

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 2804**

4 (By Delegates Morgan, Swartzmiller, Hartman,  
5 Givens, Manypenny and Staggers)

6  
7 (Originating in the Committee on the Judiciary)

8 [January 28, 2011]

9  
10 A BILL to repeal §16-1-16 of the Code of West Virginia, 1931, as  
11 amended; to amend and reenact §5-6-1 of said code; to amend  
12 and reenact §5A-1-11 of said code; to amend and reenact §5B-1-  
13 1a of said code; to amend and reenact §9-2-1a of said code; to  
14 amend and reenact §17B-2-7a of said code; to amend and reenact  
15 §17C-15-44 of said code; to amend and reenact §18-10A-2 of  
16 said code; to amend and reenact §19-1-3a of said code; to  
17 amend and reenact §19-12A-3 of said code; to amend and reenact  
18 §22C-12-6 of said code; to amend and reenact §24-1-3 of said  
19 code; to amend and reenact §24A-1A-2 of said code; to amend  
20 and reenact §24E-1-11 of said code; and to amend and reenact  
21 §47A-1-1 of said code, all relating to repealing obsolete code  
22 provisions.

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

24 That §16-1-16 of the Code of West Virginia, 1931, as amended,  
25 be repealed; that §5-6-1 of said code be amended and reenacted;  
26 that §5A-1-11 of said code be amended and reenacted; that §5B-1-1a  
27 of said code be amended and reenacted; that §9-2-1a of said code be

1 amended and reenacted; that §17B-2-7a of said code be amended and  
2 reenacted; that §17C-15-44 of said code be amended and reenacted;  
3 that §18-10A-2 of said code be amended and reenacted; that §19-1-3a  
4 of said code be amended and reenacted; that §19-12A-3 of said code  
5 be amended and reenacted; that §22C-12-6 of said code be amended  
6 and reenacted; that §24-1-3 of said code be amended and reenacted;  
7 that §24A-1A-2 of said code be amended and reenacted; that §24E-1-  
8 11 of said code be amended and reenacted; and that §47A-1-1 of said  
9 code be amended and reenacted, all to read as follows:

10       **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR,**

11       **SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;**

12       **MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

13       **ARTICLE 6. STATE BUILDINGS.**

14       **§5-6-1. Name of State Office Building Commission changed;**

15       **composition; appointment, terms and qualifications of members;**

16       **chairman and secretary; compensation and expenses; powers and**

17       **duties generally; frequency of meetings; continuation.**

18       (a) "The State Office Building Commission of West Virginia,

19 hereto created, shall continue in existence, but on and after

20 February 9, 1966, shall be known and designated as "The State

21 Building Commission of West Virginia" and shall continue as a body

22 corporate and as an agency of the State of West Virginia.

23       (b) On and after the date aforesaid, the commission shall

24 consist of the Governor, Attorney General, State Treasurer and four

25 additional members to be appointed by the Governor by and with the

1 advice and consent of the Senate.

2       (c) The terms of office for said members to be appointed by  
3 the Governor shall be four years, except that the terms of office  
4 of the first four members so appointed by the Governor shall be for  
5 one, two, three and four years, respectively.

6       (d) No more than three of such members so appointed by the  
7 Governor shall be members of the same political party, nor shall  
8 any of said members be members or employees of the executive,  
9 legislative or judicial branches of government of West Virginia or  
10 any political subdivision thereof. The Governor shall be chairman  
11 of the commission. The Secretary of State shall be a member of the  
12 commission and serve as its secretary, but shall not have the right  
13 to vote upon matters before the commission. All members of the  
14 commission shall be citizens and residents of this state.

15       (e) The members of the commission shall be paid or reimbursed  
16 for their necessary expenses incurred under this article, but shall  
17 receive no compensation for their services as members or officers  
18 of the commission: *Provided*, That each member of the commission  
19 appointed by the Governor shall, in addition to such reimbursement  
20 for necessary expenses, receive an amount not to exceed the same  
21 compensation as is paid to members of the Legislature for their  
22 interim duties as recommended by the Citizens Legislative  
23 Compensation Commission and authorized by law for each day or  
24 substantial portion thereof that he or she is engaged in the work  
25 of the commission. Such expenses and per diem shall be paid solely  
26 from funds provided under the authority of this article, and the

1 commission shall not proceed to exercise or carry out any authority  
2 or power herein given it to bind said commission beyond the extent  
3 to which money has been provided under the authority of this  
4 article.

5       (f) On or before the fifteenth day of each month, the  
6 commission shall prepare and transmit to the President and Minority  
7 Leader of the Senate and the Speaker and the Minority Leader of the  
8 House of Delegates a report covering the activities of the said  
9 commission for the preceding calendar month.

10       ~~Pursuant to the provisions of article ten, chapter four of~~  
11 ~~this code, the state building commission shall continue to exist~~  
12 ~~until the first day of July, two thousand.~~

13                   **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

14 **ARTICLE 1. DEPARTMENT OF ADMINISTRATION.**

15 **§5A-1-11. State Americans with disabilities coordinator.**

16       (a) There is ~~hereby created~~ continued within the Department of  
17 Administration the position of the state Americans with  
18 Disabilities Coordinator, who shall be appointed by the Secretary  
19 of the Department of Administration with input from the chairperson  
20 from each of the following four councils:

- 21       (1) The Developmental Disabilities Council;  
22       (2) The Statewide Independent Living Council;  
23       (3) The Mental Health Planning Council; and  
24       (4) The State Rehabilitation Council.

25       (b) The coordinator shall be a full-time employee, and shall

1 have an in-depth working knowledge of the challenges facing persons  
2 with disabilities. The coordinator may be a current employee of  
3 the Department of Administration or other state agency employee.

4 (c) The coordinator shall:

5 (1) Advise the Director of Personnel in the development of  
6 comprehensive policies and programs for the development,  
7 implementation and monitoring of a statewide program to assure  
8 compliance with 42 U.S.C. §12101, *et seq.*, the federal Americans  
9 with Disabilities Act;

10 (2) Assist in the formulation of rules and standards relating  
11 to the review, investigation and resolution of complaints of  
12 discrimination in employment, education, housing and public  
13 accommodation;

14 (3) Consult and collaborate with state and federal agency  
15 officials in the state plan development;

16 (4) Consult and collaborate with agency Americans with  
17 disabilities officers on the appropriate training for managers and  
18 supervisors on regulations and issues;

19 (5) Represent the state on local, state and national  
20 committees and panels related to Americans with disabilities;

21 (6) Advise the Governor and agency heads on Americans with  
22 disabilities issues;

23 (7) Consult with state equal employment opportunity officers  
24 on the hiring of persons with disabilities; and

25 (8) Be available to inspect and advise the leasing section of  
26 the Division of Purchasing on all physical properties owned or

1 leased by the State of West Virginia for compliance with 42 U.S.C.  
2 §12101, *et seq.*, the federal Americans with Disabilities Act.

3 (d) (1) The Secretary of the Department of Administration may  
4 assess, charge and collect fees from each state spending unit which  
5 utilizes the services of the coordinator, for the direct costs and  
6 expenses incurred by the coordinator in providing those services.  
7 Costs and expenses include travel, materials, equipment and  
8 supplies. Moneys shall be collected through the Division of  
9 Finance.

10 (2) A state spending unit shall agree in writing to all costs  
11 and expenses before the services by the Americans with disabilities  
12 coordinator are rendered.

13 (e) There is ~~hereby created~~ continued in the Department of  
14 Administration a special fund to be named the "Americans with  
15 Disabilities Coordinator Fund", which shall be an interest-bearing  
16 account and may be invested in accordance with the provisions of  
17 article six, chapter twelve of this code, with the interest income  
18 a proper credit to the fund. Funds paid into the account may be  
19 derived from the following sources:

20 (1) All moneys received from state spending units for the  
21 costs and expenses incurred by the state Americans with  
22 disabilities coordinator for providing services related to the  
23 state's implementation and compliance with 42 U.S.C. §12101, *et*  
24 *seq.*, the federal Americans with Disabilities Act;

25 (2) Any gifts, grants, bequests, transfers or donations which  
26 may be received from any governmental entity or unit or any person,

1 firm, foundation or corporation; and

2 (3) All interest or return on investment accruing to the fund.

3 (f) Moneys in the fund are to be used for the costs and  
4 expenses incurred pursuant to this section. Any balance including  
5 accrued interest in this special fund at the end of any fiscal year  
6 shall not revert to the General Revenue Fund, but shall remain in  
7 the fund for use by the Secretary of the Department of  
8 Administration for providing additional Americans with disabilities  
9 coordinator services within the State of West Virginia in the  
10 ensuing fiscal years.

11 (g) The Secretary of the Department of Administration shall  
12 report annually on the fund to the Governor, President of the  
13 Senate and Speaker of the House of Delegates. The report must be  
14 on CD ROM or other electronic media and shall not be in print  
15 format.

16 ~~(h) The state Americans with disabilities coordinator shall~~  
17 ~~continue to exist until the first day of July, two thousand nine,~~  
18 ~~unless sooner terminated, continued or reestablished pursuant to~~  
19 ~~the provisions of article ten, chapter four of this code.~~

20 **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

21 **ARTICLE 1. DEPARTMENT OF COMMERCE.**

22 **§5B-1-1a. Marketing and Communications Office.**

23 (a) There is ~~hereby created~~ continued in the Department of  
24 Commerce the Marketing and Communications Office. The office is  
25 created to provide marketing and communications goods and services

1 to other state agencies, departments, units of state or local  
2 government or other entity or person.

3 (b) The office is authorized to charge for goods and services  
4 it provides to other state agencies. The Secretary of the  
5 Department of Commerce shall approve a fee schedule determining the  
6 amounts that may be charged for goods and services provided by the  
7 office to other state agencies.

8 (c) All moneys collected shall be deposited in a special  
9 account in the State Treasury to be known as the Department of  
10 Commerce Marketing and Communications Operating Fund. Expenditures  
11 from the fund shall be for the operation of the office and are not  
12 authorized from collections but are to be made only in accordance  
13 with appropriation by the Legislature and in accordance with the  
14 provisions of article two, chapter eleven-b of this code.

15 ~~Provided, That for the fiscal year ending June 30, 2008,~~  
16 ~~expenditures are authorized from collections and shall be expended~~  
17 ~~at the discretion of the Secretary of the Department of Commerce~~  
18 ~~rather than pursuant to appropriation by the Legislature.~~

19 (d) Any balance remaining at the end of any fiscal year shall  
20 not revert to the General Revenue Fund, but shall remain in the  
21 fund for expenditures in accordance with the purposes set forth in  
22 this section.

23 (e) The Department of Commerce shall develop and maintain a  
24 system of annual or more frequent performance measures useful in  
25 gauging the efficiency and effectiveness of the office's marketing  
26 and communications activities. The measures shall also reflect the



1 office's efficiency and effectiveness with respect to commercially  
2 available marketing and communications services and any private  
3 sector benchmarks which might be identified or created. For the  
4 purposes of this section, "performance measures" means income,  
5 output, quality, self-sufficiency and outcome metrics.

6 (f) ~~Beginning on January 1, 2008, and annually every year~~  
7 ~~thereafter~~ On January 1 of each year, the Secretary of the  
8 Department of Commerce shall report to the Joint Committee on  
9 Government and Finance, the Joint Standing Committee on Finance and  
10 the Joint Commission on Economic Development on the performance of  
11 the office. This report is to include a statement of the  
12 performance measurements for the office developed by the Secretary  
13 of the Department of Commerce and an analysis of the office's  
14 performance.

15 (g) ~~Pursuant to the provisions of article ten, chapter four of~~  
16 ~~this code, the Marketing and Communications Office shall continue~~  
17 ~~to exist until the first day of July, two thousand ten, unless~~  
18 ~~sooner terminated, continued or reestablished.~~

19 **CHAPTER 9. HUMAN SERVICES.**

20 **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND**  
21 **RESPONSIBILITIES GENERALLY.**

22 **§9-2-1a. Department of Health and Human Resources.**

23 The Department of Health and Human Resources shall be charged  
24 with the administration of this chapter. ~~Pursuant to the~~  
25 ~~provisions of article ten, chapter four of this code, the~~

1 ~~Department of Health and Human Resources shall continue to exist~~  
2 ~~until the first day of July, two thousand six, unless sooner~~  
3 ~~terminated, continued or reestablished.~~

4 **CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

5 **ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.**

6 **§17B-2-7a. Driver's Licensing Advisory Board.**

7 (a) The Driver's Licensing Advisory Board is hereby continued.  
8 The board shall consist of five members to be appointed by the  
9 Governor, by and with the advice and consent of the Senate, for  
10 terms of three years, except that as to the members first  
11 appointed, two shall be appointed for a term of three years, two  
12 shall be appointed for a term of two years and one shall be  
13 appointed for a term of one year, all from July 1, 1974. All  
14 vacancies occurring on the board shall be filled by the Governor,  
15 by and with the advice and consent of the Senate. One member of  
16 the board shall be an optometrist duly registered to practice  
17 optometry in this state and the other four members of the board  
18 shall be physicians or surgeons duly licensed to practice medicine  
19 or surgery in this state. The Governor shall appoint persons  
20 qualified to serve on the board who, in his opinion, will best  
21 serve the work and function of the board.

22 (b) The board shall advise the Commissioner of Motor Vehicles  
23 as to vision standards and all other medical criteria of whatever  
24 kind or nature relevant to the licensing of persons to operate  
25 motor vehicles under the provisions of this chapter. The board

1 shall, upon request, advise the Commissioner of Motor Vehicles as  
2 to the mental or physical fitness of an applicant for, or the  
3 holder of, a license to operate a motor vehicle. The board shall  
4 furnish the commissioner with all such medical standards,  
5 statistics, data, professional information and advice as he may  
6 reasonably request.

7       (c) The members of the board shall receive compensation and  
8 expense reimbursement in an amount not to exceed the same  
9 compensation and expense reimbursement as is paid to members of the  
10 Legislature for their interim duties as recommended by the Citizens  
11 Legislative Compensation Commission and authorized by law, for each  
12 day or substantial portion thereof engaged in the performance of  
13 official duties.

14       ~~Pursuant to the provisions of article ten, chapter four of~~  
15 ~~this code, the driver's licensing advisory board shall continue to~~  
16 ~~exist until the first day of July, two thousand nine.~~

17           **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

18           **ARTICLE 15. EQUIPMENT.**

19           **§17C-15-44. Safety equipment and requirements for motorcyclists,**  
20           **motorcycles, motor-driven cycles and mopeds; Motorcycle Safety**  
21           **Standards and Education Committee.**

22       (a) No person shall operate or be a passenger on any  
23 motorcycle or motor-driven cycle unless the person is wearing  
24 securely fastened on his or her head by either a neck or chin strap  
25 a protective helmet designed to deflect blows, resist penetration

1 and spread impact forces. Any helmet worn by an operator or  
2 passenger shall meet the current performance specifications  
3 established by the American National Standards Institute Standard,  
4 Z 90.1, the United States Department of Transportation Federal  
5 Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for  
6 Protective Headgear for Vehicle Users.

7 (b) No person shall operate or be a passenger on any  
8 motorcycle or motor-driven cycle unless the person is wearing  
9 safety, shatter-resistant eyeglasses (excluding contact lenses), or  
10 eyegoggles or face shield that complies with the performance  
11 specifications established by the American National Standards  
12 Institute for Head, Eye and Respiratory Protection, Z 2.1. In  
13 addition, if any motorcycle, motor-driven cycle or moped is  
14 equipped with a windshield or windscreen, the windshield or  
15 windscreen shall be constructed of safety, shatter-resistant  
16 material that complies with the performance specifications  
17 established by the Department of Transportation Federal Motor  
18 Vehicle Safety Standard No. 205 and American National Standards  
19 Institute, Safety Glazing Materials for Glazing Motor Vehicles  
20 Operated on Land Highways, Standard Z 26.1.

21 (c) No person shall operate a motorcycle, motor-driven cycle  
22 or moped on which the handlebars or grips are more than fifteen  
23 inches higher than the uppermost part of the operator's seat when  
24 the seat is not depressed in any manner.

25 (d) A person operating a motorcycle, motor-driven cycle or  
26 moped shall ride in a seated position facing forward and only upon

1 a permanent operator's seat attached to the vehicle. No operator  
2 shall carry any other person nor shall any other person ride on the  
3 vehicle unless the vehicle is designed to carry more than one  
4 person, in which event a passenger may ride behind the operator  
5 upon the permanent operator's seat if it is designed for two  
6 persons, or upon another seat firmly attached to the vehicle to the  
7 rear of the operator's seat and equipped with footrests designed  
8 and located for use by the passenger or in a sidecar firmly  
9 attached to the vehicle. No person shall ride side saddle on a  
10 seat. An operator may carry as many passengers as there are seats  
11 and footrests to accommodate those passengers. Additional  
12 passengers may be carried in a factory produced sidecar provided  
13 that there is one passenger per seat. Passengers riding in a  
14 sidecar shall be restrained by safety belts.

15 (e) Every motorcycle, motor-driven cycle and moped shall be  
16 equipped with a rearview mirror affixed to the handlebars or  
17 fairings and adjusted so that the operator shall have a clear view  
18 of the road and condition of traffic behind him or her for a  
19 distance of at least two hundred feet.

20 (f) There is ~~hereby created~~ continued a six member Motorcycle  
21 Safety and Education Committee consisting of: The Superintendent  
22 of the State Police or a designee; the Commissioner of Motor  
23 Vehicles or a designee; the Director of the West Virginia Safety  
24 Council or a designee; a licensed motorcycle operator; an owner of  
25 a motorcycle dealership; and a supplier of aftermarket  
26 nonfranchised motorcycle supplies. The nongovernmental

1 representatives shall be appointed by the Governor with the advice  
2 and consent of the Senate, shall serve without compensation, and  
3 the terms shall be for three years, except that as to the members  
4 first appointed, one shall be appointed for a term of one year, one  
5 shall be appointed for a term of two years and one shall be  
6 appointed for a term of three years. Members may be reappointed to  
7 the committee.

8 ~~The committee shall continue to exist pursuant to the~~  
9 ~~provisions of article ten, chapter four of this code until the~~  
10 ~~first day of July, one thousand nine hundred ninety-nine, to allow~~  
11 ~~for the completion of a preliminary performance review by the joint~~  
12 ~~committee on government operations.~~

13 The committee is hereby authorized to recommend to the  
14 Superintendent of Public Safety types and makes of protective  
15 helmets, eye protection devices and equipment offered for sale,  
16 purchased or used by any person. The committee is authorized to  
17 make recommendations to the Commissioner of Motor Vehicles  
18 regarding the use of the moneys in the Motorcycle Safety Fund  
19 created under section seven, article one-d, chapter seventeen-b of  
20 this code.

21 **CHAPTER 18. EDUCATION.**

22 **ARTICLE 10A. REHABILITATION SERVICES.**

23 **§18-10A-2. Division of rehabilitation services.**

24 (a) The Division of Rehabilitation Services is hereby  
25 transferred to the Department of Education and the Arts created in

1 article one, chapter five-f of this code. The secretary shall  
2 appoint any such board, commission or council over the division to  
3 the extent required by federal law to qualify for federal funds for  
4 providing rehabilitation services for disabled persons. The  
5 secretary and such boards, commissions or councils as he or she is  
6 required by federal law to appoint are authorized and directed to  
7 cooperate with the federal government to the fullest extent in an  
8 effort to provide rehabilitation services for disabled persons.

9 (b) References in this article or article ten-b of this  
10 chapter to the state Board of Vocational Education, the state Board  
11 of Rehabilitation or the state board as the governing board of  
12 vocational or other rehabilitation services or facilities means the  
13 Secretary of Education and the Arts. All references in the code to  
14 the Division of Vocational Rehabilitation means the Division of  
15 Rehabilitation Services and all references to the Director of the  
16 Division of Vocational Rehabilitation means the Director of the  
17 Division of Rehabilitation Services.

18 ~~Pursuant to the provisions of article ten, chapter four of~~  
19 ~~this code, the Division of Rehabilitation Services shall continue~~  
20 ~~to exist until the first day of July, two thousand four.~~

21 **CHAPTER 19. AGRICULTURE.**

22 **ARTICLE 1. DEPARTMENT OF AGRICULTURE.**

23 **§19-1-3a. Marketing and Development Division; duties.**

24 ~~In recognition that article ten, chapter four of this code~~  
25 ~~requires a preliminary performance review of the rural resource~~

1 ~~division of the Department of Agriculture and that performance~~  
2 ~~standards must be stated before such audit can be performed, the~~  
3 ~~rural resources division is hereby formally established and renamed~~  
4 ~~the marketing and development division in the Department of~~  
5 ~~Agriculture.~~ The duties of the Marketing and Development Division  
6 are to establish marketing, promotional and development programs to  
7 advance West Virginia agriculture in the domestic and international  
8 markets; to provide grading, inspection and market news services to  
9 the various elements of the West Virginia agricultural industry;  
10 and to regulate and license individuals involved in the marketing  
11 of agricultural products.

12 **ARTICLE 12A. LAND DIVISION.**

13 **§19-12A-3. Farm Management Commission continued; composition;**  
14 **chairman; quorum; meetings; vacancies.**

15 (a) The Farm Management Commission heretofore created is  
16 ~~hereby~~ continued and shall be composed of three members who are the  
17 Commissioner of Agriculture, who shall be chairman, the Secretary  
18 of the Department of Administration and the Dean of the West  
19 Virginia University College of Agriculture and Forestry. No  
20 business may be transacted by the commission in the absence of a  
21 quorum which consists of two members including the chairman. The  
22 farm management commission shall hold meetings at least once every  
23 two months and on call of the chairman.

24 (b) If a vacancy occurs on the commission, the Farm Management  
25 Director, as provided in this article, shall act as a member of the





1 ~~a member of this compact until the first day of July, two thousand~~  
2 ~~six, unless sooner terminated, continued or reestablished by act of~~  
3 ~~the Legislature.~~

4 **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

5 **ARTICLE 1. GENERAL PROVISIONS.**

6 **§24-1-3. Commission continued; membership; chairman; compensation.**

7 (a) The Public Service Commission of West Virginia is  
8 continued and directed as provided by this chapter, chapter twenty-  
9 four-a, chapter twenty-four-b and chapter twenty-four-d of this  
10 code. ~~After having conducted a performance audit through its joint~~  
11 ~~committee on government operations, pursuant to section nine,~~  
12 ~~article ten, chapter four of this code, the Legislature hereby~~  
13 ~~finds and declares that the Public Service Commission should be~~  
14 ~~continued and reestablished. Accordingly, notwithstanding the~~  
15 ~~provisions of section five, article ten, chapter four of this code,~~  
16 ~~the Public Service Commission shall continue to exist until the~~  
17 ~~first day of July, two thousand three.~~ The Public Service  
18 Commission may sue and be sued by that name. The Public Service  
19 Commission shall consist of three members who shall be appointed by  
20 the Governor, with the advice and consent of the Senate. The  
21 commissioners shall be citizens and residents of this state and at  
22 least one of them shall be duly licensed to practice law in West  
23 Virginia, with not less than ten years' actual work experience in  
24 the legal profession as a member of a state bar. No more than two  
25 of the commissioners shall be members of the same political party.

1 Each commissioner shall, before entering upon the duties of his or  
2 her office, take and subscribe to the oath provided by section  
3 five, article IV of the Constitution of this state. The oath shall  
4 be filed in the Office of the Secretary of State. The Governor  
5 shall designate one of the commissioners to serve as chairman at  
6 the Governor's will and pleasure. The chairman shall be the chief  
7 administrative officer of the commission. The Governor may remove  
8 any commissioner only for incompetency, neglect of duty, gross  
9 immorality, malfeasance in office or violation of subsection (c) of  
10 this section.

11 (b) The unexpired terms of members of the Public Service  
12 Commission at the time this subsection becomes effective are  
13 continued. Upon expiration of the terms, appointments are for  
14 terms of six years, except that an appointment to fill a vacancy is  
15 for the unexpired term only. The commissioners whose terms are  
16 terminated by the provisions of this subsection are eligible for  
17 reappointment.

18 (c) No person while in the employ of, or holding any official  
19 relation to, any public utility subject to the provisions of this  
20 chapter or holding any stocks or bonds of a public utility subject  
21 to the provisions of this chapter or who is pecuniarily interested  
22 in a public utility subject to the provisions of this chapter may  
23 serve as a member of the commission or as an employee of the  
24 commission. ~~Nor may any~~ No commissioner may be a candidate for or  
25 hold public office or be a member of any political committee while  
26 acting as a commissioner<sup>7L</sup>, nor may any commissioner or employee of

1 the commission receive any pass, free transportation or other thing  
2 of value, either directly or indirectly, from any public utility or  
3 motor carrier subject to the provisions of this chapter. ~~In case~~  
4 ~~any of the commissioners~~ If a commissioner becomes a candidate for  
5 any public office or a member of any political committee, the  
6 Governor shall remove him or her from office and shall appoint a  
7 new commissioner to fill the vacancy created.

8 (d) The salaries of members of the Public Service Commission  
9 and the manner in which they are paid established by the prior  
10 enactment of this section are continued. ~~Effective July 1, 2001,~~  
11 The annual salary of each commissioner provided in section two-a,  
12 article seven, chapter six of this code shall be paid in monthly  
13 installments from the special funds in the percentages that follow:

14 (1) From the Public Service Commission Fund collected under  
15 the provisions of section six, article three of this chapter,  
16 eighty percent;

17 (2) From the Public Service Commission Motor Carrier Fund  
18 collected under the provisions of section six, article six, chapter  
19 twenty-four-a of this code, seventeen percent; and

20 (3) From the Public Service Commission Gas Pipeline Safety  
21 Fund collected under the provisions of section three, article five,  
22 chapter twenty-four-b of this code, three percent.

23 (e) In addition to the salary provided for all commissioners  
24 in section two-a, article seven, chapter six of this code, the  
25 chairman of the commission shall receive \$5,000 per annum to be  
26 paid in monthly installments from the Public Service Commission

1 Fund collected under the provisions of section six, article three  
2 of this chapter.

3 **CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.**

4 **ARTICLE 1A. COMMERCIAL VEHICLE REGULATION.**

5 **§24A-1A-2. Creation of advisory committee; purpose; members;**  
6 **terms.**

7 (a) There is ~~created~~ continued the Commercial Motor Vehicle  
8 Weight and Safety Enforcement Advisory Committee, the purpose of  
9 which is to study the implementation of the commercial motor  
10 vehicle weight and safety enforcement program set forth in this  
11 article.

12 (b) The committee consists of the following members:

13 (1) One member who is an employee of the Division of Highways,  
14 to be appointed by the Commissioner of Highways;

15 (2) One member who is an employee of the Public Service  
16 Commission, to be appointed by the Chairman of the Public Service  
17 Commission;

18 (3) One member who is a State Police officer, to be appointed  
19 by the Superintendent of the State Police;

20 (4) One member who is an employee of the Division of Motor  
21 Vehicles, to be appointed by the Commissioner of Motor Vehicles;

22 (5) One member who is an employee of the Development Office,  
23 to be appointed by the Governor;

24 (6) One member who is representative of the coal industry, to  
25 be appointed by the Governor;

1 (7) One member of the Senate, to be appointed by the President  
2 of the Senate;

3 (8) One member of the House of Delegates, to be appointed by  
4 the Speaker of the House of Delegates;

5 (9) Two citizen members, to be appointed by the Governor;

6 (10) One member of the largest organization representing coal  
7 miners, to be appointed by the Governor; and

8 (11) One member of the largest organization representing  
9 natural resource transportation drivers, to be appointed by the  
10 Governor.

11 (c) Members shall serve for terms of three years. No member  
12 may be appointed to serve more than two consecutive terms.

13 (d) The committee shall annually nominate from its members a  
14 chair, who shall hold office for one year.

15 (e) The committee shall hold at least four meetings each year  
16 or more often as may, in the discretion of the chair, be necessary  
17 to effectuate the purposes of this article.

18 (f) The public members of the committee may receive  
19 compensation for attendance at official meetings, not to exceed the  
20 amount paid to members of the Legislature for their interim duties  
21 as recommended by the Citizens Legislative Compensation Commission  
22 and authorized by law.

23 (g) Committee members may be reimbursed for actual and  
24 necessary expenses incurred for each day or portion of a day  
25 engaged in the discharge of committee duties in a manner consistent  
26 with guidelines of the Travel Management Office of the Department

1 of Administration.

2 (h) On or before January 1 ~~2004~~, and of each ~~subsequent~~ year  
3 ~~thereafter~~ the committee shall submit to the Governor and to the  
4 Legislature a report of its recommendations for improving the  
5 effectiveness of the commercial vehicle weight and safety  
6 enforcement program.

7 ~~(i) The commercial vehicle weight and safety enforcement~~  
8 ~~advisory committee shall continue to exist until the first day of~~  
9 ~~July, two thousand seven, pursuant to the provisions of article~~  
10 ~~ten, chapter four of this code, unless sooner terminated, continued~~  
11 ~~or reestablished pursuant to the provisions of that article.~~

12 **CHAPTER 24E. STATEWIDE ADDRESSING AND MAPPING.**

13 **ARTICLE 1. WEST VIRGINIA STATEWIDE ADDRESSING AND MAPPING BOARD.**

14 **§24E-1-11. Termination of board; transfer of duties and title;**  
15 **legislative and emergency rules; advisory board.**

16 (a) The board shall terminate on July 1, 2009, after which it  
17 shall have one year to wind up its affairs. ~~pursuant to the~~  
18 ~~provisions of article ten, chapter four of this code~~ Upon final  
19 termination, the board shall transfer all its ~~right~~, rights, title  
20 and interest to any maps, compilations or other works that it  
21 created as a result of the statewide addressing and mapping to the  
22 respective county commissions.

23 (b) Upon final termination of the board, county commissions  
24 shall maintain and update the addressing and mapping systems within  
25 their respective jurisdictions under the standards established by

1 the board, as updated thereafter by the Division of Homeland  
2 Security and Emergency Management of the Department of Military  
3 Affairs and Public Safety under this section, and shall supply the  
4 updated information to the division in the format it establishes  
5 through its rule-making authority.

6 (c) Except as provided in subsection (b) of this section, upon  
7 final termination of the board, the powers and duties of the board  
8 shall be transferred to the Division of Homeland Security and  
9 Emergency Management.

10 (d) Prior to the final termination of the board, the division  
11 may propose rules for legislative approval in accordance with the  
12 provisions of article three, chapter twenty-nine-a of this code  
13 which shall become effective only upon the final termination of the  
14 board. The rules shall:

15 (1) Maintain and update the standards for statewide addressing  
16 and mapping;

17 (2) Establish standard reasonable fees, based on cost, to be  
18 charged by county commissions for copies or use of any maps,  
19 compilations or other works created as a result of the statewide  
20 addressing and mapping, subject to the exemptions provided under  
21 section nine of this article;

22 (3) Govern centralization and interoperability of the county  
23 systems within the integrated statewide addressing and mapping  
24 system; and

25 (4) Ensure the public safety in any manner the division  
26 considers advisable.



1 (e) Upon final termination of the board, the division may  
2 propose rules for legislative approval in accordance with the  
3 provisions of article three, chapter twenty-nine-a of this code for  
4 the purposes set forth in this article.

5 (f) Upon final termination of the board, the division may  
6 promulgate emergency rules pursuant to the provisions of section  
7 fifteen, article three, chapter twenty-nine-a of this code.

8 (g) Rules in effect as of the reenactment of this article  
9 during the 2007 regular session will remain in effect until  
10 amended, modified, repealed or replaced pursuant to this article.

11 (h) Effective July 1, 2010, the Statewide Addressing and  
12 Mapping Board shall become an advisory board within the Division of  
13 Homeland Security and Emergency Management and will continue to be  
14 composed as set forth in this article and the members will serve at  
15 the will and pleasure of the Governor.

16 **CHAPTER 47A. WEST VIRGINIA LENDING AND CREDIT RATE BOARD.**

17 **ARTICLE 1. LENDING AND CREDIT RATE BOARD.**

18 **§47A-1-1. Legislative findings; creation, membership, powers and**  
19 **duties of board; termination of board.**

20 (a) The Legislature ~~hereby~~ finds and declares that:

21 (1) Changes in the permissible charges on loans, credit sales  
22 or transactions, forbearance or other similar transactions requires  
23 specialized knowledge of the needs of the citizens of West Virginia  
24 for credit for personal and commercial purposes and knowledge of  
25 the availability of such credit at reasonable rates to the citizens

1 of this state while affording a competitive return to persons  
2 extending such credit;

3 (2) Maximum charges on loans, credit sales or transactions,  
4 forbearance or other similar transactions executed in this state  
5 should be prescribed from time to time to reflect changed economic  
6 conditions, current interest rates and finance charges throughout  
7 the United States and the availability of credit within the state  
8 in order to promote the making of such loans in this state; and

9 (3) The prescribing of such maximum interest rates and finance  
10 charges can be accomplished most effectively and flexibly by a  
11 board comprised of the heads of designated government agencies,  
12 university schools of business and administration and members of  
13 the public.

14 (b) In view of the foregoing findings, it is the purpose of  
15 this section to establish the West Virginia Lending and Credit Rate  
16 Board and authorize said board to prescribe semiannually the  
17 maximum interest rates and finance charges on loans, credit sales  
18 or transactions, forbearance or similar transactions made pursuant  
19 to this section subject to the provisions, conditions and  
20 limitations hereinafter set forth and to authorize lenders, sellers  
21 and other creditors to charge up to the maximum interest rates or  
22 finance charges so fixed. The rates prescribed by the board are  
23 alternative rates and any creditor may utilize either the rate or  
24 rates set by the board or any other rate or rates which the  
25 creditor is permitted to charge under any other provision of this  
26 code.

1 (c) The West Virginia Lending and Credit Rate Board shall be  
2 comprised of:

3 (1) The director of the Governor's office of Economic and  
4 Community Development;

5 (2) The West Virginia State Treasurer;

6 (3) The West Virginia Banking Commissioner;

7 (4) The deans of the schools of business and administration at  
8 Marshall University and West Virginia University;

9 (5) The Director of the Division of Consumer Protection of the  
10 Attorney General's Office; and

11 (6) Three members of the public appointed by the Governor with  
12 the advice and consent of the Senate. The members of the public  
13 shall be appointed for terms of six years each, and until their  
14 successors are appointed and qualified; except that of the members  
15 first appointed, one shall be appointed for a term of two years,  
16 one for a term of four years and one for a term of six years. A  
17 member who has served one full term of six years shall be  
18 ineligible for appointment for the next succeeding term. Vacancies  
19 shall be filled by appointment of the Governor with the advice and  
20 consent of the Senate, or if any vacancy remains unfilled for three  
21 months, by a majority vote of the board. The West Virginia Banking  
22 Commissioner shall serve as chairperson of the board and the rate  
23 or rates set by the board shall be determined by a majority vote of  
24 those members of the board in attendance at the respective board  
25 meeting.

26 (d) The West Virginia Lending and Credit Rate Board is hereby

1 authorized and directed to meet after December 31, 1983, on the  
2 first Tuesday of April and on the first Tuesday of October of each  
3 year or more or less frequently as required by the circumstances  
4 and to prescribe by order a maximum rate of interest and finance  
5 charge for the next succeeding six months, effective on June 1 and  
6 on December 1, for any loans, credit sales or transactions,  
7 forbearance or similar transactions made pursuant to this section.  
8 In fixing said maximum rates of interest and finance charge, the  
9 board shall take into consideration prevailing economic conditions,  
10 including the monthly index of long-term United States government  
11 bond yields for the preceding calendar month, yields on  
12 conventional commercial short-term loans and notes throughout West  
13 Virginia and throughout the United States and on corporate  
14 interest-bearing securities of high quality, the availability of  
15 credit at reasonable rates to the citizens of this state which  
16 afford a competitive return to persons extending ~~such~~ credit and  
17 ~~such~~ other factors as the board may determine.

18 (e) Any petition proposing a change in the prescribed maximum  
19 rates of interest and finance charges must be filed in the office  
20 of the Banking Commissioner no later than ~~the~~ February 15 in order  
21 to be voted on at the board meeting on the first Tuesday of April  
22 and no later than August 15 in order to be voted on at the board  
23 meeting on the first Tuesday of October. Whenever any change in  
24 the prescribed maximum rates of interest and finance charges is  
25 proposed the board shall schedule a hearing, at least fifteen days  
26 prior to the board meeting at which the proposed rates of interest

1 and finance charge will be voted on by the members of the board,  
2 and shall give all interested parties the opportunity to testify  
3 and to submit information at such public hearing that is relevant.  
4 Notice of the scheduled public hearing shall be issued and  
5 disseminated to the public at least twenty days prior to the  
6 scheduled date of the hearing.

7 (f) The board shall prescribe by order issued not later than  
8 April 20 and not later than October 20, in accordance with the  
9 provisions of subsection (d) of this section, the maximum rates of  
10 interest and finance charge for the next succeeding six months for  
11 any loan, credit sale, forbearance or similar transaction made  
12 pursuant to this section and shall cause ~~such~~ the maximum rate of  
13 interest and finance charge to be issued and disseminated to the  
14 public, ~~such maximum rate of interest and finance charge~~ to be  
15 effective on June 1 and December 1 for the next succeeding six  
16 months.

17 (g) Notwithstanding the other provisions of this chapter, the  
18 West Virginia Lending and Credit Rate Board shall not be required  
19 to meet if no petition has been filed with the board requesting a  
20 hearing and interest rates and economic conditions have not changed  
21 sufficiently to indicate that any change in the existing rate order  
22 would be required, and there are not at least two board members who  
23 concur that a meeting of the board is necessary. If the board does  
24 not meet, the maximum rates of interest and finance charges  
25 prescribed by the board in the existing rate order shall remain in  
26 full force and effect until the next time the board meets and

1 prescribes different maximum rates of interest and finance charges.

2 (h) If circumstances and economic conditions require, the  
3 chairperson or any three board members, at any time, may call an  
4 emergency interim meeting of the West Virginia Lending and Credit  
5 Rate Board, at which time the chairperson shall give ten days'  
6 notice of the scheduled emergency meeting to the public. All  
7 interested parties shall have the opportunity to be heard and to  
8 submit information at ~~such~~ the emergency meeting that is relevant.  
9 Any and all emergency rate board orders shall be effective within  
10 thirty days from the date of ~~such~~ the emergency meeting.

11 (i) Each member of the board, except those whose regular  
12 salary is paid by the State of West Virginia, shall receive \$75 per  
13 diem while actually engaged in the performance of the duties of the  
14 board. Each member shall be reimbursed for all reasonable and  
15 necessary expenses actually incurred during the performance of  
16 their duties, except that in the event the expenses are paid by a  
17 third party the members shall not be reimbursed by the state. The  
18 reimbursement shall be paid out of the special revenue account of  
19 the Division of Banking upon a requisition upon the State Auditor,  
20 properly certified by the Banking Commissioner.

21 (j) In setting the maximum interest rates and finance charges,  
22 the board may set varying rates based on the type of credit  
23 transaction, the term of transaction, the type of debtor, the type  
24 of creditor and other factors relevant to ~~determination of such~~  
25 determining the rates. In addition, the board may set varying  
26 rates for ranges of principal balances within a single category of

1 credit transactions.

2       ~~(k) Pursuant to the provisions of article ten, chapter four of~~  
3 ~~this code, the West Virginia lending and credit rate board shall~~  
4 ~~continue to exist until the first day of July, two thousand five."~~