary of
49 five thousand one hundred ninety-six dollars; and dur-
50 ing the fourth and fifth years of his service and for each
51 year thereafter, each trooper shall receive an annual
52 salary of five thousand three hundred sixteen dollars.
53 Each member of the department entitled thereto
54 by the provisions hereof shall receive an increase
55 in salary over that hereinbefore set forth in this
56 section, for grade and rank, based on length of serv-
57 ice, including that heretofore and hereafter served, with

58 the department, as follows: For each five-year period
59 of service with the department from the date of first
60 enlistment, each member of the department shall receive
61 a salary increase of one hundred twenty dollars per
62 year to be effective during his next five years of service,
63 which increases shall be successive and cumulative until
64 a total of five such increases shall be received.

65 In applying the foregoing salary schedule where sal-
66 ary increases are provided for length of service, mem-
67 bers of the department in service at the time this article
68 becomes effective shall be given credit for prior service
69 and shall be paid such salaries as the same length of
70 service will entitle them to receive under the provisions
71 hereof.

72 Each member of the department of public safety, except
73 the superintendent and civilian employees, shall, before
74 entering upon the discharge of his duties, execute a bond
75 with security in the sum of three thousand five hun-
76 dred dollars payable to the state of West Virginia, condi-
77 tioned for the faithful performance of his duties as such,
78 and such bond shall be approved as to form by the attor-
79 ney general, and as to sufficiency by the board of pub-
80 lic works, and the same shall be filed with the secretary
81 of state and preserved in his office.

CHAPTER 54

(House Bill No. 219—By Mr. Speaker, Mr.
White, and Mr. Bedell)

[Passed January 24, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor of
bonds of the state of West Virginia in an amount not ex-
ceeding twenty million dollars during the fiscal year end-
ing June thirtieth, one thousand nine hundred sixty-seven,
for the sole purpose of raising funds for the building and
construction of free state roads and highways as provided
for by the constitution and the laws enacted thereunder;

specifying the powers of and limitations upon the governor in the issuance and sale of such bonds; prescribing the duties of the auditor and treasurer with respect to such bonds; providing for transfer and registration fees with respect to registered bonds and the disposition of such fees; providing for places of payment of principal and interest on such bonds; exempting such bonds from taxation by the state, or by any county, district or municipality thereof; setting forth the form of coupon and registered bonds and coupons; stating what moneys shall be paid into the state road sinking fund; providing for the disposition and investment of the state road sinking fund; providing a covenant between the state and the bondholders; providing that the proceeds from the sale of the bonds shall be paid into a separate and distinct account in the state road fund and for expenditures from such account; providing that the plates, etc., from which the bonds are produced or made shall be the property of the state; providing for interim certificates in lieu of permanent bonds; and declaring that all necessary expenses incurred in the execution of the act shall be paid out of the state road fund on warrants of the auditor drawn on the state treasurer.

Be it enacted by the Legislature of West Virginia:

Issuance and Sale of Road Bonds.

Section

1. Road bonds; amount; when may issue.
2. Transfer fee; registration fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund sources used to pay bonds and interest; investment of remainder.
7. Covenants of state.
8. Sale by governor; minimum price.
9. Proceeds paid into separate account in state road fund; expenditures.
10. Plates, etc., property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Section 1. Road Bonds; Amount; When May Issue.—

Bonds of the state of West Virginia of the par value not to exceed twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-seven, are hereby authorized to be issued and sold for the

6 sole purpose of raising funds for the building and con-
7 struction of free state roads and highways as provided for
8 by the constitution and the laws enacted thereunder.
9 Such bonds may be issued by the governor in such
10 amounts, in coupon or registered form, in such denomi-
11 nations, at such time and bearing such date or dates as
12 the governor may determine, based upon an examination
13 of the state road commission's yearly program which jus-
14 tifies the issuance by the governor of said bonds, and
15 shall become due and payable serially in equal amounts
16 beginning one year and ending twenty-five years from
17 the date thereof.

**Sec. 2. Transfer Fee; Registration Fee; Where Pay-
2 able; Interest Rate; Tax Exempt.**—The auditor and the
3 treasurer are hereby authorized to arrange for the trans-
4 fer of registered bonds and for each such transfer a fee
5 of fifty cents shall be charged by and paid to the state
6 of West Virginia, to the credit of the state road sinking
7 fund. Bonds taken in exchange shall be cancelled by the
8 auditor and treasurer and be carefully preserved by the
9 treasurer. The treasurer shall make provisions for reg-
10 istering "payable to bearer" bonds, and for each bond
11 registered a fee of fifty cents shall likewise be charged
12 by and paid to the state of West Virginia, to the credit
13 of the state road sinking fund. All such bonds shall be
14 payable at the office of the treasurer of the state of West
15 Virginia, or, at the option of the holder, at some bank in
16 the city of New York to be designated by the governor.
17 The bonds shall bear interest at a rate not exceeding four
18 and one-half per cent per annum, payable semiannually,
19 to bearer, at the office of the treasurer of the state of
20 West Virginia, at the capitol of the state, or at the bank
21 designated by the governor, upon presentation and sur-
22 render of interest coupons, then due, in the case of cou-
23 pon bonds. For the payment of interest on registered
24 bonds, the treasurer of the state of West Virginia shall
25 requisition a warrant from the auditor of the state to be
26 drawn on the state treasurer, and shall mail such war-
27 rant to the registered owner at the address as shown by
28 the record of registration. Both the principal and inter-
29 est of the bonds shall be payable in lawful money of the

30 United States of America and the bonds shall be exempt
 31 from taxation by the state of West Virginia, or by any
 32 county, district, or municipality thereof, which facts shall
 33 appear on the face of the bonds as part of the contract
 34 with the holder thereof.

Sec. 3. Form of Bond.—The bonds shall be signed on
 2 behalf of the state of West Virginia, by the treasurer
 3 thereof, under the great seal of the state, and counter-
 4 signed by the auditor of the state, and shall be in the
 5 following form or to the following effect, as nearly as
 6 may be, namely:

7 COUPON ROAD BOND

8 (Or registered road bond, as the case may be)

9 OF THE
 10 STATE OF WEST VIRGINIA

11 \$..... No.....

12 The state of West Virginia, under and by virtue of
 13 authority of an amendment to the constitution, which
 14 was proposed by House Joint Resolution No. 10, adopted
 15 the seventh day of March, one thousand nine hundred
 16 sixty-three, and was ratified by a vote of the people at the
 17 general election on the third day of November, one thou-
 18 sand nine hundred sixty-four, which is hereby made a
 19 part hereof as fully as if set forth at length herein, ac-
 20 knowledges itself to be indebted to and hereby promises
 21 to pay to the bearer hereof (in case of a coupon bond) or
 22 to or assigns (the owner of record,
 23 in case of registered bonds) on the day of,
 24 19, in lawful money of the United States of America
 25 at the office of the treasurer of the state of West Virginia
 26 at the capitol of said state, or at the option of the holder
 27 at bank in the city
 28 of New York, the sum of dollars,
 29 with interest thereon at percentum per annum
 30 from the date, payable semiannually in like lawful money
 31 of the United States of America at the treasurer's office
 32 or bank aforesaid, on the first day of and
 33 the first day of of each year, (and in the
 34 case of coupon bonds) according to the tenor of the an-
 35 nexed coupons bearing the facsimile signature of the
 36 treasurer of the state of West Virginia, upon surrender of

37 such coupons. This bond (in case of a coupon bond) may
 38 be exchanged for a registered bond of like tenor upon
 39 application to the treasurer of the state of West Virginia.

40 To secure the payment of the principal and interest of
 41 this bond, the state of West Virginia covenants and agrees
 42 with the holder as follows: (1) That this bond shall
 43 constitute a direct and general obligation of the state of
 44 West Virginia; (2) that the full faith and credit of the
 45 state is pledged to secure the payment of the principal
 46 and interest of this bond; (3) that an annual state tax
 47 shall be collected in an amount sufficient to pay as it may
 48 accrue the interest on this bond and the principal thereof;
 49 and (4) that such tax shall be levied in any year only to
 50 the extent that the moneys in the state road fund irrev-
 51 ocably set aside and appropriated for and applied to the
 52 payment of the interest on and principal of this bond be-
 53 coming due and payable in such year are insufficient
 54 therefor.

55 This bond is hereby made exempt from any taxation
 56 by the state of West Virginia, or by any county, district,
 57 or municipal corporation thereof.

58 In testimony whereof, witness the signature of the
 59 treasurer of the state of West Virginia, and the counter-
 60 signature of the auditor of the state, hereto affixed ac-
 61 cording to law, dated the day of,
 62 one thousand nine hundred, and
 63 the seal of the state of West Virginia.

64 (SEAL)

65

66 _____
 Treasurer of the State of West Virginia

67 Countersigned:

68

69 _____
 Auditor of the State of West Virginia

Sec. 4. Form of Coupon.—The form of coupon shall
 2 be substantially as follows, to-wit:

3 STATE OF WEST VIRGINIA

4 Bond No. _____ Coupon No. _____

5 On the first day of _____, 19....., the
 6 state of West Virginia will pay to the bearer, in lawful
 7 money of the United States of America, at the office of

8 the treasurer of the state, or at the option of the holder
9 at bank in the city of New York,
10 the sum of dollars, the same being
11 semiannual interest on Road Bond No.

12

13

Treasurer of the State of West Virginia

14

The signature of the treasurer to such coupon shall be
15 by his facsimile signature and the coupons shall be num-
16 bered in the order of their maturity, from number one
17 consecutively. The bonds and coupons may be signed
18 by the present treasurer and auditor, or by any of their
19 respective successors in office, and the bonds signed by
20 the persons now in the office may be sold by the gover-
21 nor or his successor in office without being signed by the
22 successor in office of the present treasurer or auditor.

Sec. 5. Listing by Auditor.—All coupons and registered
2 bonds issued under this act shall be separately listed by
3 the auditor of the state in books provided for the purpose,
4 in each case giving the date, number, character and
5 amount of obligations issued, and in case of registered
6 bonds, the name and postoffice address of the person,
7 firm or corporation registered as the owner thereof.

Sec. 6. State Road Sinking Fund Sources Used to Pay
2 **Bonds and Interest; Investment of Remainder.**—Into the
3 state road sinking fund there shall be paid all money from
4 any and all appropriations made by the state from the
5 state road fund for the purpose of paying the interest on
6 such bonds or paying off and retiring the bonds, from
7 transfer and registration fees as herein provided, and
8 from any other source whatsoever which is made liable
9 by law for the payment of the principal of such bonds
10 or the interest thereon.

11 All such funds shall be kept by the treasurer in a sep-
12 arate account, under the designation aforesaid, and all
13 money belonging to the fund shall be deposited in the
14 state treasury to the credit thereof.

15 Such fund shall be applied by the treasurer of the state
16 first to the payment of the semiannual interest on such
17 bonds as it shall become due as herein provided. The
18 remainder of the fund shall be turned over by the state

19 treasurer to the state sinking fund commission, whose
20 duty it shall be to invest the same in obligations of the
21 government of the United States, bonds of the state of
22 West Virginia, or any political subdivision thereof: *Pro-*
23 *vided*, That bonds or other obligations so purchased by
24 the state sinking fund commission shall mature so as to
25 provide sufficient money to pay off all bonds herein pro-
26 vided to be issued as they become due; and the money
27 so paid into the state road sinking fund under the pro-
28 visions of this act shall be expended for the purpose of
29 paying the interest and principal of the bonds hereby
30 provided for as they severally become due and payable
31 and for no other purpose except that the fund may be
32 invested until needed, as herein provided.

Sec. 7. Covenants of State.—The state of West Vir-
2 ginia covenants and agrees with the holders of the bonds
3 issued pursuant hereto as follows: (1) That such bonds
4 shall constitute direct and general obligations of the state
5 of West Virginia; (2) that the full faith and credit of the
6 state is hereby pledged to secure the payment of the prin-
7 cipal and interest of such bonds; (3) that an annual state
8 tax shall be collected in an amount sufficient to pay as
9 it may accrue the interest on such bonds and the prin-
10 cipal thereof; and (4) that such tax shall be levied in any
11 year only to the extent that the moneys in the state road
12 fund irrevocably set aside and appropriated for and ap-
13 plied to the payment of the interest on and principal of
14 said bonds becoming due and payable in such year are
15 insufficient therefor.

Sec. 8. Sale by Governor; Minimum Price.—The gov-
2 ernor shall sell the bonds herein authorized at such time
3 or times as he may determine necessary to provide funds
4 for the building and construction of free state roads and
5 highways, as herein provided, upon the recommendation
6 of the state road commissioner, and after reviewing the
7 program of the state road commission and subject to
8 the limitations contained in section one hereof. All sales
9 shall be at not less than par and accrued interest. All
10 interest coupons becoming payable prior to the sale date
11 shall be cancelled by the treasurer and rendered ineffec-
12 tive, before the delivery of the bonds so sold.

Sec. 9. Proceeds Paid into Separate Account in State Road Fund; Expenditures.—The proceeds of all sales of bonds herein authorized shall be paid into a separate and distinct account in the state road fund, and shall be used and appropriated solely for the building and construction of free state roads and highways provided for by the state constitution and the laws enacted thereunder. Except for such sums necessary for current operating balances, such account shall be invested and reinvested in short-term obligations of the United States treasury: *Provided*, That no such investment or reinvestment shall adversely affect the current operating balances of such account.

Sec. 10. Plates, etc., Property of State.—The plates, casts, dies or other forms from which the bonds authorized by this act are produced or made shall be the property of the state of West Virginia.

Sec. 11. Auditor to Be Custodian of Unsold Bonds.—The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.

Sec. 12. Interim Certificates.—The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the permanent bonds.

Sec. 13. Payment of Expenses.—All necessary expenses incurred in the execution of this act shall be paid out of the state road fund on warrants of the auditor of the state drawn on the state treasurer.

CHAPTER 55

(Senate Bill No. 40—By Mr. McCourt)

[Passed February 4, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to repeal section six-a, article sixteen, chapter eleven

of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section six of said article, all relating to the barrel tax on nonintoxicating beer.

Be it enacted by the Legislature of West Virginia:

That section six-a, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that section six of said article be amended and reenacted to read as follows:

Article 16. Nonintoxicating Beer.

Section

6. Barrel tax.

Section 6. Barrel Tax.—There is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred sixty-six, in addition to the license taxes hereinabove provided for, a tax of five dollars and fifty cents on each barrel of thirty-one gallons and in like ratio on each part barrel of nonintoxicating beer manufactured in this state for sale within this state, whether contained or sold in barrels, bottles or other containers, and a like tax is hereby levied and imposed upon all nonintoxicating beer manufactured outside of this state and brought into this state for sale within this state; but no nonintoxicating beer manufactured, sold or distributed in this state shall be subject to more than one barrel tax. The brewer manufacturing or producing nonintoxicating beer within this state for sale within this state shall pay the barrel tax on such nonintoxicating beer, and the distributor who is the original consignee of nonintoxicating beer manufactured or produced outside of this state, or who brings such nonintoxicating beer into this state, shall pay the barrel tax on such nonintoxicating beer manufactured or produced outside of this state.

On or before the tenth day of each calendar month during the license period, every brewer or distributor shall make a report in writing, under oath, to the tax commissioner, in such form as may be required by the tax commissioner, showing the number of barrels of nonintoxicating beer manufactured or distributed by such person for the preceding calendar month, or part thereof, during

29 which such person was engaged in business, and at the
30 same time shall pay the tax thereon levied by this article.
31 Within thirty days after the end of any license tax year
32 each brewer or distributor shall make a report in writing,
33 under oath, to the tax commissioner, in such form as may
34 be required by the tax commissioner, showing the num-
35 ber of barrels of nonintoxicating beer manufactured or
36 distributed for the preceding tax year or part thereof by
37 such person.

CHAPTER 56

(Senate Bill No. 43—By Mr. McCourt)

[Passed February 2, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to repeal section two-a, article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections two and two-b of said article, all relating to the excise tax on sale of cigarettes.

Be it enacted by the Legislature of West Virginia:

That section two-a, article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections two and two-b of said article be amended and reenacted to read as follows:

Article 17. Excise Tax on Sale of Cigarettes.

Section

2. Purpose of tax; ratio.
- 2-b. Additional cigarette tax for support of schools.

Section 2. Purpose of Tax; Ratio.—For the purpose of
2 providing revenues for the general revenue fund of the
3 state an excise tax is hereby levied and imposed on sales
4 of cigarettes on and after midnight of the last day of
5 June, one thousand nine hundred sixty-six, at the rate
6 of one cent on each ten cigarettes or fractional part there-
7 of. Only one sale of the same article shall be used in com-
8 puting the amount of tax due hereunder.

Sec. 2-b. Additional Cigarette Tax for Support of Schools.—For the purpose of providing additional revenue for the support of free schools, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred sixty-six, in addition to the tax imposed by section two of this article, an additional excise tax of two cents on each ten cigarettes, or fractional part thereof, sold within this state. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular excise tax on the sale of cigarettes shall be applicable to the levy, imposition and collection of such additional tax. Notwithstanding other provisions of this article to the contrary, all moneys received from the additional tax imposed by this section, less deductions allowed by this article for refunds and for costs of administration and operation, shall be paid by the tax commissioner into the general school fund, to be used solely for the support of free schools.

CHAPTER 57

(Senate Bill No. 46—By Mr. Martin)

[Passed January 18, 1966; in effect from passage. Approved by the Governor.]

AN ACT authorizing and empowering the county court of Berkeley county to use any unexpended sums and surpluses for the purpose of creating a special fund to be used for planning and zoning purposes in Berkeley county.

Be it enacted by the Legislature of West Virginia:

Berkeley County Planning and Zoning Fund.

Section

1. Berkeley county unexpended sums and surpluses; use and disposition for planning and zoning.

Section 1. Berkeley County Unexpended Sums and Surpluses; Use and Disposition for Planning and Zoning.—
 In addition to any and all authority and power heretofore

4 granted to the county court of Berkeley county with re-
5 spect to the expenditure of unexpended sums and sur-
6 pluses, such county court is hereby authorized and em-
7 powered to use any unexpended sums and surpluses,
8 presently or hereafter existing, in the general fund or
9 in any special fund of said county, for the purpose of
10 creating a special fund to be used to match any federal
11 assistance grant or grants of funds for planning and zoning
12 purposes or otherwise for planning and zoning in Berkeley
13 county.

CHAPTER 58

(House Bill No. 297—By Mr. D'Aurora and Mr. Ragan)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county of Brooke, and to authorize the expenditure of moneys received by such board from county funds and from private grants and donations.

Be it enacted by the Legislature of West Virginia:

Brooke County Park and Recreation Board.

Section

1. Brooke county court authorized to create a park and recreation board.
2. Board a body corporate; perpetual existence; right to receive and expend moneys.
3. Members; appointment; term; residency; vacancy.
4. Oath of members; election of officers; quorum; place of business.
5. Contracts; legal actions; general powers; rules and regulations.

Section 1. Brooke County Court Authorized to Create a Park and Recreation Board.—The county court of Brooke county is hereby authorized and empowered to, by order entered of record, create and establish a park and recreation board, to be known as the "Brooke County Park and Recreation Board."

Sec. 2. Board a Body Corporate; Perpetual Existence; Right to Receive and Expend Moneys.—The board as

3 created by the county court of Brooke county shall be a
4 public corporate board, with perpetual existence and a
5 corporate seal. It shall have the power to receive moneys
6 from said county court out of general or special county
7 funds, and to expend the same for the purposes here-
8 inafter enumerated. It shall additionally have the power
9 to receive and expend for said purposes any gift, grant,
10 donation, bequest or devise from sources other than the
11 public funds of Brooke county.

Sec. 3. Members; Appointment; Term; Residency;
2 **Vacancy.**—The board shall consist of five members who
3 shall be appointed by the county court of Brooke county.
4 The term of office of each member of the board shall be
5 for four years and until their successors have been
6 appointed and qualified, and said county court shall by
7 order fix the date on which the term of office of board
8 membership shall commence. No one shall be appointed
9 a member of said board who is not a bona fide resident
10 of Brooke county. Any member of the board who shall
11 cease to be a bona fide resident of said county shall
12 thereby be disqualified and his office shall become vacant.
13 When a vacancy occurs on said board by reason of the
14 change of residence, resignation, or death of a member
15 thereof, said county court shall appoint a successor who
16 shall fill out the unexpired term of such member.

Sec. 4. Oath of Members; Election of Officers; Quorum;
2 **Place of Business.**—After appointment the members of
3 the board shall qualify by taking and filing with the
4 clerk of the county court of Brooke county the oath pre-
5 scribed by law for public officials. One of the members
6 of the board shall be elected as president, another as vice
7 president, and another as secretary. A majority of the
8 board shall constitute a quorum for the transaction of
9 business. The board shall maintain an office at any place
10 in said county which it may designate.

Sec. 5. Contracts; Legal Actions; General Powers;
2 **Rules and Regulations.**—The board shall have the right
3 to enter into contracts; to bring any and all necessary
4 legal actions; to exercise all the necessary powers and
5 authority to manage and control park and recreation

6 areas in Brooke county, including the right to make rules
7 and regulations concerning the management and control
8 of such parks and recreation areas and to enforce any
9 such rules and regulations so promulgated.

CHAPTER 59

(Com. Sub. for Senate Bill No. 27—By Mr. McKown
and Mr. Smith)

[Passed January 31, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, chapter one hundred forty-two, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating generally to the tri-state airport authority and specifically to the appointment and composition of the governing board of such authority.

Be it enacted by the Legislature of West Virginia:

That section four, chapter one hundred forty-two, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

Tri-state Airport Authority.

Section

4. Members of authority.

Section 4. Members of Authority.—The management
2 and control of the tri-state airport authority, its property,
3 operations, business and affairs shall be lodged in a board
4 of nine or more persons who shall be known as members
5 of the authority and who shall be appointed for terms of
6 three years each by such counties, municipalities or other
7 governmental units situate in, and public and private
8 corporations operating in, West Virginia, Ohio and Ken-
9 tucky as contribute to the funds of the authority, in such
10 proportion between such states and such counties, mu-
11 nicipalities, units and public and private corporations,
12 and in such manner, as may from time to time be provided

13 in the by-laws adopted by the authority: *Provided*, That
14 the first board shall be appointed as follows:

15 (1) The county court of Cabell county shall appoint two
16 members for terms of two and three years, respectively;

17 (2) The city of Huntington shall appoint two members
18 for terms of two and three years, respectively;

19 (3) The county court of Wayne county shall appoint
20 two members for terms of one and two years, respectively;

21 (4) The city of Kenova shall appoint one member for
22 the term of three years;

23 (5) The town of Ceredo shall appoint one member for
24 the term of one year;

25 (6) Huntington industrial corporation, a nonprofit
26 civic corporation, which has contributed funds to the
27 project, shall appoint one member for the term of one year.

CHAPTER 60

(Senate Bill No. 61—By Mr. Carson, Mr. President,
and Mr. Jasper)

[Passed February 4, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of the county of Fayette to create an airport authority and providing for the membership and purposes of the authority; for the appointment and removal of members; for the acquisition by the authority of real estate and personal property; for the acquisition, construction, improvement, maintenance and operation of a public airport; for corporate existence of the authority; for the issuance of mortgage bonds, revenue bonds, other bonds, debentures, notes and securities, and the giving of security for the payment thereof; for the authority to exercise the power of eminent domain; for tax exemption for the property, funds and obligations of the authority; for the authority to lease the airport; for the county court of the county of Fayette to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of the county of

Fayette and others; for the keeping of the funds and accounts of the authority; for the disposition of any surplus funds; for the covering of the employees of the authority by workmen's compensation; and for dissolution of the authority.

Be it enacted by the Legislature of West Virginia:

Fayette County Airport Authority.

Section

1. Fayette county airport authority authorized.
2. Purposes.
3. Members of the authority.
4. Removal of members.
5. Substitution of members.
6. Qualification of members of the authority.
7. Compensation of members of the authority.
8. Authority to be a public corporation.
9. Powers.
10. Indebtedness of the authority.
11. Agreements in connection with obtaining funds.
12. Authority to have right of eminent domain.
13. Property, bonds and obligations of authority exempt from taxation.
14. Authority may lease airport and facilities to the county court of the county of Fayette or other lessee.
15. Disposition of surplus of authority.
16. Contributions to authority by the county court of the county of Fayette and others; funds and accounts of the authority.
17. Employees to be covered by workmen's compensation.
18. Dissolution of authority.
19. Liberal construction of act.
20. Provisions severable.

Section 1. Fayette County Airport Authority Authorized.—The county court of the county of Fayette is hereby authorized to create and establish a public agency to be known as the "Fayette County Airport Authority" for the purposes and in the manner hereinafter set forth.

Sec. 2. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate a public airport with all usual and convenient appurtenances and facilities in Fayette county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Fayette county and the public generally.

Sec. 3. Members of the Authority.—The management and control of the Fayette county airport authority, its property, operations, business and affairs, shall be lodged in a board of five persons who shall be known as "Mem-

5 bers of the Authority," each of whom shall be appointed
6 for a term of five years, except that as to the first four
7 appointed to the first board appointed, the term of one
8 member shall expire on the first day of July next ensuing
9 and the term of the next member shall expire on the first
10 day of July two years thereafter, the term of another
11 member shall expire on the first day of July three years
12 thereafter and the term of the remaining member shall
13 expire on the first day of July four years thereafter:
14 *Provided*, That the county commissioner appointed to
15 serve as a member of the authority, as hereinafter pro-
16 vided, shall not serve for a term as member of the au-
17 thority which is longer than his term of office as a member
18 of the county court of the county of Fayette.

19 All members shall be appointed by the county court of
20 the county of Fayette: *Provided, however*, That one mem-
21 ber of the authority shall be a member of the county court
22 of the county of Fayette: *Provided further*, That of the
23 remaining four members of the authority no more than
24 two shall be members of the same political party, nor shall
25 they hold any political office of any nature.

Sec. 4. Removal of Members.—The members of the
2 authority shall serve at the will and pleasure of the
3 county court of the county of Fayette: *Provided*, That if
4 the county court of the county of Fayette desires to re-
5 move a member of the authority it shall notify said mem-
6 ber in writing, stating the reasons for the county court
7 of the county of Fayette desiring said removal. Within
8 ten days of the receipt by the member of the authority of
9 the written notice of removal, said member, if he so de-
10 sires, may have a hearing before the county court of the
11 county of Fayette, and any such hearing shall be held
12 within ten days of the member's written request for said
13 hearing.

Sec. 5. Substitution of Members.—If any member of
2 the authority die, or resign, or be removed, or for any
3 other reason cease to be a member of the authority, the
4 county court of the county of Fayette shall appoint an-
5 other person to fill the unexpired portion of the term of
6 such member.

Sec. 6. Qualification of Members of the Authority.—

2 All members of the board of the authority shall be citizens
3 of West Virginia, over thirty years of age, and residents
4 of Fayette county.

Sec. 7. Compensation of Members of the Authority.—

2 No member of the board of the authority shall receive
3 any compensation, whether in form of salary, per diem
4 allowances or otherwise, for or in connection with his
5 services as such member. Each member shall, however,
6 be entitled to reimbursement by the authority for any
7 necessary expenditures in connection with the perform-
8 ance of his general duties as such member.

Sec. 8. Authority to Be a Public Corporation.—The au-

2 thority when created, and the members thereof, shall
3 constitute and be a public corporation under the name of
4 "Fayette County Airport Authority," and as such shall
5 have perpetual succession, may contract and be contracted
6 with, sue and be sued, plead and be impleaded, and have
7 and use a common seal.

Sec. 9. Powers.—The Fayette county airport authority

2 is hereby given power and authority as follows:

3 (1) To make and adopt all necessary by-laws, rules
4 and regulations for its organization and operations not
5 inconsistent with law;

6 (2) To elect its own officers, to appoint committees and
7 to employ and fix the compensation for personnel neces-
8 sary for its operation;

9 (3) To enter into contracts with any person, govern-
10 mental department, firm or corporation, including both
11 public and private corporations, and generally to do any
12 and all things necessary or convenient for the purpose of
13 acquiring, equipping, constructing, maintaining, improv-
14 ing, extending, financing and operating a public airport
15 in Fayette county, West Virginia;

16 (4) To delegate any authority given to it by law to any
17 of its officers, committees, agents or employees;

18 (5) To apply for, receive and use grants-in-aid, dona-
19 tions and contributions from any source or sources, in-
20 cluding but not limited to the federal government and any
21 agency thereof, and the state of West Virginia, and to

22 accept and use bequests, devices, gifts and donations from
23 any person, firm or corporation;

24 (6) To acquire lands and hold title thereto in its own
25 name;

26 (7) To purchase, own, hold, sell and dispose of per-
27 sonal property and to sell, lease or otherwise dispose of
28 any real estate which it may own;

29 (8) To borrow money and execute and deliver nego-
30 tiable notes, mortgage bonds, other bonds, debentures,
31 and other evidences of indebtedness therefor, and give
32 such security therefor as shall be requisite, including
33 but not limited to the giving of a mortgage, deed of trust
34 or security agreement on or with respect to its airport
35 properties and facilities in connection with the issuance of
36 mortgage bonds;

37 (9) To raise funds by the issuance and sale of revenue
38 bonds in the manner provided by the applicable provi-
39 sions of article four-a, chapter eight of the code of West
40 Virginia, one thousand nine hundred thirty-one, as
41 amended, it being hereby expressly provided that the
42 Fayette county airport authority is a "municipal au-
43 thority" within the definition of that term as used in said
44 article four-a, chapter eight of the code; and

45 (10) To expend its funds in the execution of the powers
46 and authority herein given.

Sec. 10. Indebtedness of the Authority.—The authority
2 may incur any proper indebtedness and issue any obli-
3 gations and give any security therefor which it may deem
4 necessary or advisable in connection with carrying out
5 its purposes as hereinbefore mentioned. No statutory
6 limitation with respect to the nature or amount of in-
7 debtedness which may be incurred by municipalities or
8 other public bodies shall apply to indebtedness of the
9 authority. No indebtedness of any nature of the authority
10 shall constitute an indebtedness of the county court of
11 the county of Fayette, nor of said county, or a charge
12 against any property of said county. No obligation in-
13 curred by the authority shall give any right against any
14 member of the county court of the county of Fayette or
15 any member of the board of the authority. The rights of

16 creditors of the authority shall be solely against the au-
17 thority as a corporate body and shall be satisfied only out
18 of property held by it in its corporate capacity.

**Sec. 11. Agreements in Connection with Obtaining
2 Funds.**—The authority may, in connection with obtaining
3 funds for its purposes, enter into any agreement with any
4 person, firm or corporation, including but not limited to
5 the federal government, or any agency or subdivision
6 thereof, containing such provisions, covenants, terms and
7 conditions as the authority may deem advisable.

Sec. 12. Authority to Have Right of Eminent Domain.—
2 Whenever it shall be deemed necessary by the authority
3 in connection with the exercise of its powers herein con-
4 ferred, to take or acquire any lands, structures or build-
5 ings or other rights, either in fee or as easements, for the
6 purposes herein set forth, the authority may purchase
7 the same directly or through its agents from the owner
8 or owners thereof, or failing to agree with the owner or
9 owners thereof, the authority may exercise the power
10 of eminent dornain in the manner provided for condem-
11 nation proceedings in chapter fifty-four of the code of
12 West Virginia, one thousand nine hundred thirty-one, as
13 heretofore and hereafter amended, and such purposes are
14 hereby declared to be public uses for which private
15 property may be taken or damaged.

**Sec. 13. Property, Bonds and Obligations of Authority
2 Exempt from Taxation.**—The authority shall be exempt
3 from the payment of any taxes or fees to the state or any
4 subdivisions thereof or to any officer or employee of the
5 state or of any subdivisions thereof. The property of the
6 authority shall be exempt from all local and municipal
7 taxes. Bonds, notes, debentures and other evidence of
8 indebtedness of the authority are declared to be issued
9 for a public purpose and to be public instrumentalities,
10 and, together with interest thereon, shall be exempt from
11 taxes.

**Sec. 14. Authority May Lease Airport and Facilities to
2 the County Court of the County of Fayette or Other
3 Lessee.**—The authority may lease its airport and all the

4 appurtenances and facilities therewith to the county court
5 of the county of Fayette or to any other available lessee
6 at such rental and upon such terms and conditions as to
7 the authority shall seem proper. If the authority deter-
8 mines to lease the airport and its appurtenances and fa-
9 cilities, as a whole, it shall first offer the same to the
10 county court of the county of Fayette upon an annual
11 lease, and it shall not lease the airport and its appurt-
12 enances and facilities as a whole to any other lessee until
13 the county court of the county of Fayette has notified
14 the authority that it does not desire to lease said proper-
15 ties, which notice shall be given within thirty days after
16 notice by the authority of a desire on its part to lease
17 the airport as a whole. The county court of the county
18 of Fayette is hereby authorized to enter into a lease with
19 the authority for said airport and appurtenances and
20 facilities at such rental and upon such terms and condi-
21 tions as it shall deem proper, and the county court of
22 the county of Fayette is hereby authorized to levy taxes
23 as provided by law for the purpose of paying the rent
24 for said airport, appurtenances and facilities. The au-
25 thority, however, may lease one or more portions of said
26 airport, not including runways and taxiways, without
27 first offering the same to the county court of the county
28 of Fayette. Such lease shall be for some purpose associated
29 with airport activities.

Sec. 15. Disposition of Surplus of Authority.—If the
2 authority should realize a surplus, whether from oper-
3 ating the airport or leasing it for operation, over and
4 above the amount required for the maintenance, improve-
5 ment and operation of the airport and for meeting all re-
6 quired payments on its obligations, it shall set aside such
7 reserve for future operations, improvements and contin-
8 gencies as it shall deem proper and shall then apply the
9 residue of such surplus, if any, to the payment of any
10 recognized and established obligations not then due; and
11 after all such recognized and established obligations have
12 been paid off and discharged in full, the authority shall,
13 at the end of each fiscal year, set aside the reserve for
14 future operations, improvements and contingencies, as

15 aforesaid, and then pay the residue of such surplus, if any,
16 to the county court of the county of Fayette, to be used
17 by said county court for general county purposes.

Sec. 16. Contributions to Authority by the County
2 **Court of the County of Fayette and Others; Funds and**
3 **Accounts of the Authority.**—Contributions may be made
4 to the authority from time to time by the county court of
5 the county of Fayette and by any persons, firms or corpor-
6 ations that shall desire so to do. All such funds and all
7 other funds received by the authority shall be deposited
8 in such bank or banks as the authority may direct and
9 shall be withdrawn therefrom in such manner as the
10 authority may direct. The authority shall keep strict ac-
11 count of all its receipts and expenditures and shall each
12 quarter make a quarterly report to the county court of
13 the county of Fayette containing an itemized account of
14 its receipts and disbursements during the preceding quar-
15 ter. Such report shall be made within sixty days after the
16 termination of the quarter. Within sixty days after the
17 end of each fiscal year, the authority shall make an an-
18 nual report containing an itemized statement of its re-
19 cepts and disbursements for the preceding year, and such
20 annual report shall be published once a week for two suc-
21 cessive weeks in two newspapers of opposite politics
22 published in, and of general circulation in Fayette county,
23 West Virginia. The books, records and accounts of the
24 authority shall be subject to audit and examination by
25 the office of the state tax commissioner of West Virginia
26 and by any other proper public official or body in the
27 manner provided by law.

Sec. 17. Employees to Be Covered by Workmen's Com-
2 **penetration.**—All employees of the authority eligible there-
3 under shall be deemed to be within the workmen's com-
4 pensation act of West Virginia, and premiums shall be
5 paid by the authority to the workmen's compensation
6 fund as required by law.

Sec. 18. Dissolution of Authority.—The authority may
2 at any time pay off and discharge in full all of its in-
3 debtedness, obligations and liabilities, reconvey the air-

4 port properties, appurtenances and facilities to the county
5 court of the county of Fayette and be dissolved. Before
6 making such reconveyance of its properties, the authority
7 shall first publish notice of its intention so to do and of
8 its intention to be dissolved, once a week for four suc-
9 cessive weeks in two newspapers of opposite politics pub-
10 lished in, and of general circulation in Fayette county,
11 West Virginia. Certificates from the publishers of the
12 papers showing such publication shall be filed with the
13 county court of the county of Fayette on or before the
14 deed reconveying said properties is delivered. Any funds
15 remaining in the hands of the authority at the time of the
16 reconveyance of said properties shall be by the authority
17 paid over to the county court of the county of Fayette to
18 be used by it for purposes in connection with said airport.
19 Upon the payment of its indebtedness, obligations and
20 liabilities, the publishing of the notices aforesaid, the
21 reconveyance of its properties, and the paying over to
22 the county court of the county of Fayette of any funds
23 remaining in its hands, the authority shall cause a certifi-
24 cate showing its dissolution to be executed under its name
25 and seal and to be recorded in the office of the clerk of the
26 county court of Fayette county, and thereupon its dissolu-
27 tion shall be complete.

Sec. 19. Liberal Construction of Act.—It is the purpose
2 of this act to provide for the acquisition, construction,
3 improvement, extension, maintenance and operation of
4 a public airport in a prudent and economical manner, and
5 this act shall be liberally construed as giving to the au-
6 thority full and complete power reasonably required to
7 give effect to the purposes hereof. The provisions of this
8 act are in addition to and not in derogation of any power
9 existing in the county court of the county of Fayette
10 under any constitutional or statutory provisions which it
11 may now have, or may hereafter acquire.

Sec. 20. Provisions Severable.—The several sections
2 and provisions of this act are severable, and if any section
3 or provision hereof shall be held unconstitutional, all the
4 remaining sections and provisions of this act shall never-
5 theless remain valid.

CHAPTER 61

(House Bill No. 296—By Mr. Ours)

[Passed February 8, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to authorize the county court of Grant county to establish, acquire, operate and maintain a suitable jail at or in the vicinity of Bayard, West Virginia.

Be it enacted by the Legislature of West Virginia:

Grant County Jail.

Section

1. Grant county court authorized to establish, acquire, operate and maintain a jail at Bayard, West Virginia.
2. Powers.
3. Liberal construction of act.

Section 1. Grant County Court Authorized to Establish, Acquire, Operate and Maintain a Jail at Bayard, West Virginia.—The county court of Grant county is hereby authorized and empowered to establish, acquire, operate and maintain a jail at or in the vicinity of Bayard, West Virginia.

Sec. 2. Powers.—The Grant county court is hereby granted the same powers to establish, acquire, operate and maintain a suitable jail at or in the vicinity of Bayard, West Virginia, as is provided for jails generally under chapter seven, article three, section two of the code.

Sec. 3. Liberal Construction of Act.—By virtue of the unique topography of Grant county and the special, individual, unusual and peculiar conditions, circumstances and problems created thereby, it is the purpose of this act to provide for the acquisition, construction, improvement, extending, maintenance and operation of a jail at or in the vicinity of Bayard, West Virginia, in a prudent and economical manner, and this act shall be liberally construed as giving to the county court of Grant county full and complete power reasonably required to give effect to the purposes hereof. The provisions of this act are in addition to and not in derogation of any power

- 13 existing in the county court of Grant county under any
14 constitutional or statutory provisions which it may now
15 have, or may hereafter acquire.

CHAPTER 62

(Senate Bill No. 66—By Mr. Carson, Mr. President,
and Mr. Jasper)

[Passed February 4, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of the county of Greenbrier to create an airport authority and providing for the membership and purposes of the authority; for the appointment and removal of members; for the acquisition by the authority of real estate and personal property; for the acquisition, construction, improvement, maintenance and operation of a public airport; for corporate existence of the authority; for the issuance of mortgage bonds, revenue bonds, other bonds, debentures, notes and securities, and the giving of security for the payment thereof; for the authority to exercise the power of eminent domain; for tax exemption for the property, funds and obligations of the authority; for the authority to lease the airport; for the county court of the county of Greenbrier to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of the county of Greenbrier and others; for the keeping of the funds and accounts of the authority; for the disposition of any surplus funds; for the covering of the employees of the authority by workmen's compensation; and for dissolution of the authority.

Be it enacted by the Legislature of West Virginia:

Greenbrier County Airport Authority.

Section

1. Greenbrier county airport authority authorized.
2. Purposes.
3. Members of the authority.
4. Removal of members.
5. Substitution of members.

6. Qualification of members of the authority.
7. Compensation of members of the authority.
8. Authority to be a public corporation.
9. Powers.
10. Indebtedness of the authority.
11. Agreements in connection with obtaining funds.
12. Authority to have right of eminent domain.
13. Property, bonds and obligations of authority exempt from taxation.
14. Authority may lease airport and facilities to the county court of the county of Greenbrier or other lessee.
15. Disposition of surplus of authority.
16. Contributions to authority by the county court of the county of Greenbrier and others; funds and accounts of the authority.
17. Employees to be covered by workmen's compensation.
18. Dissolution of authority.
19. Liberal construction of act.
20. Provisions severable.

Section 1. Greenbrier County Airport Authority Authorized.—The county court of the county of Greenbrier is hereby authorized to create and establish a public agency to be known as the "Greenbrier County Airport Authority" for the purposes and in the manner herein after set forth.

Sec. 2. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate a public airport with all usual and convenient appurtenances and facilities in Greenbrier county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Greenbrier county and the public generally.

Sec. 3. Members of the Authority.—The management and control of the Greenbrier county airport authority, its property, operations, business and affairs, shall be lodged in a board of five persons who shall be known as "Members of the Authority," each of whom shall be appointed for a term of five years, except that as to the first four appointed to the first board appointed, the term of one member shall expire on the first day of July next ensuing and the term of the next member shall expire on the first day of July two years thereafter, the term of another member shall expire on the first day of July three years thereafter and the term of the remaining member shall expire on the first day of July four years thereafter: *Provided*, That the county commissioner appointed to serve as a member of the authority, as hereinafter pro-

16 vided, shall not serve for a term as member of the au-
17 thority which is longer than his term of office as a member
18 of the county court of the county of Greenbrier.

19 All members shall be appointed by the county court of
20 the county of Greenbrier: *Provided, however,* That one
21 member of the authority shall be a member of the county
22 court of the county of Greenbrier: *Provided further,* That
23 of the remaining four members of the authority no more
24 than two shall be members of the same political party,
25 nor shall they hold any political office of any nature.

Sec. 4. Removal of Members.—The members of the
2 authority shall serve at the will and pleasure of the
3 county court of the county of Greenbrier: *Provided,* That
4 if the county court of the county of Greenbrier desires to
5 remove a member of the authority it shall notify said
6 member in writing, stating the reasons for the county
7 court of the county of Greenbrier desiring said removal.
8 Within ten days of the receipt by the member of the au-
9 thority of the written notice of removal, said member, if
10 he so desires, may have a hearing before the county court
11 of the county of Greenbrier, and any such hearing shall
12 be held within ten days of the member's written request
13 for said hearing.

Sec. 5. Substitution of Members.—If any member of
2 the authority die, or resign, or be removed, or for any
3 other reason cease to be a member of the authority, the
4 county court of the county of Greenbrier shall appoint
5 another person to fill the unexpired portion of the term
6 of such member.

Sec. 6. Qualification of Members of the Authority.—
2 All members of the board of the authority shall be citi-
3 zens of West Virginia, over thirty years of age, and resi-
4 dents of Greenbrier county.

Sec. 7. Compensation of Members of the Authority.—
2 No member of the board of the authority shall receive
3 any compensation, whether in form of salary, per diem
4 allowances or otherwise, for or in connection with his
5 services as such member. Each member shall, however,
6 be entitled to reimbursement by the authority for any

7 necessary expenditures in connection with the perform-
8 ance of his general duties as such member.

Sec. 8. Authority to Be a Public Corporation.—The
2 authority when created, and the members thereof, shall
3 constitute and be a public corporation under the name
4 of "Greenbrier County Airport Authority," and as such
5 shall have perpetual succession, may contract and be con-
6 tracted with, sue and be sued, plead and be impleaded,
7 and have and use a common seal.

Sec. 9. Powers.—The Greenbrier county airport au-
2 thority is hereby given power and authority as follows:

3 (1) To make and adopt all necessary by-laws, rules and
4 regulations for its organization and operations not incon-
5 sistent with law;

6 (2) To elect its own officers, to appoint committees and
7 to employ and fix the compensation for personnel neces-
8 sary for its operation;

9 (3) To enter into contracts with any person, govern-
10 mental department, firm or corporation, including both
11 public and private corporations, and generally to do any
12 and all things necessary or convenient for the purpose
13 of acquiring, equipping, constructing, maintaining, im-
14 proving, extending, financing and operating a public air-
15 port in Greenbrier county, West Virginia;

16 (4) To delegate any authority given to it by law to
17 any of its officers, committees, agents or employees;

18 (5) To apply for, receive and use grants-in-aid, dona-
19 tions and contributions from any source or sources, in-
20 cluding but not limited to the federal government and
21 any agency thereof, and the state of West Virginia, and
22 to accept and use bequests, devises, gifts and donations
23 from any person, firm or corporation;

24 (6) To acquire lands and hold title thereto in its own
25 name;

26 (7) To purchase, own, hold, sell and dispose of per-
27 sonal property and to sell, lease or otherwise dispose of
28 any real estate which it may own;

29 (8) To borrow money and execute and deliver ne-
30 gotiable notes, mortgage bonds, other bonds, debentures,
31 and other evidences of indebtedness therefor, and give

32 such security therefor as shall be requisite, including but
33 not limited to the giving of a mortgage, deed of trust or se-
34 curity agreement on or with respect to its airport proper-
35 ties and facilities in connection with the issuance of mort-
36 gage bonds;

37 (9) To raise funds by the issuance and sale of revenue
38 bonds in the manner provided by the applicable provisions
39 of article four-a, chapter eight of the code of West Vir-
40 ginia, one thousand nine hundred thirty-one, as amended,
41 it being hereby expressly provided that the Greenbrier
42 county airport authority is a "municipal authority" within
43 the definition of that term as used in said article four-a,
44 chapter eight of the code; and

45 (10) To expend its funds in the execution of the powers
46 and authority herein given.

Sec. 10. Indebtedness of the Authority.—The authority
2 may incur any proper indebtedness and issue any obliga-
3 tions and give any security therefor which it may deem
4 necessary or advisable in connection with carrying out its
5 purposes as hereinbefore mentioned. No statutory limi-
6 tations with respect to the nature or amount of indebted-
7 ness which may be incurred by municipalities or other
8 public bodies shall apply to indebtedness of the authority.
9 No indebtedness of any nature of the authority shall con-
10 stitute an indebtedness of the county court of the county
11 of Greenbrier, nor of said county, or a charge against any
12 property of said county. No obligation incurred by the
13 authority shall give any right against any member of the
14 county court of the county of Greenbrier or any member
15 of the board of the authority. The rights of creditors of
16 the authority shall be solely against the authority as a
17 corporate body and shall be satisfied only out of property
18 held by it in its corporate capacity.

Sec. 11. Agreements in Connection with Obtaining
2 **Funds.**—The authority may, in connection with obtaining
3 funds for its purposes, enter into any agreement with any
4 person, firm or corporation, including but not limited to
5 the federal government, or any agency or subdivision
6 thereof, containing such provisions, covenants, terms and
7 conditions as the authority may deem advisable.

Sec. 12. Authority to Have Right of Eminent Domain.—

2 Whenever it shall be deemed necessary by the authority
3 in connection with the exercise of its powers herein con-
4 ferred, to take or acquire any lands, structures or build-
5 ings or other rights, either in fee or as easements, for the
6 purposes herein set forth, the authority may purchase
7 the same directly or through its agents from the owner
8 or owners thereof, or failing to agree with the owner or
9 owners thereof, the authority may exercise the power of
10 eminent domain in the manner provided for condemna-
11 tion proceedings in chapter fifty-four of the code of West
12 Virginia, one thousand nine hundred thirty-one, as here-
13 tofore and hereafter amended, and such purposes are
14 hereby declared to be public uses for which private
15 property may be taken or damaged.

Sec. 13. Property, Bonds and Obligations of Authority

2 **Exempt from Taxation.**—The authority shall be exempt
3 from the payment of any taxes or fees to the state or any
4 subdivisions thereof or to any officer or employee of the
5 state or of any subdivisions thereof. The property of the
6 authority shall be exempt from all local and municipal
7 taxes. Bonds, notes, debentures and other evidence of
8 indebtedness of the authority are declared to be issued
9 for a public purpose and to be public instrumentalities,
10 and, together with interest thereon, shall be exempt from
11 taxes.

**Sec. 14. Authority May Lease Airport and Facilities to
the County Court of the County of Greenbrier or Other**

2 **Lessee.**—The authority may lease its airport and all the
3 appurtenances and facilities therewith to the county court
4 of the county of Greenbrier or to any other available
5 lessee at such rental and upon such terms and conditions
6 as to the authority shall seem proper. If the authority
7 determines to lease the airport and its appurtenances and
8 facilities, as a whole, it shall first offer the same to the
9 county court of the county of Greenbrier upon an annual
10 lease, and it shall not lease the airport and its appur-
11 tenances and facilities as a whole to any other lessee until
12 the county court of the county of Greenbrier has notified
13 the authority that it does not desire to lease said proper-
14

15 ties, which notice shall be given within thirty days after
16 notice by the authority of a desire on its part to lease the
17 airport as a whole. The county court of the county of
18 Greenbrier is hereby authorized to enter into a lease with
19 the authority for said airport and appurtenances and
20 facilities at such rental and upon such terms and condi-
21 tions as it shall deem proper, and the county court of the
22 county of Greenbrier is hereby authorized to levy taxes
23 as provided by law for the purpose of paying the rent for
24 said airport, appurtenances and facilities. The authority,
25 however, may lease one or more portions of said airport,
26 not including runways and taxiways, without first offer-
27 ing the same to the county court of the county of Green-
28 brier. Such lease shall be for some purpose associated
29 with airport activities.

Sec. 15. Disposition of Surplus of Authority.—If the
2 authority should realize a surplus, whether from operat-
3 ing the airport or leasing it for operation, over and above
4 the amount required for the maintenance, improvement
5 and operation of the airport and for meeting all required
6 payments on its obligations, it shall set aside such reserve
7 for future operations, improvements and contingencies as
8 it shall deem proper and shall then apply the residue of
9 such surplus, if any, to the payment of any recognized
10 and established obligations not then due; and after all
11 such recognized and established obligations have been
12 paid off and discharged in full, the authority shall, at the
13 end of each fiscal year, set aside the reserve for future
14 operations, improvements and contingencies, as aforesaid,
15 and then pay the residue of such surplus, if any, to the
16 county court of the county of Greenbrier, to be used by
17 said county court for general county purposes.

**Sec. 16. Contributions to Authority by the County
2 Court of the County of Greenbrier and Others; Funds
3 and Accounts of the Authority.**—Contributions may be
4 made to the authority from time to time by the county
5 court of the county of Greenbrier and by any persons,
6 firms or corporations that shall desire so to do. All such
7 funds and all other funds received by the authority shall
8 be deposited in such bank or banks as the authority may

9 direct and shall be withdrawn therefrom in such manner
10 as the authority may direct. The authority shall keep
11 strict account of all its receipts and expenditures and shall
12 each quarter make a quarterly report to the county court
13 of the county of Greenbrier containing an itemized ac-
14 count of its receipts and disbursements during the pre-
15 ceding quarter. Such report shall be made within sixty
16 days after the termination of the quarter. Within sixty
17 days after the end of each fiscal year, the authority shall
18 make an annual report containing an itemized statement
19 of its receipts and disbursements for the preceding year,
20 and such annual report shall be published once a week for
21 two successive weeks in two newspapers of opposite
22 politics published in, and of general circulation in Green-
23 brier county, West Virginia. The books, records and ac-
24 counts of the authority shall be subject to audit and ex-
25 amination by the office of the state tax commissioner of
26 West Virginia and by any other proper public official or
27 body in the manner provided by law.

**Sec. 17. Employees to Be Covered by Workmen's Com-
2 pensionation.**—All employees of the authority eligible there-
3 under shall be deemed to be within the workmen's com-
4 pensation act of West Virginia, and premiums shall be
5 paid by the authority to the workmen's compensation
6 fund as required by law.

Sec. 18. Dissolution of Authority.—The authority may
2 at any time pay off and discharge in full all of its indebt-
3 edness, obligations and liabilities, reconvey the airport
4 properties, appurtenances and facilities to the county
5 court of the county of Greenbrier and be dissolved. Be-
6 fore making such reconveyance of its properties, the au-
7 thority shall first publish notice of its intention so to do
8 and of its intention to be dissolved, once a week for four
9 successive weeks in two newspapers of opposite politics
10 published in, and of general circulation in Greenbrier
11 county, West Virginia. Certificates from the publishers of
12 the papers showing such publication shall be filed with
13 the county court of the county of Greenbrier on or before
14 the deed reconveying said properties is delivered. Any
15 funds remaining in the hands of the authority at the time

16 of the reconveyance of said properties shall be by the au-
17 thority paid over to the county court of the county of
18 Greenbrier to be used by it for purposes in connection
19 with said airport. Upon the payment of its indebtedness,
20 obligations and liabilities, the publishing of the notices
21 aforesaid, the reconveyance of its properties, and the pay-
22 ing over to the county court of the county of Greenbrier
23 of any funds remaining in its hands, the authority shall
24 cause a certificate showing its dissolution to be executed
25 under its name and seal and to be recorded in the office
26 of the clerk of the county court of Greenbrier county,
27 and thereupon its dissolution shall be complete.

Sec. 19. Liberal Construction of Act.—It is the purpose
2 of this act to provide for the acquisition, construction,
3 improvement, extension, maintenance and operation of a
4 public airport in a prudent and economical manner and
5 this act shall be liberally construed as giving to the au-
6 thority full and complete power reasonably required to
7 give effect to the purposes hereof. The provisions of this
8 act are in addition to and not in derogation of any power
9 existing in the county court of the county of Greenbrier
10 under any constitutional or statutory provisions which it
11 may now have, or may hereafter acquire.

Sec. 20. Provisions Severable.—The several sections
2 and provisions of this act are severable, and if any section
3 or provision hereof shall be held unconstitutional, all the
4 remaining sections and provisions of this act shall never-
5 theless remain valid.

CHAPTER 63

(House Bill No. 280—By Mr. Poling)

[Passed February 5, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of Jackson county to
create a special fund for the Jackson county junior fair
and to make expenditures therefrom.

Be it enacted by the Legislature of West Virginia:

Jackson County Junior Fair Fund.

Section

1. Jackson county court authorized to create a special fund for the Jackson county junior fair.

Section 1. Jackson County Court Authorized to Create a Special Fund for the Jackson County Junior Fair.—The county court of Jackson county is hereby authorized and empowered to create a special fund for the Jackson county junior fair, and to transfer into such fund such unexpended sums and surpluses, presently or hereafter existing, in the county general fund or in any special fund of the county, as the county court shall deem proper and advisable. Said county court is further authorized and empowered to make expenditures from this special fund for any expenses they deem necessary for the operation of the Jackson county junior fair.

3

CHAPTER 64

(House Bill No. 278—By Mr. Shiflet)

[Passed February 4, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of Monroe county to create a special county building and improvement fund, and to make expenditures therefrom.

Be it enacted by the Legislature of West Virginia:

Monroe County Building and Improvement Fund.

Section

1. Monroe County court authorized to create special building and improvement fund.

Section 1. Monroe County Court Authorized to Create Special Building and Improvement Fund.—The county court of Monroe county is hereby authorized and empowered to create a special building and improvement fund,

5 and to transfer into such fund such unexpended sums
6 and surpluses, presently or hereafter existing, in the
7 county general fund or in any special fund of the county,
8 as the county court shall deem proper and advisable.
9 Said county court is further authorized and empowered
10 to make expenditures from this special fund for the repair,
11 construction, renovation and maintenance of county build-
12 ings, lands and recreation facilities.

CHAPTER 65

(Senate Bill No. 79—Originating in the Senate Committee
on the Judiciary)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the county court of the county of Nicholas, West Virginia, and the county court of the county of Lincoln, West Virginia, to transfer and convey certain parcels of real property to the state of West Virginia for the use of the department of agriculture.

Be it enacted by the Legislature of West Virginia:

Transfer of Property to State.

Section

1. County court of Nicholas county authorized to transfer and convey parcel of real property to state of West Virginia for use of department of agriculture.
2. County court of Lincoln county authorized to transfer and convey parcel of real property to state of West Virginia for use of department of agriculture.

Section 1. County Court of Nicholas County Authorized to Transfer and Convey Parcel of Real Property to State of West Virginia for Use of Department of Agriculture.—

4 The county court of Nicholas county, West Virginia, is
5 hereby authorized and empowered to transfer and convey
6 to the state of West Virginia for the use of the depart-
7 ment of agriculture a certain tract or parcel of land, situ-
8 ate in Summersville district of Nicholas county, West

9 Virginia, bounded and described as follows: Beginning at
10 a stake approximately 375 feet in a northerly direction
11 from the junction of U. S. Route 19 and State Route 41
12 and 40 feet distant from the center line of U. S. Route 19
13 and on a radius of the 3° 40' curve with a radius of 1226.3
14 feet and with a magnetic backsight December 15, 1965;
15 thence N 89-05 E 334.18 feet to a ¾" iron pin on the edge
16 of the red-dog drive south of the Forestry Service ware-
17 house; thence N 11-58-45 W 197.58 feet to a ¾" iron pin
18 beside same red-dog drive; thence N 81-51-25 W 227.42
19 feet to a stake on the right of way line of U. S. Route 19
20 on same 3° 40' curve; thence with the arc length of the
21 3° 40' curve 240.69 feet to the beginning, containing 1.36
22 acres, more or less.

**Sec. 2. County Court of Lincoln County Authorized to
2 Transfer and Convey Parcel of Real Property to State of
3 West Virginia for Use of Department of Agriculture.**—The
4 county court of Lincoln county, West Virginia, is hereby
5 authorized and empowered to transfer and convey to the
6 state of West Virginia for the use of the department of
7 agriculture the surface and surface rights in and to a
8 certain tract and parcel of land, situate on the lower Mud
9 River Road in Carroll district of Lincoln county, West
10 Virginia, bounded and described as follows: Beginning at
11 a set metal stake in the right of way line of the state road
12 on lower Mud River, a distance of fifteen (15) feet east of
13 or up stream from a culvert under said road, about 150
14 feet above the main house on the Lincoln county farm;
15 thence in a southwesterly direction in a straight line, up
16 a drain, a distance of 1800 feet, more or less, to a set metal
17 stake near the foot of the hill; thence at a right angle and
18 in a straight line a distance of 1800 feet, more or less, to
19 a set metal stake between an apple tree and a persimmon
20 tree; thence at a right angle and in a straight line a dis-
21 tance of 1800 feet, more or less, to a set metal stake near
22 the cannery building and in the right of way line of said
23 lower Mud River Road; thence with the right of way line
24 to said road, up the same, a distance of 1800 feet, more or
25 less, to the place of beginning, containing eight (8) acres,
26 more or less, and being a part of the Lincoln county farm.

CHAPTER 66

(House Bill No. 302—By Mr. McCoy)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT authorizing the Pendleton county court to establish a Pendleton county development fund and to make expenditures therefrom.

Be it enacted by the Legislature of West Virginia:

Pendleton County Development Fund.

Section

1. Pendleton county court authorized to establish a Pendleton county development fund.

Section 1. Pendleton County Court Authorized to Establish a Pendleton County Development Fund.—The county court of Pendleton county is hereby authorized and empowered to create a special development fund, to be known as the “Pendleton County Development Fund,” to be used for the agricultural, industrial and recreational development of Pendleton county and for making capital improvements to county property. The said county court is authorized and empowered to transfer into such fund such unexpended sums and surpluses, presently or hereafter existing, in the county general fund or in any special fund of the county, as the county court shall deem proper and advisable. Said county court is also authorized to make expenditures from such fund for the agricultural, industrial and recreational development of the county and for making capital improvements to county property in any manner the court shall deem proper and advisable.

RESOLUTIONS

(Only resolutions of general interest adopted by the Legislature are included in this volume.)

HOUSE CONCURRENT RESOLUTION NO. 16

(By Mr. Pauley, of McDowell, and Mr. Watson)

[Adopted January 28, 1966]

Conveying the displeasure of the Legislature of the State of West Virginia at the action taken by the Honorable Stewart L. Udall, Secretary of the Interior, concerning the importation of residual oil.

WHEREAS, It has come to the attention of this legislative body that the Honorable Stewart L. Udall, Secretary of the Interior of the United States, has in his official capacity, recently caused to become effective an increase in the permitted quota of the importation into this country of residual oil; and

WHEREAS, The continued and increased importation of residual oil into this country, is extremely injurious to the production and sale of domestic coal, which is a product that is basic to the economic well-being of this State, and has an effect which is adverse to the employment situation existing in this State; and

WHEREAS, The federal government in the past has evidenced a great concern in connection with the unemployment problems existing in this State, and has frequently publicized the desire to assist in alleviating these problems; and

WHEREAS, The citizens of this State have in the past and are, at present, working diligently and continually to overcome these problems, and are willing to work, if and when they are given the opportunity; and

WHEREAS, The recent action of the Secretary of the Interior is extremely detrimental and is contrary to the expressed desires of the federal government, and the efforts of both the government and the people of this State to overcome this problem; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature of the State of West Virginia hereby expresses its extreme displeasure at the recent action taken by the Secretary of the Interior in raising the importation quota upon residual oil; and, be it

Further Resolved, That this Legislature hereby respectfully requests that the Secretary of the Interior review this order, and further respectfully requests that the same be rescinded; and, be it

Further Resolved, That the Clerk of the House of Delegates be directed to cause copies of this resolution to be forwarded to the Honorable Stewart L. Udall, Secretary of the Interior, and to each member of the West Virginia Congressional Delegation.

HOUSE CONCURRENT RESOLUTION NO. 30

(By Mr. Casey and Mr. Kopp)

[Adopted February 10, 1966]

Creating a special interim committee to visit and inspect state penal and correctional institutions, and to report its findings to the Legislature at the next Regular Session.

WHEREAS, It is customary for members of standing committees of the Legislature to visit and inspect the various public penal and correctional institutions maintained and operated by the State of West Virginia, and such visitations and inspections have resulted in constructive recommendations for the improvement of services and facilities at such institutions; and

WHEREAS, It is deemed desirable that such visitations and inspections be made in the interim between the current session of the Legislature and the next Regular Session of the Legislature to be held in the year 1967 in order to carry out recommendations previously made and to consider current problems as they arise; therefore, be it

Resolved by the Legislature of West Virginia:

That a special interim committee is hereby created to visit and inspect the penal and correctional institutions maintained

and operated by the State of West Virginia. Such committee shall consist of four members to be appointed by the Speaker of the House of Delegates and four members to be appointed by the President of the Senate from the appropriate standing committees of their respective Houses; and, be it

Further Resolved, That the committee shall report its findings and recommendations to the Legislature on or before the second day of the Regular Session of the Legislature to be held in the year 1967; and, be it

Further Resolved, That the members appointed to this committee shall receive mileage at the rate of ten cents per mile, and all sums actually spent by such members for meals and lodging while visiting and inspecting such institutions, all of which expenses shall be paid from Acct. No. 103 for joint expenses: *Provided*, That no such visitations and inspections shall be made or expenses incurred unless the approval of the Joint Committee on Government and Finance therefor is first had and obtained by said special interim committee.

HOUSE CONCURRENT RESOLUTION NO. 39

(By Mr. Craig, Mrs. Schupbach and Mr. D'Aurora)

[Adopted February 5, 1966]

Relating to the importation of glassware from the Republic of Mexico.

WHEREAS, Under present tariff and trade regulations the Republic of Mexico is exporting glassware to the United States at the ad valorem duty of fifty per cent and at the same time is embargoing shipment of glassware from the United States into Mexico; and

WHEREAS, As a result of this favorable treatment, Mexican glass producers are copying and duplicating many popular items manufactured in West Virginia and due to cheaper labor and manufacturing costs underselling West Virginia glassware in many important markets in the United States; and

WHEREAS, The Glass Crafts of America, the trade organization of the glass industry in the United States, has protested

to the United States Department of Commerce, the Tariff Commission and the State Department on the unfair competitive position in which existing regulations and agreements place West Virginia glass manufacturers, but has to date failed to obtain any remedial action; and

WHEREAS, Since our government has been a strong advocate of the Common Market and has utilized the Reciprocal Trade Agreements Act in many areas, it paradoxically is permitting this grossly unfair competitive situation in the glass industry to continue; and

WHEREAS, It is the opinion of the members of the West Virginia Legislature that the appropriate agencies of the United States should either take action to bring about the lifting of the embargo of Mexico on the importation of glassware from the United States or impose an embargo on the importation of glassware from Mexico to the United States; therefore, be it

Resolved by the Legislature of West Virginia:

That the members thereof do hereby express their displeasure with the unfair competitive conditions imposed upon the glass industry of West Virginia as outlined in the preamble to this resolution, and respectfully request the appropriate agencies of the United States government to take proper corrective action; and, be it

Further Resolved, That the Clerk of the House of Delegates transmit copies of this resolution to the United States Department of Commerce, the Tariff Commission and the Department of State; and to the members of the Congress from the State of West Virginia, with the request that they lend their full efforts to bringing about a correction of the conditions herein stated.

HOUSE CONCURRENT RESOLUTION NO. 40

(By Mr. Speaker, Mr. White)

[Adopted February 7, 1966]

Continuing certain studies by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation.

WHEREAS, Certain studies have been referred to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation by prior sessions of the Legislature which have not been completed; therefore, be it

Resolved by the Legislature of West Virginia:

That the studies authorized by the following resolutions be continued:

1. House Concurrent Resolution No. 23, adopted Regular Session, 1965, relating to conflict of interest;
2. House Concurrent Resolution No. 40, adopted Regular Session, 1964, and continued by Senate Concurrent Resolution No. 33, adopted Regular Session, 1965, relating to data processing;
3. House Concurrent Resolution No. 37, adopted Regular Session, 1965, relating to removal of abandoned and dilapidated buildings;
4. Senate Concurrent Resolution No. 29, adopted Regular Session, 1963, and continued by House Concurrent Resolution No. 52, adopted Regular Session, 1965, relating to elementary schools;
5. House Concurrent Resolution No. 20, adopted Regular Session, 1963, and continued by Senate Concurrent Resolution No. 33, adopted Regular Session, 1965, relating to executive and administrative offices;
6. Senate Concurrent Resolution No. 11, adopted Regular Session, 1957, and continued by Senate Concurrent Resolution No. 33, adopted Regular Session, 1965, relating to institutions of higher education;
7. Senate Concurrent Resolution No. 27, adopted Regular Session, 1965, relating to publication of legal notices;
8. Senate Concurrent Resolution No. 30, adopted Regular Session, 1965, relating to licensing of various professions, occupations and businesses;
9. Committee Substitute for Senate Concurrent Resolution No. 10, adopted Regular Session, 1963, and continued by Senate Concurrent Resolution No. 33, adopted Regular Session, 1965, relating to a public building code;

10. Senate Concurrent Resolution No. 31, adopted Regular Session, 1965, relating to special revenue funds;

11. House Concurrent Resolution No. 44, adopted Regular Session, 1965, relating to a long-range program of taxation and state revenue; and, be it

Further Resolved, That all provisions of said Senate and House Concurrent Resolutions be continued in full force and effect; and, be it

Further Resolved, That all reports, together with findings, conclusions, recommendations, and any proposed drafts of legislation, be made to the Legislature at its Regular Session, 1967.

HOUSE CONCURRENT RESOLUTION NO. 44

(Originating in the House Committee on the Judiciary)

[Adopted February 8, 1966]

Directing the Joint Committee on Government and Finance to make a comprehensive study of automobile insurance in West Virginia.

WHEREAS, A multitude of problems have arisen concerning the coverage and provisions of automobile insurance policies; and

WHEREAS, Legislative regulations have failed to keep pace with the mounting complex problems of automobile insurance; and

WHEREAS, Some of the problems have been brought to the attention of the Legislature, and it is deemed appropriate and beneficial that a study be made of all the various coverages and provisions contained in automobile insurance policies issued in this State, and of the practices employed by the insurers issuing such policies, and that constructive recommendations be presented to the Legislature; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance, with the cooperation of the Insurance Commissioner, be directed to conduct a comprehensive study of the various types of auto-

mobile insurance coverage offered in this State and of the practices employed by the insurance companies issuing such coverage; and, be it

Further Resolved, That a report containing the results of such study and any recommendations and drafts of proposed legislation be submitted to the Legislature no later than the second day of its next Regular Session; and, be it

Further Resolved, That the expenses necessary to conduct such study be paid from the appropriate joint fund.

HOUSE CONCURRENT RESOLUTION NO. 46

(Originating in the House Committee on Finance)

{Adopted February 9, 1966}

Directing the Joint Committee on Government and Finance to conduct a study of the Transportation Privilege Tax.

WHEREAS, The Supreme Court of Appeals of West Virginia decided on November 8, 1965, in the case of the State of West Virginia, ex rel. G. Thomas Battle, State Tax Commissioner vs. The Baltimore and Ohio Railroad Company, that section five-b, article twelve-a, chapter eleven of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, was unconstitutional because it violated article one, section eight of the Constitution of the United States insofar as such section five-b, when applied, taxed receipts from interstate commerce and unduly burdened such commerce; and

WHEREAS, Substantial revenues will be lost to the State as a result of the aforesaid decision of the Supreme Court of Appeals for each and every year hereafter and approximately twelve million dollars will be subject to refund to taxpayers who filed returns and paid taxes under the said section five-b, article twelve-a, chapter eleven of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, before such statute was declared invalid; and

WHEREAS, It is deemed indicated that some change or revision be made to one or more of the sections of the law under the said article twelve-a, chapter eleven of the said Code for the purpose of continuing to realize approximately the same

revenues which were realized prior to the said section being found invalid and unconstitutional; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance be directed to conduct a comprehensive general study of the privilege tax on certain carrier corporations, with particular emphasis upon chapter eleven, article twelve-a, section five-b of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, in order to determine ways and means of amending the existing statutes so that the tax yield realized will not be appreciably reduced by the effects of the decision in the case of the State of West Virginia, ex rel. G. Thomas Battle, State Tax Commissioner vs. The Baltimore and Ohio Railroad Company; and, be it

Further Resolved, That a report containing the results of such study and any recommendations and drafts of proposed legislation be submitted to the Legislature no later than the second day of its next Regular Session; and, be it

Further Resolved, That the expenses necessary to conduct such study be paid from the appropriate joint fund.

HOUSE CONCURRENT RESOLUTION NO. 48

(Originating in the House Committee on Finance)

[Adopted February 9, 1966]

Creating special budget study committees and authorizing appointment of members thereof.

WHEREAS, The complexity of the budget and budget requests remains a major legislative problem; and

WHEREAS, It is essential that an immediate attempt be made to provide a more thorough legislative analysis and understanding of this important area of governmental operations; therefore, be it

Resolved by the Legislature of West Virginia:

That there is hereby created for each House of the Legislature a special budget study committee. The Senate Com-

mittee shall consist of not more than eighteen members and the House Committee of not more than twenty-five members. Said committees to be appointed by the President of the Senate and the Speaker of the House of Delegates, respectively. In the appointment of these committees the President of the Senate and the Speaker of the House of Delegates shall apportion them as to political parties on a basis approximating the numerical membership of the two parties in their respective Houses. It shall be the duty of these committees to meet, as hereinafter provided, for the purpose of studying and analyzing the budget and requests for appropriations to be submitted to the Legislature and to prepare in advance of the session recommendations to the Finance Committee of the two Houses; and, be it

Further Resolved, That these committees may meet jointly or separately and shall be convened for such purpose by the President and Speaker at a time, or times, to be designated by them. The committees are authorized to conduct such hearings as may be deemed proper and pertinent to the discharge of their functions and make such reports to the Finance Committees of the two Houses as they may deem appropriate; and, be it

Further Resolved, That the authority and duties of these committees shall terminate on the first day of the following Regular Session of the Legislature; and, be it

Further Resolved, That all expenses incurred by said special budget study committees to conduct the above-mentioned study and to make their findings, recommendations and reports, including reimbursement for expenses of the members of said committees in the amount of twenty-five dollars per diem, and mileage at the rate of ten cents per mile, shall be paid from the appropriations under Acct. No. 103 for joint expenses.

HOUSE CONCURRENT RESOLUTION NO. 49

(By Mrs. Withrow and Mr. Holliday)

[Adopted February 10, 1966]

Creating a special interim committee to visit and inspect state hospitals and Colin Anderson Center under the supervision

and control of the State Department of Mental Health and the hospitals, homes and sanitarium under the supervision and control of the Commissioner of Public Institutions, and to report its findings to the Legislature at the next Regular Session.

WHEREAS, It is customary for members of standing committees of the Legislature to visit and inspect during legislative sessions the state hospitals and Colin Anderson Center under the supervision and control of the State Department of Mental Health and the hospitals, homes and sanitarium under the supervision and control of the Commissioner of Public Institutions, and such visitations and inspections have resulted in constructive recommendations for the improvement of services and facilities at such institutions; and

WHEREAS, It is deemed desirable that such visitations and inspections be made in the interim between the current session of the Legislature and the next Regular Session of the Legislature to be held in the year 1967 in order to carry out recommendations previously made and to consider current problems as they arise; therefore, be it

Resolved by the Legislature of West Virginia:

That a special interim committee is hereby created to visit and inspect the state hospitals and Colin Anderson Center under the supervision and control of the State Department of Mental Health and the hospitals, homes and sanitarium under the supervision and control of the Commissioner of Public Institutions. Such committee shall consist of three members to be appointed by the Speaker of the House of Delegates and three members to be appointed by the President of the Senate from the appropriate standing committees of their respective Houses; and, be it

Further Resolved, That the committee shall report its findings and recommendations to the Legislature on or before the second day of the Regular Session of the Legislature to be held in the year 1967; and, be it

Further Resolved, That the members appointed to this committee shall receive mileage at the rate of ten cents per mile, and all sums actually spent by such members for meals and

lodging while visiting and inspecting such institutions, all of which expenses shall be paid from Acct. No. 103 for joint expenses: *Provided*, That no such visitations and inspections shall be made or expenses incurred unless the approval of the Joint Committee on Government and Finance therefor is first had and obtained by said special interim committee.

HOUSE CONCURRENT RESOLUTION NO. 50

(By Messrs. McCoy, Ours, Slonaker and Harman)

[Adopted February 8, 1966]

Requesting the State Road Commission to designate U. S. Route No. 220 "Appalachian Thruway."

WHEREAS, U. S. Route No. 220 is a major economic artery extending north and south the length of the Appalachian Mountains; and

WHEREAS, In its course Route No. 220 passes through the most scenic area of the eastern United States and is traveled by many tourists; and

WHEREAS, U. S. Route No. 220 passes through the beautiful and historic valley of the South Branch of the Potomac River in eastern West Virginia and the newly organized recreation complex known as the "Potomac Highland of West Virginia"; and

WHEREAS, U. S. Route No. 220 has been designated "Appalachian Thruway" in the states of Pennsylvania and Maryland and has received nation-wide publicity under this title; and

WHEREAS, This major highway transverses Mineral, Hampshire, Hardy, Grant and Pendleton counties in the State of West Virginia and much favorable publicity would be gained and continuity maintained if U. S. Route No. 220 is also known as "Appalachian Thruway" in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the State Road Commission of West Virginia is hereby requested to designate that portion of U. S. Route No. 220 lying within this State and passing through the county seats of the counties of Mineral, Hardy, Grant and Pendleton as

“Appalachian Thruway” and to erect appropriate markers along its right-of-way; and, be it

Further Resolved, That the Clerk of the House of Delegates cause a copy of this resolution to be delivered to the State Road Commissioner of West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 51

(By Mr. Watson)

[Adopted February 9, 1966]

Directing the Joint Committee on Government and Finance to make a study of the feasibility of using electronic voting machines in West Virginia.

WHEREAS, Most of the counties in West Virginia use paper ballots in all elections, and the few counties that employ voting machines use a type that is very expensive, difficult to transport and costly to store while not in use; and

WHEREAS, A new electronic voting machine has been developed that has received wide acceptance in other states because it is inexpensive and its small size facilitates ease of transportation and storage; and

WHEREAS, A study would be useful in determining the feasibility and advisability of using such electronic voting machines in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to make a study of the feasibility and advisability of approving the use of electronic voting machines in the State of West Virginia; and, be it

Further Resolved, That such report and any recommendations of the committee be presented to the Legislature at the beginning of its next Regular Session in the year 1967, and that any expenses incurred in the preparation of same be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 52

(By Mr. Speaker, Mr. White)

[Adopted February 10, 1966]

Requesting the Joint Committee on Government and Finance to make a study of unregulated and unlicensed debt consolidation and second mortgage loans.

WHEREAS, Numerous complaints from irate borrowers have been made to the Commissioner of Banking and to members of the Legislature about the expanding activity of second mortgage lenders who, through clever advertising and persistent personal contact with prospective borrowers, have been making an increasing number of second mortgage loans that reduce a borrower's monthly payments but double the borrower's debt by adding to interest a long list of substantial and questionable "fees"; and

WHEREAS, Those lenders are unregulated and unlicensed by this State and their exorbitant profits cannot be controlled adequately under existing law; and

WHEREAS, Such lenders frequently operate on a precarious financial basis with only a postoffice box or telephone number as an office, and they move frequently from one area to another; and

WHEREAS, Their method of operations, including the selling of the loan to an out-of-state purchaser makes it difficult, if not impossible, for the innocent borrower to protect himself from usurious repayment or arbitrary foreclosure; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance make a study of unregulated and unlicensed debt consolidation and second mortgage loans and report to the Legislature at its Regular Session, 1967, on its findings, conclusions and recommendations, together with drafts of any proposed legislation to carry its recommendations into effect; and, be it

Further Resolved, That the expense necessary to make the study, to prepare a report, and to draft any proposed legislation shall be paid from legislative appropriations to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 55

(By Mr. Speaker, Mr. White)

[Adopted February 10, 1966]

Approving the issuance of revenue bonds by the State Building Commission of West Virginia in an amount not to exceed eighteen million dollars for the purpose of acquiring land for the construction of new state office buildings and parking facilities and for the construction, equipping and furnishing of same, and for all the plans and specifications necessary and incident thereto.

WHEREAS, Committee Substitute for Senate Bill No. 42 was enacted by the 1966 Session of the Fifty-seventh Legislature, establishing the "State Building Commission of West Virginia" and prescribing its powers, responsibilities and duties; and

WHEREAS, Said statute provides that no bonds or obligations may be issued in accordance with provisions of said act unless and until the Legislature by concurrent resolution has approved the purpose and amount of each separate project; therefore, be it

Resolved by the Legislature of West Virginia:

That the issuance of revenue bonds by the State Building Commission of West Virginia in an amount not to exceed eighteen million dollars is hereby approved by the Legislature for the purpose of acquiring the necessary land for the construction of new state office buildings and parking facilities, and for the purpose of constructing, equipping and furnishing same, in accordance with existing plans and specifications furnished to the former "State Office Building Commission of West Virginia," designated as "phase 2" in the "State Capitol Master Plan, State of West Virginia," January, 1966, prepared by Zando, Martin and Milstead, Architects and Engineers, and Boggs and Rehm, Landscape Architects and Land Planners; and, be it

Further Resolved, That the purpose for which said revenue bonds are to be issued is likewise hereby approved; and, be it

Further Resolved, That the Clerk of the House of Delegates transmit a copy of this resolution to the Secretary of State of

the State of West Virginia, the designated Secretary of the State Building Commission of West Virginia.

HOUSE JOINT RESOLUTION NO. 1

(By MR. SPEAKER, MR. WHITE, and MR. SEIBERT)

[Adopted January 20, 1966]

Ratifying the proposed amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

WHEREAS, The Eighty-ninth Congress of the United States of America, at the first session begun and held at the City of Washington on Monday, the fourth day of January, one thousand nine hundred sixty-five, by a constitutional two-thirds vote in both Houses adopted a Joint Resolution proposing an amendment to the Constitution of the United States, to wit:

Joint Resolution

Proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein):

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three fourths of the several states within seven years from the date of its submission by the Congress:

Article

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SECTION 2. Whenever there is a vacancy in the office of

the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as **Acting President**.

SECTION 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as the Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as acting President; otherwise, the President shall resume the powers and duties of his office.

Therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature of the State of West Virginia hereby ratifies and adopts this proposed amendment to the Constitution of the United States; and, be it

Further Resolved, That the Secretary of State of the State of West Virginia notify the President of the United States, the President pro tempore of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Administrator of General Services of the United States, and each Senator and Representative from West Virginia in the Congress of the United States of this action of the Legislature by forwarding to each of them a certified copy of this Resolution.

COMMITTEE SUBSTITUTE FOR
HOUSE JOINT RESOLUTION NO. 2

(By Mr. Auvil)

[Adopted February 10, 1966]

Proposing an amendment to the Constitution of the State of West Virginia, amending sections twenty-two and thirty-three, article six thereof, relating to the Legislature of the State of West Virginia.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That sections twenty-two and thirty-three, article six of the Constitution be amended to read as follows:

Article VI. The Legislature.

Section 22. Length of Legislative Session.—The regular session of the Legislature held in the year one thousand nine hundred sixty-seven and every year thereafter shall not exceed sixty days. Any such regular session may be extended by the

concurrence of two thirds of the members elected to each House.

Sec. 33. Compensation and Expenses of Members.—Each member of the Legislature shall receive for his services the sum of two thousand five hundred dollars a year, and such expenses in connection with any session and party caucuses and the performance of authorized interim assignments as may be provided for by general law.

Notwithstanding any other provision of the Constitution, the compensation herein provided for, and such expenses as may be provided for by general law, shall be paid to each member of the Legislature on and after the ratification of this amendment.

HOUSE JOINT RESOLUTION NO. 3

(Originating in the House Committee on the Judiciary)

[Adopted February 8, 1966]

Proposing an amendment to the Constitution of the State of West Virginia, amending section ten, article eight thereof, relating to courts of record and the judges thereof.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That section ten, article eight of the Constitution be amended to read as follows:

Article VIII. Judicial Department.

Section 10. Circuit Courts.—The State shall be divided into as many judicial circuits as the Legislature may prescribe. The judges of the circuit courts shall be elected by the qualified voters of the circuit in the manner prescribed by law and shall hold their offices for the term of eight years unless sooner removed in the manner prescribed by this Con-

stitution. Any such judge in office when this amendment takes effect shall continue in office in the circuit in which he resides until his term shall expire, unless he is sooner removed, as aforesaid. During his continuance in office a judge of a circuit court shall reside in the circuit of which he is a judge.

The Legislature may increase or decrease the number of circuit judges in any circuit. The judicial circuits existing at the time of the adoption of this amendment shall remain as they are until changed by law. A judge of a circuit court in office at the time of any such change shall continue as a judge of the circuit in which he shall continue to reside after such change, unless his term shall expire, or unless he is sooner removed, as aforesaid.

A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals.

There shall be at least one judge for each circuit and as many more as may be necessary to transact the business of such circuit. If there be two or more judges of a circuit, the business shall be apportioned among them by the chief judge of the circuit in the manner provided by law. The judge longest in continuous service as a circuit court judge shall be chief judge of the circuit. If two or more have so served for the same period, the senior in years of these shall be chief judge: *Provided*, That if such judge declines to serve as chief judge, then another judge of the circuit shall be designated chief judge in accordance with the rules of that circuit. If the chief judge is temporarily disqualified or unable to serve, one of the judges of the circuit designated in accordance with the rules of that circuit shall serve temporarily in his stead.

The Legislature may, by appropriate legislation at the session thereof next after the time of the ratification of this amendment, provide for the continuance of the legislative courts of record of limited jurisdiction in existence at the time of such ratification, or make one or more of the judges thereof judges of the judicial circuits in which they shall then reside: *Provided, however*, That the term of any circuit judge, whether originally elected to office as judge of a judicial circuit or

originally elected to office as judge of a legislative court of record of limited jurisdiction, shall not extend beyond the thirty-first day of December, one thousand nine hundred seventy-six.

SENATE CONCURRENT RESOLUTION NO. 14

(By Mr. Carson, Mr. President, and Mr. Carrigan)

[Adopted January 31, 1966]

Extending the time within which the special committee on higher education appointed under the direction and authority of House Concurrent Resolution No. 51, adopted by the Legislature in Regular Session, 1965, may complete its studies, make the final reports required of it, and draft the legislation to carry out its recommendations.

WHEREAS, House Concurrent Resolution No. 51, adopted by the Legislature in Regular Session, 1965, requested the Governor of West Virginia to place before a committee consisting of the members of the Board of Governors of West Virginia University, the members of the West Virginia Board of Education, and the members of the West Virginia Association of College and University Presidents, the study of the allocation of function and fields of graduate study, as between the state-supported institutions of higher learning, with special emphasis upon the most efficient and economical use of all academic and staff facilities available at all said educational institutions, and requested the said committee to report its findings and recommendations resulting from its study to the Governor on or before December 20, 1965, so that he, the Governor, might consider including any suggested legislation required to implement same in his proclamation and call for the 1966 Budget Session of the Legislature; and

WHEREAS, The members of the committee created by the afore-mentioned House Concurrent Resolution No. 51, known and described as the West Virginia Committee on Higher Education, consists of the members of the West Virginia University Board of Governors, namely: Mrs. Gilbert Bachmann, Wheeling; Ralph J. Bean, Moorefield; K. Douglas Bowers, Beckley; Albert B. C. Bray, Jr., Logan; Okey B. Glenn, Williamson; Thomas L. Harris, Parkersburg; Forrest H. Kirkpatrick,

Wheeling; James H. Swadley, Jr., Keyser; Charles C. Wise, Jr., Charleston; the members of the West Virginia Board of Education, namely: W. Robert Abbot, Fayetteville; Mrs. Anagene P. Bartram, Kenova; S. J. Baskerville, Charleston; Charles H. Brown, Kingwood; Joseph C. Jefferds, Jr., Charleston; Lacy I. Rice, Martinsburg; Perce J. Ross, Buckhannon; Elmus L. Snoderley, Fairmont; A. H. Spangler, Bluefield; and the members of the West Virginia Association of College and University Presidents, namely: Marshall Buckalew, president, Morris Harvey College; Todd Bullard, president, Potomac State College; Lewis Case, president, Ohio Valley College; Paul N. Elbin, president, West Liberty State College; E. K. Feaster, president, Fairmont State College; Perry Gresham, president, Bethany College; Gordon E. Hermanson, president, Davis and Elkins College; K. Duane Hurley, president, Salem College; Oliver S. Ikenberry, president, Shepherd College; Joseph F. Marsh, Jr., president, Concord College; Stanley H. Martin, president, West Virginia Wesleyan College; Paul A. Miller, president, West Virginia University; John F. Montgomery, president, Greenbrier College for Women; L. C. Nelson, president, West Virginia Institute of Technology; E. J. Scrafford, acting president, Bluefield State College; Richard E. Shearer, president, Alderson-Broadbudds College; D. K. Shroyer, president, Beckley College; Stewart H. Smith, president, Marshall University; William F. Troy, S.J., president, Wheeling College; William J. L. Wallace, president, West Virginia State College; and D. Banks Wilburn, president, Glenville State College; and

WHEREAS, The Honorable Hulett C. Smith, Governor of West Virginia, activated the West Virginia Committee on Higher Education on June 7, 1965, by calling a meeting thereof on July 14, 1965, and by naming Dr. Paul A. Miller, president of West Virginia University, as temporary chairman; and

WHEREAS, The West Virginia Committee on Higher Education organized and elected as chairman, Dr. Paul A. Miller, president, West Virginia University; as vice chairman, Joseph C. Jefferds, Jr., a member of the West Virginia Board of Education; as secretary, Dr. William J. L. Wallace, president, West Virginia State College; and as treasurer, Dr. Marshall Buckalew, president, Morris Harvey College; and

WHEREAS, Governor Smith in his address to the committee on

July 14, 1965, suggested that it study the present functions of our colleges and universities, and that the possible expansion in various fields of study by these educational institutions be examined carefully; and, further, that the committee make any recommendations it may decide upon in the field of higher education even though such recommendations may not fall within a strict interpretation of the afore-mentioned House Concurrent Resolution No. 51; and

WHEREAS, The West Virginia Committee on Higher Education has in its report to the Governor and to the Legislature, dated January 11, 1966, submitted the following recommendations:

(1) The establishment by the Legislature of a West Virginia Board of Regents having authority to make continuous studies and plans for all higher education in West Virginia, to allocate educational functions and programs, to receive, review, revise, and present budget requests for all public institutions of higher education, and to allocate all federal funding programs presently existing as well as those created in the future.

(2) The establishment by the Legislature of a board of governors of Marshall University.

(3) The establishment by the Legislature of a board of governors of the state colleges of West Virginia.

(4) The divestment by the Legislature of the West Virginia Board of Education's present authority and powers respecting the state colleges and Marshall University.

(5) The repeal by the Legislature of article twenty-two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, which created the State Commission on Higher Education, the functions of the Commission to be transferred to the West Virginia Board of Regents.

(6) The retention of the present Board of Governors of West Virginia University and Potomac State College; and

WHEREAS, The West Virginia Committee on Higher Education has requested the Legislature to extend the time within which it may complete its studies, make its final report, and draft the legislation necessary to carry out its recommendations, until

the commencement of the Regular Session of the Legislature, 1967; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That all provisions of House Concurrent Resolution No. 51, adopted by the Legislature in Regular Session, 1965, be continued in full force and effect until the committee named therein reports its conclusions, recommendations, and drafts of any implementing legislation; and, be it

Resolved further, That a final report containing the conclusions and recommendations of the afore-mentioned committee and any drafts of proposed legislation to carry such conclusions and recommendations into effect be submitted to the Governor and to the Legislature prior to the convening of the Regular Session, 1967.

COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 18

(By Messrs. Mullins, and Taylor, of Mason)

[Adopted February 10, 1966]

Creating a special interim committee to review and inspect health care activities of the Department of Health, and the Department of Welfare, and to report its findings at the Regular Session of the Legislature, 1967.

WHEREAS, Certain new programs of health care will be initiated by the Department of Health, and the Department of Welfare, during 1966 because of recent federal legislation; and

WHEREAS, The Legislature should keep itself advised concerning the operation of existing and new health care programs of the Department of Health, and the Department of Welfare, particularly with respect to the effect which such programs may have upon existing health facilities and services; and

WHEREAS, New or additional legislation may be required at the Regular Session of the Legislature, 1967; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a special interim committee of the Legislature be created consisting of three members of the Senate, to be appointed by the President of the Senate from the standing Committee on Medicine and Sanitation, and three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, from the standing Committee on Health, no more than two members so appointed from each House to be of the same political party; to study, review and inspect the health care programs and activities of the Department of Health, and the Department of Welfare, with particular attention to new health care for the aged initiated during 1966; and, be it

Resolved further, That this committee shall make a report of its findings and recommendations, together with drafts of any proposed legislation to carry out its findings and recommendations, to the Regular Session of the Legislature, 1967; and, be it

Resolved further, That the members so appointed and serving on this committee shall be reimbursed for actual expenses for meals and lodging and shall receive mileage at the rate of ten cents per mile from legislative appropriations for joint expenses.

SENATE CONCURRENT RESOLUTION NO. 22

(Originating in the Senate Committee on Finance)

[Adopted February 10, 1966]

Requesting and directing the Joint Committee on Government and Finance to have an actuarial study made of the "State Teachers' Retirement System."

WHEREAS, By Chapter 36, Acts of the Legislature, Regular Session, 1941, a retirement system, known as the "State Teachers' Retirement System" was established by the Legislature for the purpose of providing retirement allowances for the teachers of West Virginia; and

WHEREAS, Since the establishment of said retirement system the Legislature has made numerous amendments to chapter eighteen, article seven-a, of the official Code of West Virginia

of one thousand nine hundred thirty-one, as amended, relating to said retirement system; and

WHEREAS, Over the years the members participating in said retirement system have received numerous salary increases which directly affects the amount of money each member must contribute as well as the amount of money the Legislature must appropriate to match said members contribution to said retirement system; and

WHEREAS, There is some concern and apprehension as to whether the said retirement system is on a sound actuarial basis; and

WHEREAS, It would be to the general benefit of all the members of said retirement system and to the State to have an actuarial study made of said retirement system; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance of the Legislature is requested and directed to have an actuarial study made of the "State Teachers' Retirement System" for the purpose of determining whether said retirement system is on an actuarially sound financial basis; what steps, if any, are necessary to accomplish same; and said Joint Committee shall report to the Legislature not later than the first day of the Regular Session of the said Legislature, convening in January, 1967, with recommendations, if any, and a report of their findings; and, be it

Further Resolved, That the expenses necessary to conduct such actuarial study be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 23

(Originating in the Senate Committee on the Judiciary)

[Adopted February 8, 1966]

Directing the West Virginia Commission on Interstate Cooperation to study the feasibility of a compact between the State of West Virginia and the Commonwealth of Penn-

sylvania respecting the acquisition of land for, and construction and maintenance of, flood control projects on Wheeling Creek and its tributaries in this State and in the Commonwealth of Pennsylvania; and if the Commission concludes that such a compact is feasible, to negotiate, if possible, a compact with the Commonwealth of Pennsylvania or an appropriate agency thereof respecting these matters, any such compact to be submitted, prior to its execution, to the Legislature for approval during its Regular Session, 1967; to study and to make recommendations to the Legislature respecting the legality of, and methods for, the participation by Marshall and Ohio Counties, West Virginia, financially and otherwise in such acquisition, construction and maintenance; to study and to make recommendations to the Legislature respecting any matter or subject relevant to the foregoing specific directions; and to prepare and submit to the Legislature a draft or drafts of legislation deemed advisable or necessary to carry out its recommendations, all such drafts and recommendations to be submitted to the Legislature during its Regular Session, 1967.

WHEREAS, Wheeling Creek arises in Pennsylvania, flows through at least two counties of that Commonwealth, enters the State of West Virginia, flows through Marshall and Ohio Counties, West Virginia, and empties into the Ohio River at Wheeling; and

WHEREAS, The inhabitants of Marshall and Ohio Counties, West Virginia, living along Wheeling Creek have over the years experienced considerable property loss from flooding of that stream; and

WHEREAS, It appears that the inhabitants of Marshall and Ohio Counties, West Virginia, can best be protected from the flooding of Wheeling Creek by flood controls constructed and provided on the upper reaches of that stream and its tributaries in the Commonwealth of Pennsylvania; and

WHEREAS, It appears that the common interests and objectives of West Virginia and Pennsylvania to protect their citizens from the flooding of Wheeling Creek can best be accomplished through the negotiation and execution of a compact between

the Commonwealth of Pennsylvania and the State of West Virginia respecting the acquisition of land for, and construction and maintenance of, flood control projects on the stream and its tributaries in this State and in the Commonwealth of Pennsylvania; and

WHEREAS, A compact between two states involves complex constitutional and policy questions and considerations, including the approval of any such compact by the Congress of the United States as required by Article I, Section 10 of the Constitution of the United States; and

WHEREAS, This State has heretofore entered into a number of compacts with other states, such as the Potomac River Basin Compact, the Ohio River Valley Sanitation Compact, and the Southern Interstate Nuclear Compact and in each such case the full terms and provisions of the compact have been approved by the Legislature prior to the execution of the compact on behalf of the State; and

WHEREAS, The West Virginia Commission on Interstate Cooperation was established by the Legislature at its Regular Session, 1937, and was authorized, among other things, "to endeavor to advance cooperation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating: (a) The adoption of compacts, . . ."; and

WHEREAS, Marshall and Ohio Counties, have evidenced some interest in participating financially and otherwise in the acquisition of land for, and construction and maintenance of, such flood control projects; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the West Virginia Commission on Interstate Cooperation be directed to study the feasibility of a compact between the State of West Virginia and the Commonwealth of Pennsylvania respecting the acquisition of land for, and construction and maintenance of, flood control projects on Wheeling Creek and its tributaries in this State and in the Commonwealth of Pennsylvania; and, be it

Resolved further, That if the Commission concludes that such a compact is feasible, that it be directed to negotiate, if possible,

a compact with the Commonwealth of Pennsylvania or an appropriate agency thereof respecting the afore-mentioned matters; and, be it

Resolved further, That any such compact so negotiated by the Commission be submitted, prior to its execution, to the Legislature for approval during its Regular Session, 1967; and, be it

Resolved further, That the Commission study and make recommendations to the Legislature respecting the legality of, and methods for, the participation by Marshall and Ohio Counties, West Virginia, financially and otherwise in such acquisition, construction and maintenance as hereinabove described; and, be it

Resolved further, That the Commission study and make recommendations to the Legislature respecting any matter or subject relevant to the foregoing specific directions; and, be it

Resolved further, That the Commission prepare and submit to the Legislature a draft or drafts of legislation deemed advisable or necessary to carry out its recommendations, all such drafts and recommendations to be submitted to the Legislature during its Regular Session, 1967; and, be it

Resolved further, That the expenses necessary to conduct such studies, negotiate such compact and prepare any such drafts of legislation be paid from the legislative appropriations to the Commission on Interstate Cooperation or the Joint Committee on Government and Finance: *Provided*, That said Commission shall obtain the advance approval of the Joint Committee on Government and Finance before incurring any expenses to be paid out of the appropriation to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 25

(Originating in the Senate Committee on Finance)

[Adopted February 10, 1966]

Opposing the enactment by the Congress of the United States of H. R. 11798 or similar legislation designed to regulate or restrict state taxation of interstate commerce.

WHEREAS, H. R. 11798, a bill recently introduced by the chairman of the special subcommittee on state taxation of interstate commerce of the Committee on the Judiciary, United States House of Representatives, proposes to federally regulate the incidence and administration of various state taxes upon multi-state businesses; and

WHEREAS, Federal regulation of state taxing power has far-reaching implications and there are serious questions about the necessity or desirability of federal legislation restricting the powers of a state to levy and collect taxes and to select the objects and events subject to taxation; and

WHEREAS, The bill would alter the fundamental relationship in federal-state fiscal administration and goes to the extent of calling for federal administration of state sales and use taxes; and

WHEREAS, There has been insufficient time to study these proposals and to appraise their manifold impact on state and local government; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of the State of West Virginia hereby conveys to the congressional delegation of this State its opposition to H. R. 11798 in its present form or similar legislation designed to regulate or restrict state taxation of multi-state businesses and respectfully urges the delegation to adopt a similar position and to carefully evaluate any proposals which might limit the State's authority in regard to matters of taxation; and, be it

Resolved further, That the Legislature of the State of West Virginia does respectfully petition the Committee on the Judiciary of the United States House of Representatives to be guided in its deliberations on solutions to interstate commerce tax problems by the principle that state action to correct unreasonable burdens on interstate business is preferable, and to the extent that these problems can be solved by state action this general policy should prevail to the end that federal intervention in state tax matters is minimized and ultimate reliance on state responsibilities encouraged; and, be it

Resolved further, That the Clerk of the Senate transmit a copy of this resolution to each of the members of the West Virginia congressional delegation, to the Honorable Emmanuel Celler, chairman, Committee on the Judiciary, United States House of Representatives, and to the Honorable Edwin E. Willis, chairman, special subcommittee on state taxation of interstate commerce of the Committee on the Judiciary, House of Representatives.

SENATE CONCURRENT RESOLUTION NO. 26

(Originating in the Senate Committee on the Judiciary)

[Adopted February 10, 1966]

Directing the Joint Committee on Government and Finance to make a study of post-conviction review procedure to provide judicial review on behalf of a person convicted of a crime and under sentence therefor.

WHEREAS, There are a growing number of proceedings being brought by persons convicted in state courts for violation of state criminal statutes for a reconsideration of their conviction and sentence on constitutional grounds, both state and federal; and

WHEREAS, Many of these proceedings are being brought in federal courts with the result that there is a burden on federal court dockets, added expense and inconvenience to the State, and replacement of state responsibility over state criminal matters by federal review thereof; and

WHEREAS, State post-conviction review statutes have been cited with approval by the United States Supreme Court in recent decisions, and such statutes are advocated and recommended by members of the legal profession and members of the judiciary in this State, as well as by the Prosecuting Attorneys' Association of the State of West Virginia; and

WHEREAS, Senate Bill No. 2 and House Bill No. 202 were introduced at the Regular Session of the Legislature, 1966, to establish a post-conviction review procedure, which bills may not be adequate to solve this complex problem of criminal procedure; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be directed to make a study of post-conviction review procedure in order to provide an orderly system of judicial review in state courts on behalf of persons convicted of a state crime and sentenced therefor, when a request by such person is made for a judicial review based on a claim of violation of his state or federal constitutional rights; and, be it

Resolved further, That the committee make a report to the Legislature at the Regular Session of the Legislature, 1967, of its findings, conclusions, and recommendations, together with drafts of any proposed legislation necessary to carry its recommendations into effect; and, be it

Resolved further, That the expense necessary to conduct such study, to prepare a report, and to draft proposed legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 28

(By Mr. Brotherton)

[Adopted February 10, 1966]

Directing the Joint Committee on Government and Finance to make a study of procedures for consideration, approval and payment of claims against the State.

WHEREAS, Sizeable sums of state money have been appropriated by the legislatures over the years to pay claims against the State of West Virginia; and

WHEREAS, The Legislature at each session has found difficulty in making a proper and informed judgment on the many issues of both fact and law on the numerous claims presented for consideration; and

WHEREAS, Payment of legitimate claims often is delayed for a year or more because of disagreement in the Legislature over other claims; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance make a study of procedures, past and present, for considering, approving or disapproving, and payment of approved claims made against the State and a study of such procedures in other states with constitutional provisions similar to those of West Virginia, with the view to developing a method for our State that will improve on present procedures and practices to insure more careful consideration of each claim, both as to fact and law, and to insure the just, equitable, and prompt disposition thereof; and, be it

Resolved further, That the committee report to the Regular Session of the Legislature, 1967, on its findings, conclusions, and recommendations, together with drafts of any proposed legislation necessary to carry its recommendations into effect; and, be it

Resolved further, That the expense necessary to conduct such study, to prepare a report, and to draft proposed legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

SENATE JOINT RESOLUTION NO. 3

(Originating in the Senate Committee on Finance)

[Adopted February 10, 1966]

Proposing an amendment to the Constitution of the State of West Virginia, amending section ten of article ten thereof, known and designated as the "Better Schools Amendment," and ratified by the voters at the general election in the year one thousand nine hundred fifty-eight.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That section ten, article ten of the Constitution of the State of West Virginia be amended to read as follows:

Article X. Taxation and Finance.

Section 10. Better Schools Amendment.—Notwithstanding any other provision of the Constitution to the contrary, the maximum rates authorized and allocated by law for tax levies on the several classes of property for the support of public schools may be increased in any school district for a period not to exceed five years, and in an amount not to exceed one hundred per cent of such maximum rates, if such increase is approved, in the manner provided by law, by at least a majority of the votes cast for and against the same.

Notwithstanding any other provision of the Constitution to the contrary, the maximum rates provided for tax levies by school districts on the several classes of property may be used entirely for current expense purposes; and all levies required for principal and interest payments on any bonded indebtedness, now or hereafter contracted, not to exceed five per centum on the value of the taxable property therein, the value to be ascertained in accordance with section eight of this article, shall be laid separate and apart and in addition to such maximum rates, but in the same proportions as such maximum rates are levied on the several classes of property.

Notwithstanding the provisions of section eight of this article to the contrary, or any other provisions of the Constitution to the contrary, a county board of education may contract indebtedness and issue bonds for public school purposes as provided by law, if, when submitted to a vote of the people of the county, in the manner provided by law, the question of contracting indebtedness and issuing bonds is approved by a majority of the votes cast for and against the same.

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