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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1993

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ENROLLED

HOUSE BILL No. 100

(By ~~Delegate~~ *Mr. Speaker, Mr. Chambers,*
and Delegate Burk)
[By Request of the Executive]

Passed May 26, 1993

In Effect From Passage

ENROLLED
H. B. 100

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE BURK)
[By Request of the Executive]

[Passed May 26, 1993; in effect from passage.]

AN ACT to amend and reenact sections three and eight, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto two new sections, designated sections nine and ten; to amend and reenact sections one, two, eight, ten, eleven, twelve, thirteen, fourteen and fifteen, article three of said chapter; to further amend said article by adding thereto three new sections, designated sections sixteen, seventeen and eighteen; to amend and reenact sections one, two, three and six, article five of said chapter; to amend and reenact sections two and three, article six of said chapter; to further amend said article by adding thereto a new section, designated section six; to amend and reenact sections two, three, five and six, article seven of said chapter; to amend and reenact section two, article eight of said chapter; to amend and reenact sections one, twelve, sixteen, eighteen, twenty, twenty-one, twenty-three, twenty-four, twenty-eight and thirty-one, article nine of said chapter; and to further amend said article by adding thereto two new sections, designated sections thirty-four and thirty-five, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures relating thereto; the legislative mandate or authorization for the promulgation of certain legislative rules by various

executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing and directing certain of the agencies to amend legislative rules filed in the code of state regulations; authorizing the division of personnel to promulgate legislative rules relating to the administrative rules and regulations of the division, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to complaints, investigations and hearings, as modified; authorizing the ethics commission to promulgate legislative rules relating to the ethics commission, as modified; authorizing the ethics commission to promulgate legislative rules relating to advisory opinions, as modified; authorizing the consolidated public retirement board to promulgate legislative rules relating to general provisions, as modified; authorizing the consolidated public employees retirement board to promulgate legislative rules relating to the public employees retirement system, as modified and amended; authorizing the consolidated public retirement board to promulgate legislative rules relating to the teachers' defined benefit retirement system, as modified and amended; authorizing the consolidated public retirement board to promulgate legislative rules relating to the teachers' defined contribution system, as modified; authorizing the consolidated public retirement board to promulgate legislative rules relating to benefit determination and appeal, as modified; authorizing the committee for the purchase of commodities and services from the handicapped to promulgate legislative rules relating to the procurement list; committee for the purchase of commodities and services from the handicapped, as modified and amended; authorizing the committee for the purchase of commodities and services from the handicapped to promulgate legislative rules relating to

qualifications for participation: committee for the purchase of commodities and services from the handicapped, as modified and amended; authorizing the committee for the purchase of commodities and services from the handicapped to promulgate legislative rules relating to fair market price determination, as modified and amended; authorizing the air pollution control commission to promulgate legislative rules relating to the prevention and control of air pollution from the emission of volatile organic compounds, as modified and amended; authorizing the air pollution control commission to promulgate legislative rules relating to confidential information; authorizing the air pollution control commission to promulgate legislative rules relating to serious and minor violations of applicable rules; authorizing the air pollution control commission to promulgate legislative rules relating to permits for construction and major modification of major stationary sources of air pollution for the prevention of significant deterioration, as amended; authorizing the air pollution control commission to promulgate legislative rules relating to the prevention and control of air pollution from the operation of coal preparation plants and coal handling operations, as modified; authorizing the air pollution control commission to promulgate legislative rules relating to the requirements for pre-construction review, determination of emission offsets for proposed new or modified stationary sources of air pollutants and emission trading for intrasource pollutants, as modified and amended; authorizing the air pollution control commission to promulgate legislative rules relating to the submission of emission statements for volatile organic compound emissions and oxides of nitrogen emissions, as modified and amended; authorizing the division of banking to promulgate legislative rules relating to implementing the West Virginia community reinvestment act, as modified; authorizing the division of natural resources to promulgate legislative rules relating to water pollution control permit fee schedules, as amended; authorizing the division of natural resources to promulgate legislative rules relating to the commercial sale of wildlife, as modified; authorizing the

division of natural resources to promulgate legislative rules relating to deer hunting, as modified; authorizing the division of natural resources to promulgate legislative rules relating to defining the terms to be used concerning all hunting and trapping regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to dog training, as modified; authorizing the division of natural resources to promulgate legislative rules relating to general hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to general trapping regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special migratory bird hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to prohibitions when hunting and trapping, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to the revocation of hunting and fishing licenses, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to special bear hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special requirements concerning boating, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special waterfowl hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to wild boar hunting, as modified; authorizing the division of natural resources to promulgate legislative rules relating to wild turkey hunting, as modified; authorizing the division of natural resources to promulgate legislative rules relating to West Virginia wildlife management areas, as modified; authorizing the division of natural resources to promulgate legislative rules relating to the recycling assistance fund grant program, as modified; authorizing the water resources board to promulgate legislative rules relating to underground injection control, as amended; authorizing the water resources board to promulgate legislative

rules relating to the national pollutant discharge elimination system (NPDES), as amended; authorizing the water resources board to promulgate legislative rules relating to groundwater standards, as modified; authorizing the water resources board to promulgate legislative rules relating to requirements governing water quality standards, as modified and amended; authorizing the West Virginia economic development authority to promulgate legislative rules relating to the West Virginia capital company act: establishment of the application procedures to implement the act, as modified; authorizing the solid waste management board to promulgate legislative rules relating to the disbursement of grants to solid waste authorities, as modified; authorizing the board of manufactured housing construction and safety to promulgate legislative rules relating to the West Virginia manufactured housing construction and safety standards act, as modified; authorizing the division of tourism and parks to promulgate legislative rules relating to the public use of West Virginia state parks, state forests and state hunting and fishing areas under the division of tourism and parks, as modified and amended; authorizing the public energy authority to promulgate legislative rules relating to the rules and procedures for application for and environmental assessment of projects seeking qualification for the public energy authority's assistance, as modified; authorizing the division of forestry to promulgate legislative rules relating to sediment control during commercial timber-harvesting operations - logger certification, as modified; authorizing the division of forestry to promulgate legislative rules relating to sediment control during commercial timber-harvesting operations - licensing, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to an operator's designation of bona fide future use of oil and gas wells - qualification for inactive status, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to oil and gas wells and other wells, as modified; authorizing the division of environmental protection to promulgate legislative rules

relating to abandoned wells, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to underground storage tank assessment fees, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to underground storage tanks; authorizing the division of environmental protection to promulgate legislative rules relating to hazardous waste management, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to the groundwater protection act fee schedule, as modified; authorizing the director of the office of miners' health, safety and training to promulgate legislative rules relating to the standards for certification of blasters for surface coal mines and surface areas of underground coal mines, as modified; authorizing the department of health and human resources to promulgate legislative rules relating to infectious medical waste, as modified and amended; authorizing the department of health and human resources to promulgate legislative rules relating to residential board and care homes, as modified; authorizing the division of health to promulgate legislative rules relating to trauma center or facility designation, as modified; authorizing the division of health to promulgate legislative rules relating to primary care center seed money grants, as modified; authorizing the division of health to promulgate legislative rules relating to primary care center uncompensated care grants, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the exemption for birthing centers, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the exemption for primary care hospitals, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the exemption for new primary care services, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the temporary approval of discount contracts for border hospitals, as modified; authorizing the workers' compensation fund to promulgate legislative rules relating to self-insured employers,

as modified; authorizing the division of workers' compensation to promulgate legislative rules relating to protocols and procedures for performing medical evaluations in noise-induced hearing loss claims, as modified; authorizing and directing the division of workers' compensation to promulgate legislative rules relating to the enforcement of reporting and payment requirements (85 CSR 11), as amended; authorizing the state fire commission to promulgate legislative rules relating to electrician licensing, as modified; authorizing jail and correctional facility standards commission to promulgate legislative rules relating to West Virginia minimum standards for construction, operation and maintenance of jails, as modified and amended; authorizing and directing the jail and prison standards commission to promulgate legislative rules relating to West Virginia minimum standards for construction, operation and maintenance of holding facilities (95 CSR 3), as amended; authorizing the state emergency response commission to promulgate legislative rules relating to the commission, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to the regulation of credit life insurance and credit accident and sickness insurance; authorizing the insurance commissioner to promulgate legislative rules relating to filing fees for purchasing groups and for risk retention groups not chartered in this state, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to the group coordination of benefits, as amended; authorizing the insurance commissioner to promulgate legislative rules relating to permanent regulations on medicare supplement insurance, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to individual and employer group minimum benefits for accident and sickness insurance policies, as modified and amended; authorizing the insurance commissioner to promulgate legislative rules relating to long-term care insurance, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to standards for uniform health care administration, as modified; authorizing the state board of investments to

promulgate legislative rules relating to the reporting of state debt to the board, as modified; authorizing the racing commission to promulgate legislative rules relating to pari-mutuel wagering; authorizing the racing commission to promulgate legislative rules relating to thoroughbred racing, as modified; authorizing the racing commission to promulgate legislative rules relating to greyhound racing, as modified; authorizing and directing the division of tax to promulgate legislative rules relating to the division of tax (consumers sales and service tax and use tax), (110 CSR 15), as amended; authorizing the division of tax to promulgate legislative rules relating to bingo; authorizing the division of motor vehicles to promulgate legislative rules relating to motor vehicle dealers, wreckers/ dismantlers/ rebuilders and license services, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to commercial feed, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to general groundwater protection rules for fertilizers and manures, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to primary and secondary containment of fertilizers, as modified and amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to general groundwater protection rules for pesticides, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to bulk pesticide operational rules, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to non-bulk pesticide rules for permanent operational areas, as modified; authorizing the board of registration for professional engineers to promulgate legislative rules relating to the board, as modified and amended; authorizing the board of medicine to promulgate legislative rules relating to licensing, disciplinary and complaint procedures: physicians and podiatrists, as modified; authorizing the board of medicine to promulgate legislative rules relating to certification, disciplinary and complaint procedures and continuing education for physician assistants, as modified and amended;

authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to limited prescriptive authority for nurses in advanced practice, as modified; authorizing the board of pharmacy to promulgate legislative rules relating to the board, as modified and amended; authorizing the board of examiners of psychologists to promulgate legislative rules relating to penalties and fees, as modified; authorizing the board of examiners of psychologists to promulgate legislative rules relating to the qualifications for licensure as a psychologist, as modified; authorizing the real estate commission to promulgate legislative rules relating to the requirements in licensing real estate brokers and salesmen and in the conduct of a brokerage business, as modified; authorizing the secretary of state to promulgate legislative rules relating to the filing fee for credit service organizations, as modified; authorizing the secretary of state to promulgate legislative rules relating to combined voter registration and driver licensing programs, as modified; authorizing the West Virginia cable television advisory board to promulgate legislative rules relating to implementing regulations, as modified; authorizing the real estate appraiser licensing and certification board to promulgate legislative rules relating to requirements of licensure and certification, as modified; authorizing the board of occupational therapy to promulgate legislative rules relating to the administration of the board, as modified; and authorizing the board of social work examiners to promulgate legislative rules relating to qualifications for licensure as a social worker, as modified.

Be it enacted by the Legislature of West Virginia:

That sections three and eight, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections nine and ten; that sections one, two, eight, ten, eleven, twelve, thirteen, fourteen and fifteen, article three of said chapter be amended and reenacted; that said article be further amended by adding thereto three new

sections, designated sections sixteen, seventeen and eighteen; that sections one, two, three and six, article five of said chapter be amended and reenacted; that sections two and three, article six of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section six; that sections two, three, five and six, article seven of said chapter be amended and reenacted; that section two, article eight of said chapter be amended and reenacted; that sections one, twelve, sixteen, eighteen, twenty, twenty-one, twenty-three, twenty-four, twenty-eight and thirty-one, article nine of said chapter be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections thirty-four and thirty-five, all to read as follows:

ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-3. Division of personnel.

1 (a) The legislative rules filed in the state register on
2 the nineteenth day of November, one thousand nine
3 hundred eighty-six, modified by the civil service
4 commission to meet the objection of the legislative rule-
5 making review committee and refiled in the state
6 register on the fifteenth day of December, one thousand
7 nine hundred eighty-six, relating to the civil service
8 commission (civil service system), are authorized.

9 (b) The legislative rules filed in the state register on
10 the first day of November, one thousand nine hundred
11 eighty-eight, modified by the civil service commission to
12 meet the objections of the legislative rule-making review
13 committee and refiled in the state register on the
14 twenty-third day of February, one thousand nine
15 hundred eighty-nine, relating to the civil service
16 commission (civil service system), are authorized with
17 the amendments set forth below:

18 On page fifteen, section 5.05(d), after the words
19 "established in" by striking out the remainder of the
20 sentence and inserting in lieu thereof the words
21 "Chapter 29-6A of the Code of West Virginia, as
22 amended."

23 On page fifteen, section 5.06, after the words “estab-
24 lished in” by striking out the remainder of the sentence
25 and inserting in lieu thereof the words “Chapter 29-6A
26 of the Code of West Virginia, as amended.”

27 On pages sixteen and seventeen by deleting all of
28 section 5.07.

29 And,

30 On page 46, section 13(f) line 2 by striking the words
31 “previously held”.

32 (c) The legislative rules filed in the state register on
33 the fourteenth day of May, one thousand nine hundred
34 ninety, modified by the division of personnel to meet the
35 objections of the legislative rule-making review commit-
36 tee and refiled in the state register on the twenty-fifth
37 day of September, one thousand nine hundred ninety,
38 relating to the division of personnel (civil service
39 system), are authorized.

40 (d) The legislative rules filed in the state register on
41 the seventeenth day of September, one thousand nine
42 hundred ninety-two, modified by the division of person-
43 nel to meet the objections of the legislative rule-making
44 review committee and refiled in the state register on the
45 eighteenth day of February, one thousand nine hundred
46 ninety-three, relating to the division of personnel
47 (administrative rules and regulations of the West
48 Virginia division of personnel), are authorized, with the
49 following amendments:

50 On page 5, section 3, subsection 42, after the word
51 “affected”, by striking the word “classified”, and
52 inserting in lieu thereof the word “state”;

53 And,

54 On page 66, subsection 17.01(e)(3), after the words
55 “provisions of” by striking out the words “W.V. Code §3-
56 8-3, §3-3-4 or §3-8-5(e), or serve as a ballot commissioner
57 or election official working inside a polling place; or sell
58 tickets to political affairs to employees in the classified
59 services; or post or distribute campaign literature in a
60 classified employee’s worksite; or wear apparel bearing

61 political logos or endorsements during work hours when
62 observed by or in contact with the public” and inserting
63 the words “sections three, four or five-e, article eight,
64 chapter three of the Code of West Virginia, as
65 amended.”

66 And,

67 On page 67, subsection 17.04, by striking all of
68 subsection 17.04.

§64-2-8. Ethics commission.

1 (a) The legislative rules filed in the state register on
2 the thirty-first day of January, one thousand nine
3 hundred ninety-one, modified by the ethics commission
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 thirty-first day of October, one thousand nine hundred
7 ninety-one, relating to the ethics commission (contribu-
8 tions), are authorized, with the amendment set forth
9 below:

10 On page one, subsection 3.4, by striking out the words
11 “use their official title or position in the endorsement or
12 support of” and inserting in lieu thereof “endorse”.

13 (b) The legislative rules filed in the state register on
14 the thirty-first day of January, one thousand nine
15 hundred ninety-one, modified by the ethics commission
16 to meet the objections of the legislative rule-making
17 review committee and refiled in the state register on the
18 thirty-first day of October, one thousand nine hundred
19 ninety-one, relating to the ethics commission (gifts), are
20 authorized, with the amendments set forth below:

21 On page two, subsection 3.1, by striking out the word
22 “significant”;

23 On page two, section four, subsection 4.1, by striking
24 out “\$20” and inserting in lieu thereof “\$25”;

25 On page three, subsection 4.2, after the words “hotel
26 room” by inserting a period and striking out the
27 remainder of the sentence;

28 On page three, subsection 5.1, by striking out the word

29 “unlawful” and inserting in lieu thereof “improper”;

30 On page three, subsection 5.1, after the words “health
31 club fees” by striking out the period and adding “, unless
32 such expenses are offered to all of the panelists or
33 speakers.”;

34 On page four, subsection 6.2, by striking out the word
35 “unlawful” and inserting in lieu thereof “improper”.

36 And,

37 On page four, section 7, at the end of the section by
38 striking out the period and adding the following: “:
39 *Provided*, That public officials and public employees
40 may accept complimentary tickets to sporting events, if
41 the tickets are incidental to the conduct of their official
42 or ceremonial duties.”

43 (c) The legislative rules filed in the state register on
44 the thirty-first day of January, one thousand nine
45 hundred ninety-one, modified by the ethics commission
46 to meet the objections of the legislative rule-making
47 review committee and refiled in the state register on the
48 thirty-first day of October, one thousand nine hundred
49 ninety-one, relating to the ethics commission (interest in
50 public contracts), are authorized, with the amendment
51 set forth below:

52 On page two, subsection 6.2, by striking out the words
53 “complete in every particular and including the exact”
54 and inserting in lieu thereof “including the”.

55 (d) The legislative rules filed in the state register on
56 the thirty-first day of January, one thousand nine
57 hundred ninety-one, modified by the ethics commission
58 to meet the objections of the legislative rule-making
59 review committee and refiled in the state register on the
60 thirty-first day of October, one thousand nine hundred
61 ninety-one, relating to the ethics commission (lobbying),
62 are authorized, with the amendment set forth below:

63 On page three, subsection 4.3, after the words “copies
64 of forms” by inserting a period and striking out the
65 remainder of the sentence.

66 (e) The legislative rules filed in the state register on

67 the thirty-first day of January, one thousand nine
68 hundred ninety-one, modified by the ethics commission
69 to meet the objections of the legislative rule-making
70 review committee and refiled in the state register on the
71 seventeenth day of December, one thousand nine
72 hundred ninety-one, relating to the ethics commission
73 (private gain), are authorized, with the amendments set
74 forth below:

75 On page one, subsection 2.2, after the words "A public
76 official" by inserting "acting in his or her capacity as
77 a public official";

78 On page one, subsection 2.2, after the words "the
79 public official." by adding a new sentence to read as
80 follows: "The provisions of this subsection shall not apply
81 to a public official acting in his or her private capacity.";

82 On pages one and two, by striking out all of section
83 three;

84 On pages two through four, by renumbering the
85 remaining sections;

86 On page two, subsection 4.1, by striking out the words
87 "persons in high office" and inserting in lieu thereof "a
88 public official or public employee";

89 On page two, subsection 4.1, by striking out the words
90 "close friends" and inserting in lieu thereof "cohabitat-
91 ing sexual partners";

92 On page two, subsection 4.2, after the word "sister"
93 by striking out the remainder of the sentence and
94 inserting in lieu thereof "or spouse.";

95 On page two, subsection 4.3, by striking out the words
96 "close friend" and inserting in lieu thereof "cohabitating
97 sexual partner";

98 On page three, subdivision 4.3.b, by striking out the
99 words "close friend" and inserting in lieu thereof
100 "cohabitating sexual partner";

101 On page three, by striking out all of paragraph 4.3.b.2
102 and inserting in lieu thereof a new paragraph 4.3.b.2 to
103 read as follows:

104 "A public official or public employee should at least
105 have some independent person take part in the selection.
106 He or she should avoid using a subordinate for the
107 independent person.";

108 On page three, by striking out all of subsection 4.4 and
109 inserting in lieu thereof a new subsection to read as
110 follows:

111 "4.4 All hiring by public officials and public em-
112 ployees of relatives prior to the twenty-ninth day of
113 February, one thousand nine hundred ninety-two is not
114 subject to review under the ethics act, in Chapter 6B of
115 the W. Va. Code.";

116 On page three, subsection 4.5, by striking out the
117 words "close friend" and inserting in lieu thereof
118 "cohabitating sexual partner";

119 On page three, after subsection 4.5, by adding thereto
120 a new subsection, designated subsection 4.6, to read as
121 follows:

122 "4.6 It is improper for a public official or public
123 employee to terminate the employment of a person
124 without sufficient cause for the purpose of hiring a
125 relative, friend or political supporter.";

126 On page three, subsection 5.2, after the words
127 "supervisor during work hours.", by adding the follow-
128 ing sentence: "This subsection does not apply to de
129 minimus work or services.";

130 On page four, by striking out all of subsection 6.2 and
131 inserting in lieu thereof a new subsection 6.2, to read
132 as follows:

133 "6.2 Improper Use-Public officials and public em-
134 ployees shall not use government property for personal
135 projects or activities that result in private gain. This
136 subsection does not apply to the de minimus use of
137 government property.";

138 And,

139 On page four, by striking out all of section 9 and
140 inserting in lieu thereof a new section 9 to read as

141 follows:

142 "Full-time appointed public officials and part-time
143 and full-time public employees may not receive private
144 compensation for performing private work during
145 public work hours. This section shall not apply to de
146 minimus private work."

147 (f) The legislative rules filed in the state register on
148 the thirty-first day of January, one thousand nine
149 hundred ninety-one, modified by the ethics commission
150 to meet the objections of the legislative rule-making
151 review committee and refiled in the state register on the
152 seventeenth day of December, one thousand nine
153 hundred ninety-one, relating to the ethics commission
154 (voting), are authorized, with the amendments set forth
155 below:

156 On page one, subsection 2.2, by striking out the second
157 and third paragraphs of subsection 2.2;

158 And,

159 On page one, after subsection 2.3, by adding a new
160 subsection, designated subsection 2.4 to read as follows:

161 "2.4 In any case where a Senator or Delegate is voting
162 as part of their official duties of office, the members of
163 the Senate and the members of the House of Delegates
164 are governed by the rules of their respective houses. The
165 provisions of subsection 2.3 of this rule shall not apply
166 to members of the Legislature when acting as a member
167 thereof."

168 (g) The legislative rules filed in the state register on
169 the thirty-first day of January, one thousand nine
170 hundred ninety-one, modified by the ethics commission
171 to meet the objections of the legislative rule-making
172 review committee and refiled in the state register on the
173 seventeenth day of December, one thousand nine
174 hundred ninety-one, relating to the ethics commission
175 (employment), are authorized, with the amendments set
176 forth below:

177 On page two, subsection 3.3, by striking out the words
178 "if there is a reasonable probability that the person will

179 be regulated. There must be” and inserting in lieu
180 thereof “upon”;

181 On page two, subdivision 4.2.c, after the word
182 “prohibition” by inserting the words “for all practical
183 purposes”;

184 On page three, by striking out all of subsections 4.5,
185 4.6 and 4.7;

186 And,

187 On page three, by renumbering the remaining
188 subsections.

189 (h) The legislative rules filed in the state register on
190 the ninth day of September, one thousand nine hundred
191 ninety-two, modified by the ethics commission to meet
192 the objections of the legislative rule-making review
193 committee and refiled in the state register on the
194 twentieth day of January, one thousand nine hundred
195 ninety-three, relating to the ethics commission (com-
196 plaints, investigations and hearings), are authorized.

197 (i) The legislative rules filed in the state register on
198 the ninth day of September, one thousand nine hundred
199 ninety-two, modified by the ethics commission to meet
200 the objections of the legislative rule-making review
201 committee and refiled in the state register on the
202 twentieth day of January, one thousand nine hundred
203 ninety-three, relating to the ethics commission (ethics
204 commission), are authorized.

205 (j) The legislative rules filed in the state register on
206 the ninth day of September, one thousand nine hundred
207 ninety-two, modified by the ethics commission to meet
208 the objections of the legislative rule-making review
209 committee and refiled in the state register on the
210 twentieth day of January, one thousand nine hundred
211 ninety-three, relating to the ethics commission (advisory
212 opinions), are authorized.

§64-2-9. Consolidated public retirement board.

1 (a) The legislative rules filed in the state register on
2 the fifth day of November, one thousand nine hundred
3 ninety-one, modified by the consolidated public retire-

4 ment board to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the sixteenth day of September, one thou-
7 sand nine hundred ninety-two, relating to the consoli-
8 dated public retirement board (general provisions), are
9 authorized.

10 (b) The legislative rules filed in the state register on
11 the fifth day of November, one thousand nine hundred
12 ninety-one, modified by the consolidated public retire-
13 ment board to meet the objections of the legislative rule-
14 making review committee and refiled in the state
15 register on the sixteenth day of December, one thousand
16 nine hundred ninety-two, relating to the consolidated
17 public retirement board (public employees retirement
18 system), are authorized with the amendment set forth
19 below:

20 "On page one, subsection §162-5-2 after the word
21 'hereby' by striking out the word 'appealed' and
22 inserting in lieu thereof the word 'repealed'".

23 (c) The legislative rules filed in the state register on
24 the fifth day of November, one thousand nine hundred
25 ninety-one, modified by the consolidated public retire-
26 ment board to meet the objections of the legislative rule-
27 making review committee and refiled in the state
28 register on the sixteenth day of December, one thousand
29 nine hundred ninety-two, relating to the consolidated
30 public retirement board (teachers' defined benefit
31 retirement system), are authorized with the amendment
32 set forth below:

33 "On page one, subsection §162-4-2 after the word
34 'hereby' by striking out the word 'appealed' and
35 inserting in lieu thereof the word 'repealed'".

36 (d) The legislative rules filed in the state register on
37 the fourth day of November, one thousand nine hundred
38 ninety-one, modified by the consolidated public retire-
39 ment board to meet the objections of the legislative rule-
40 making review committee and refiled in the state
41 register on the sixteenth day of September, one thou-
42 sand nine hundred ninety-two, relating to the consoli-
43 dated public retirement board (teachers' defined

44 contribution system), are authorized.

45 (e) The legislative rules filed in the state register on
46 the fifth day of November, one thousand nine hundred
47 ninety-one, modified by the consolidated public retire-
48 ment board to meet the objections of the legislative rule-
49 making review committee and refiled in the state
50 register on the twenty-second day of January, one
51 thousand nine hundred ninety-three, relating to the
52 consolidated public retirement board (benefit determi-
53 nation and appeal), are authorized.

§64-2-10. Committee for the purchase of commodities and services from the handicapped.

1 (a) The legislative rules filed in the state register on
2 the eighteenth day of September, one thousand nine
3 hundred ninety-two, modified by the committee for the
4 purchase of commodities and services from the handi-
5 capped to meet the objections of the legislative rule-
6 making review committee and refiled in the state
7 register on the seventeenth day of February, one
8 thousand nine hundred ninety-three, relating to the
9 committee for the purchase of commodities and services
10 from the handicapped (procurement list: committee for
11 the purchase of commodities and services from the
12 handicapped), are authorized with amendments set
13 forth below:

14 On page two, subsection 2.9., by striking out the
15 entirety of said subsection and inserting in lieu thereof
16 the following: "‘Nonprofit workshops’, ‘workshops’ and
17 ‘rehabilitation facility’ means an establishment (a)
18 where any manufacture or handiwork is carried on, (b)
19 which is operated either by a public agency or by a
20 cooperative or by a nonprofit private corporation or
21 nonprofit association, in which no part of the net
22 earnings thereof inures, or may lawfully inure, to the
23 benefit of any private shareholder or individual, (c)
24 which is operated for the primary purpose of providing
25 remunerative employment to blind or severely disabled
26 persons who cannot be absorbed into the competitive
27 labor market, and (d) which shall be approved, as
28 evidenced by a certificate of approval, by the state board

29 of vocational education, division of vocational
30 rehabilitation.”;

31 On page three, subsection 2.13., by striking out the
32 entirety of said subsection.;

33 On page five, subsection 4.2., by striking out the word
34 “facility” and inserting in lieu thereof the word
35 “workshop”;

36 And,

37 On page six, subsection 4.7., by striking out the words
38 ‘certified or approved’”.

39 (b) The legislative rules filed in the state register on
40 the eighteenth day of September, one thousand nine
41 hundred ninety- two, modified by the committee for the
42 purchase of commodities and services from the handi-
43 capped to meet the objections of the legislative rule-
44 making review committee and refiled in the state
45 register on the seventeenth day of February, one
46 thousand nine hundred ninety-three, relating to the
47 committee for the purchase of commodities and services
48 from the handicapped (qualifications for participation:
49 committee for the purchase of commodities and services
50 from the handicapped), are authorized with amend-
51 ments set forth below:

52 “On page one, subsection 2.1., by striking out the
53 entirety of said subsection;

54 On page one, subsection 2.3., by striking out the
55 entirety of said subsection;

56 On page two, subsection 2.7., by striking out the
57 entirety of said subsection;

58 On page two, subsection 2.8., by striking out the
59 entirety of said subsection;

60 On page three, subsection 2.10., by striking out the
61 entirety of said subsection and inserting in lieu thereof
62 the following ‘Nonprofit workshop’, ‘workshop’ and
63 ‘rehabilitation facility’ means an establishment (a)
64 where any manufacture or handiwork is carried on, (b)
65 which is operated either by a public agency or by a

66 cooperative or by a nonprofit private corporation or
67 nonprofit association, in which no part of the net
68 earnings thereof inures, or may lawfully inure, to the
69 benefit of any private shareholder or individual, (c)
70 which is operated for the primary purpose of providing
71 remunerative employment to blind or severely disabled
72 persons who cannot be absorbed into the competitive
73 labor market, and (d) which shall be approved, as
74 evidenced by a certificate of approval, by the state board
75 of vocational education, division of vocational
76 rehabilitation.”;

77 And,

78 On page four, subdivision 3.1.1.e.D., by striking out
79 the entirety of said subsection and inserting in lieu
80 thereof the following: “To comply with state and federal
81 laws regarding safety standards and wage payment.”

82 (c) The legislative rules filed in the state register on
83 the eighteenth day of September, one thousand nine
84 hundred ninety- two, modified by the committee for the
85 purchase of commodities and services from the handi-
86 capped to meet the objections of the legislative rule-
87 making review committee and refiled in the state
88 register on the eighteenth day of February, one thou-
89 sand nine hundred ninety-three, relating to the commit-
90 tee for the purchase of commodities and services from
91 the handicapped (fair market price determinations), are
92 authorized with amendments set forth below:

93 “On page one, subsection 2.1., by striking out the
94 entirety of said subsection.;

95 On page one, subsection 2.2., by striking out the
96 entirety of said subsection.;

97 On page two, subsection 2.10., by striking out the
98 entirety of said subsection.;

99 On page two, subsection 2.11., by striking out the
100 entirety of said subsection.;

101 On page three, subsection 2.14., by striking out the
102 entirety of said subsection and inserting in lieu thereof
103 the following:

104 “‘Nonprofit workshop’, ‘workshop’ and ‘rehabilitation
105 facility’ mean an establishment (a) where any manufac-
106 ture or handiwork is carried on, (b) which is operated
107 either by a public agency or by a cooperative or by a
108 nonprofit private corporation or nonprofit association, in
109 which no part of the net earnings thereof inures, or may
110 lawfully inure, to the benefit of any private shareholder
111 or individual, (c) which is operated for the primary
112 purpose of providing remunerative employment to blind
113 or severely disabled persons who cannot be absorbed
114 into the competitive labor market, and (d) which shall
115 be approved, as evidenced by a certificate of approval,
116 by the state board of vocational education, division of
117 vocational rehabilitation.”;

118 On page four, subdivision 3.3.1., by striking out the
119 last sentence.;

120 And,

121 On page five, subdivision 3.4.1., by striking out the
122 last two sentences.”

**ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COM-
MERCE, LABOR AND ENVIRONMENTAL RE-
SOURCES TO PROMULGATE LEGISLATIVE
RULES.**

§64-3-1. Air pollution control commission.

1 (a) The legislative rules filed in the state register on
2 the thirteenth day of August, one thousand nine hundred
3 eighty-two, relating to the air pollution control commis-
4 sion (series VII), are authorized.

5 (b) The legislative rules filed in the state register on
6 the thirteenth day of August, one thousand nine hundred
7 eighty-two, relating to the air pollution control commis-
8 sion (series XIX), are authorized.

9 (c) The legislative rules filed in the state register on
10 the sixteenth day of November, one thousand nine
11 hundred eighty-three, relating to the air pollution
12 control commission (emission standards for hazardous
13 air pollutants) (series XV), are authorized.

14 (d) The legislative rules filed in the state register on

15 the sixteenth day of November, one thousand nine
16 hundred eighty-three, relating to the air pollution
17 control commission (standards of performance for new
18 stationary sources) (series XVI), are authorized.

19 (e) The legislative rules filed in the state register on
20 the sixth day of January, one thousand nine hundred
21 eighty-four, relating to the air pollution control commis-
22 sion (to prevent and control air pollution from hazardous
23 waste treatment, storage or disposal facilities)(series
24 XXV), are authorized with the amendments set forth
25 below:

26 Page 3, §1.06, change the § title from "Enforcement"
27 to "Procedure"; place an "(a)" in front of the existing
28 paragraph and add the following:

29 "(b) Permit applications filed pursuant to this regu-
30 lation shall be processed in accordance with the
31 permitting procedures as set forth in code §20-5E of this
32 regulation. Permit procedures set forth in code §16-20
33 and any other regulation of this commission are not
34 applicable to any permit application filed pursuant to
35 this regulation."

36 Such rules shall also include a section which shall
37 read as follows:

38 "The commission shall report to the legislative rule-
39 making review committee as required by that commit-
40 tee, but in no event later than the first day of the regular
41 session of the Legislature in the year one thousand nine
42 hundred eighty-five. Such report shall include informa-
43 tion regarding the commission's data gathering efforts,
44 the development of compliance programs, the progress
45 in implementation, and such other matters as the
46 committee may require, pertaining to the regulations
47 hereby authorized."

48 (f) The legislative rules filed in the state register on
49 the ninth day of January, one thousand nine hundred
50 eighty-four, relating to the air pollution control commis-
51 sion (permits for construction and modification of
52 stationary sources of air pollution for the prevention of
53 significant deterioration) (series XIV), are authorized.

54 (g) The legislative rules filed in the state register on
55 the thirtieth day of December, one thousand nine
56 hundred eighty-eight, modified by the air pollution
57 control commission to meet the objections of the
58 legislative rule-making review committee and refiled in
59 the state register on the twenty-third day of February,
60 one thousand nine hundred eighty-nine, relating to the
61 air pollution control commission (prevention and control
62 of air pollution from hazardous waste treatment, storage
63 or disposal facilities), are authorized.

64 (h) The legislative rules filed in the state register on
65 the thirtieth day of December, one thousand nine
66 hundred eighty-eight, modified by the air pollution
67 control commission to meet the objections of the
68 legislative rule-making review committee and refiled in
69 the state register on the twenty-third day of February,
70 one thousand nine hundred eighty-nine, relating to the
71 air pollution control commission (good engineering
72 practice as applicable to stack heights), are authorized.

73 (i) The legislative rules filed in the state register on
74 the thirtieth day of December, one thousand nine
75 hundred eighty-eight, modified by the air pollution
76 control commission to meet the objections of the
77 legislative rule-making review committee and refiled in
78 the state register on the twenty-third day of February,
79 one thousand nine hundred eighty-nine, relating to the
80 air pollution control commission (TP-2, compliance test
81 procedures for regulation 2 — to prevent and control
82 particulate air pollution from combustion of fuel in
83 indirect heat exchangers), are authorized.

84 (j) The legislative rules filed in the state register on
85 the sixth day of September, one thousand nine hundred
86 eighty-nine, modified by the air pollution control
87 commission to meet the objections of the legislative rule-
88 making review committee and refiled in the state
89 register on the tenth day of January, one thousand nine
90 hundred ninety, relating to the air pollution control
91 commission (ambient air quality standards for sulfur
92 oxides and particulate matter), are authorized.

93 (k) The legislative rules filed in the state register on

94 the sixth day of September, one thousand nine hundred
95 eighty-nine, modified by the air pollution control
96 commission to meet the objections of the legislative rule-
97 making review committee and refiled in the state
98 register on the tenth day of January, one thousand nine
99 hundred ninety, relating to the air pollution control
100 commission (prevention of air pollution emergency
101 episodes), are authorized.

102 (l) The legislative rules filed in the state register on
103 the sixth day of September, one thousand nine hundred
104 eighty-nine, modified by the air pollution control
105 commission to meet the objections of the legislative rule-
106 making review committee and refiled in the state
107 register on the tenth day of January, one thousand nine
108 hundred ninety, relating to the air pollution control
109 commission (permits for construction and major modi-
110 fication of major stationary sources of air pollution for
111 the prevention of significant deterioration), are
112 authorized.

113 (m) The legislative rules filed in the state register on
114 the sixth day of September, one thousand nine hundred
115 eighty-nine, relating to the air pollution control commis-
116 sion (standards of performance for new stationary
117 sources), are authorized.

118 (n) The legislative rules filed in the state register on
119 the sixth day of September, one thousand nine hundred
120 eighty-nine, relating to the air pollution control commis-
121 sion (emission standards for hazardous air pollutants),
122 are authorized.

123 (o) The legislative rules filed in the state register on
124 the sixteenth day of October, one thousand nine hundred
125 eighty-nine, modified by the air pollution control
126 commission to meet the objections of the legislative rule-
127 making review committee and refiled in the state
128 register on the tenth day of January, one thousand nine
129 hundred ninety, relating to the air pollution control
130 commission (prevention and control of emissions of toxic
131 air pollutants), are authorized.

132 (p) The legislative rules filed in the state register on
133 the tenth day of August, one thousand nine hundred

134 ninety, relating to the air pollution control commission
135 (prevention and control of air pollution from the
136 emission of volatile organic compounds from bulk
137 gasoline terminals), are authorized.

138 (q) The legislative rules filed in the state register on
139 the thirteenth day of August, one thousand nine hundred
140 ninety, modified by the air pollution control commission
141 to meet the objections of the legislative rule-making
142 review committee and refiled in the state register on the
143 fifteenth day of November, one thousand nine hundred
144 ninety, relating to the air pollution control commission
145 (air quality management fee program), are authorized.

146 (r) The legislative rules filed in the state register on
147 the tenth day of August, one thousand nine hundred
148 ninety, relating to the air pollution control commission
149 (prevention and control of air pollution from the
150 emission of volatile organic compounds from the storage
151 of petroleum liquids in fixed roof tanks), are authorized.

152 (s) The legislative rules filed in the state register on
153 the tenth day of August, one thousand nine hundred
154 ninety, relating to the air pollution control commission
155 (prevention and control of air pollution from the
156 emission of volatile organic compounds from petroleum
157 refinery sources), are authorized.

158 (t) The legislative rules filed in the state register on
159 the eighteenth day of December, one thousand nine
160 hundred ninety-one, modified by the air pollution
161 control commission to meet the objections of the
162 legislative rule-making review committee and refiled in
163 the state register on the fifteenth day of December, one
164 thousand nine hundred ninety-two, relating to the air
165 pollution control commission (regulations to prevent and
166 control air pollution from the emission of volatile
167 organic compounds), are authorized with the amend-
168 ments set forth below:

169 "On page 26, subsection §45-21-9.2, by striking all of
170 §45-21-9.2 and inserting in lieu thereof a new §45-21-9.2,
171 to read as follows:

172 "9.2 Registration. — Within thirty (30) days after May

173 31, 1993, all persons owning and/or operating a source
174 subject to this regulation and not previously registered
175 shall have registered such source(s) with the chief:
176 *Provided*, That on a case-by-case basis, the chief may
177 extend the 30-day period for the registration of sources
178 to allow sources up to one hundred eighty (180) days
179 after May 31, 1993 to register. The information required
180 for registration shall be determined and provided in the
181 manner specified by the chief. Registration forms shall
182 be requested from the chief by the owner or operator
183 of such source(s)."

184 And,

185 "On page fifty-six, subsection §45-21-20.5a by striking
186 out all of line "a" and its equivalent column and
187 inserting in lieu thereof the words "a = Surface area
188 coated per day in terms of square meters divided by 100
189 or surface area coated per day in terms of square feet
190 divided by 1000."

191 And,

192 "On page one hundred eighty-three, subsection §45-21-
193 40.2 after the words "control technology (RACT) in
194 section" by striking the numbers "2.57." and inserting
195 in lieu thereof the numbers "2.60."

196 (u) The legislative rules filed in the state register on
197 the eighteenth day of September, one thousand nine
198 hundred ninety-two, relating to the air pollution control
199 commission (confidential information), are authorized.

200 (v) The legislative rules filed in the state register on
201 the eighteenth day of September, one thousand nine
202 hundred ninety-two, relating to the air pollution control
203 commission (serious and minor violations of applicable
204 rules), are authorized.

205 (w) The legislative rules filed in the state register on
206 the thirty-first day of August, one thousand nine
207 hundred ninety-two, relating to the air pollution control
208 commission (permits for construction and major modi-
209 fication of major stationary sources of air pollution for
210 the prevention of significant deterioration), are autho-
211 rized with the amendments set forth below:

212 “On page fourteen, subsection §45.13.6.5 after the
213 word “[W]ithin” by striking the word “twelve (12)” and
214 inserting in lieu thereof the word “six (6)”.

215 (x) The legislative rules filed in the state register on
216 the twenty-eighth day of August, one thousand nine
217 hundred ninety-two, modified by the air pollution
218 control commission to meet the objections of the
219 legislative rule-making review committee and refiled in
220 the state register on the nineteenth day of February, one
221 thousand nine hundred ninety-three, relating to the air
222 pollution control commission (regulations to prevent and
223 control air pollution from the operation of coal prepara-
224 tion plants and coal handling operations), are
225 authorized.

226 (y) The legislative rules filed in the state register on
227 the thirty-first day of August, one thousand nine
228 hundred ninety-two, modified by the air pollution
229 control commission to meet the objections of the
230 legislative rule-making review committee and refiled in
231 the state register on the nineteenth day of February, one
232 thousand nine hundred ninety-three, relating to the air
233 pollution control commission (requirements for pre-
234 construction review, determination of emission offsets
235 for proposed new or modified stationary sources of air
236 pollutants and emission trading for intrasource pollu-
237 tants), are authorized with amendments set forth below:

238 “On page twenty-one, subsection §45.19.12.5 after the
239 word “[W]ithin” by striking the word “twelve (12)” and
240 inserting in lieu thereof the word “six (6)”.

241 (z) The legislative rules filed in the state register on
242 the twenty-eighth day of August, one thousand nine
243 hundred ninety-two, modified by the air pollution
244 control commission to meet the objections of the
245 legislative rule-making review committee and refiled in
246 the state register on the nineteenth day of February, one
247 thousand nine hundred ninety-three, relating to the air
248 pollution control commission (requiring the submission
249 of emission statements for volatile organic compound
250 emissions and oxides of nitrogen emissions), are autho-
251 rized with the amendments set forth below:

252 "On page four, section 2.27. after the words 'VOC or'
253 by striking out the words '100 tons per year or more of'".

§64-3-2. Division of banking.

1 (a) The legislative rules filed in the state register on
2 the eleventh day of June, one thousand nine hundred
3 eighty-two, relating to commissioner of banking (com-
4 munication terminals and interchange systems), are
5 authorized.

6 (b) The legislative rules filed in the state register on
7 the fifteenth day of December, one thousand nine
8 hundred eighty-three, relating to the commissioner of
9 banking (consumer credit sales), are authorized.

10 (c) The legislative rules filed in the state register on
11 the nineteenth day of August, one thousand nine
12 hundred eighty-three, relating to the commissioner of
13 banking (legal lending limit), are authorized.

14 (d) The legislative rules filed in the state register on
15 the seventh day of November, one thousand nine
16 hundred eighty-six, modified by the commissioner of
17 banking to meet the objections of the legislative rule-
18 making review committee and refiled in the state
19 register on the eleventh day of December, one thousand
20 nine hundred eighty-six, relating to the commissioner of
21 banking (implementing the West Virginia community
22 reinvestment act), are authorized.

23 (e) The legislative rules filed in the state register on
24 the twenty-fifth day of October, one thousand nine
25 hundred eighty-eight, modified by the commissioner of
26 banking to meet the objections of the legislative rule-
27 making review committee and refiled in the state
28 register on the seventh day of December, one thousand
29 nine hundred eighty-eight, relating to the commissioner
30 of banking (subsidiary bank holding the stock of its
31 parent company as collateral), are authorized.

32 (f) The legislative rules filed in the state register on
33 the twelfth day of August, one thousand nine hundred
34 ninety-one, modified by the division of banking to meet
35 the objections of the legislative rule-making review
36 committee and refiled in the state register on the

37 fifteenth day of November, one thousand nine hundred
38 ninety-one, relating to the division of banking (West
39 Virginia consumer credit and protection act), are
40 authorized.

41 (g) The legislative rules filed in the state register on
42 the ninth day of August, one thousand nine hundred
43 ninety-one, modified by the division of banking to meet
44 the objections of the legislative rule-making review
45 committee and refiled in the state register on the
46 fifteenth day of November, one thousand nine hundred
47 ninety-one, relating to the division of banking (lease
48 financing transactions), are authorized.

49 (h) The legislative rules filed in the state register on
50 the ninth day of August, one thousand nine hundred
51 ninety-one, modified by the division of banking to meet
52 the objections of the legislative rule-making review
53 committee and refiled in the state register on the
54 fifteenth day of November, one thousand nine hundred
55 ninety-one, relating to the division of banking (operation
56 of state-chartered financial institutions in West Vir-
57 ginia), are authorized.

58 (i) The legislative rules filed in the state register on
59 the twelfth day of August, one thousand nine hundred
60 ninety-one, modified by the division of banking to meet
61 the objections of the legislative rule-making review
62 committee and refiled in the state register on the
63 fifteenth day of November, one thousand nine hundred
64 ninety-one, relating to the division of banking (West
65 Virginia industrial bank and industrial loan company
66 act), are authorized.

67 (j) The legislative rules filed in the state register on
68 the twelfth day of August, one thousand nine hundred
69 ninety-one, modified by the division of banking to meet
70 the objections of the legislative rule-making review
71 committee and refiled in the state register on the
72 fifteenth day of November, one thousand nine hundred
73 ninety-one, relating to the division of banking (West
74 Virginia consumer credit and protection act and the
75 money and interest article of chapter forty-seven), are
76 authorized.

77 (k) The legislative rules filed in the state register on
78 the ninth day of August, one thousand nine hundred
79 ninety-one, modified by the division of banking to meet
80 the objections of the legislative rule-making review
81 committee and refiled in the state register on the
82 fifteenth day of November, one thousand nine hundred
83 ninety-one, relating to the division of banking (permiss-
84 ible additional charges in connection with a consumer
85 credit sale), are authorized.

86 (l) The legislative rules filed in the state register on
87 the twenty-sixth day of June, one thousand nine hundred
88 ninety-two, modified by the division of banking to meet
89 the objections of the legislative rule-making review
90 committee and refiled in the state register on the
91 seventeenth day of August, one thousand nine hundred
92 ninety-two, relating to the division of banking (general
93 rules implementing the West Virginia community
94 reinvestment act), are authorized.

§64-3-8. Division of natural resources.

1 (a) The legislative rules filed in the state register on
2 the eighth day of December, one thousand nine hundred
3 eighty-three, relating to the department of natural
4 resources (surface mining), are authorized with the
5 amendments set forth below:

6 Page 3-4, §3E.01 by adding after the word "engineer"
7 the words "or licensed land surveyor."

8 Page 3-5, §3E.02, subsection (a), by adding after the
9 word "mining" the words "or civil."

10 And,

11 Page 3-5, §3E.02, subsection (b), by adding after the
12 first sentence — "Those persons who have been approved
13 to date need not make said demonstration."

14 (b) The legislative rules filed in the state register on
15 the twentieth day of January, one thousand nine
16 hundred eighty-four, relating to the department of
17 natural resources (solid waste management), are
18 authorized with the amendments set forth below:

19 Page 9, section 4.04, line five, add the following

20 paragraph:

21 "Upon request of any applicant, the division shall
22 meet with the applicant for prefiling review of the
23 application. The division, with the cooperation of the
24 solid waste authority, shall assist the applicant in
25 preparing a complete and proper application which
26 would not be rejected as incomplete."

27 On page 15, section 6.03(c)(1) in the first full sentence,
28 after the word "cease", strike the remainder of the
29 sentence and insert in lieu thereof the words "within
30 fifteen (15) days of receipt of an order of suspension" and
31 in the second sentence strike the word "recommence"
32 and insert the words "continue beyond fifteen (15) days";
33 (c)(2) in the first full sentence, after the word "cease"
34 by striking out the remainder of the sentence and insert
35 in lieu thereof the words "immediately upon receipt of
36 an order of revocation."

37 (c) The legislative rules filed in the state register on
38 the twenty-sixth day of September, one thousand nine
39 hundred eighty-four, relating to the department of
40 natural resources (public use of state parks, forests,
41 hunting and fishing areas), are authorized.

42 (d) The legislative rules filed in the state register on
43 the seventh day of November, one thousand nine
44 hundred eighty-four, relating to the department of
45 natural resources (surface mining reclamation), are
46 authorized.

47 (e) The legislative rules filed in the state register on
48 the seventh day of November, one thousand nine
49 hundred eighty-four, relating to the department of
50 natural resources (coal refuse disposal), are authorized.

51 (f) The legislative rules filed in the state register on
52 the ninth day of November, one thousand nine hundred
53 eighty-four, relating to the department of natural
54 resources (transfer of the state national pollutant
55 discharge elimination system program), are authorized
56 with the amendment set forth below:

57 Page 10-5, by striking §10B.19 and inserting in lieu
58 thereof a new §10B.19, to read as follows: "Effluent

59 limitations guidelines' means a regulation published by
60 the Administrator under Section 304(b) or Section
61 301(b)(1)(B) of the CWA to adopt or revise effluent
62 limitations or levels of effluent quality attainable
63 through the application of secondary or equivalent
64 treatment. For the coal industry these regulations are
65 published at 40 C.F.R. Parts 434 and 133. (See:
66 Appendix G and H)."

67 (g) The legislative rules filed in the state register on
68 the twenty-eighth day of August, one thousand nine
69 hundred eighty-four, relating to the department of
70 natural resources (small arms hunting), are authorized.

71 (h) The legislative rules filed in the state register on
72 the sixth day of January, one thousand nine hundred
73 eighty-four, relating to the department of natural
74 resources (hazardous waste management), are
75 authorized.

76 (i) The legislative rules filed in the state register on
77 the third day of December, one thousand nine hundred
78 eighty-four, modified by the department of natural
79 resources to meet the objections of the legislative rule-
80 making review committee and refiled in the state
81 register on the thirteenth day of February, one thousand
82 nine hundred eighty-five, relating to the department of
83 natural resources (hazardous waste management), are
84 authorized.

85 (j) The legislative rules filed in the state register on
86 the tenth day of October, one thousand nine hundred
87 eighty-five, relating to the department of natural
88 resources (hazardous waste management: Small quan-
89 tity generators and waste minimization certification),
90 are authorized with the amendment set forth below:

91 On page 1, §3.1.4b, delete the word "or" in the
92 reference to "paragraph (g) or (j)" and insert in lieu
93 thereof the words "and, if applicable."

94 (k) The legislative rules filed in the state register on
95 the ninth day of September, one thousand nine hundred
96 eighty-five, relating to the department of natural
97 resources (WV/NPDES regulations for the coal mining

98 point source category and related sewage facilities), are
99 authorized.

100 (l) The legislative rules filed in the state register on
101 the eleventh day of December, one thousand nine
102 hundred eighty-five, modified by the department of
103 natural resources to meet the objections of the legislative
104 rule-making review committee and refiled in the state
105 register on the twentieth day of February, one thousand
106 nine hundred eighty-six, relating to the department of
107 natural resources (hazardous waste management), are
108 authorized.

109 (m) The legislative rules filed in the state register on
110 the twenty-sixth day of September, one thousand nine
111 hundred eighty-six, modified by the department of
112 natural resources to meet the objections of the legislative
113 rule-making review committee and refiled in the state
114 register on the ninth day of December, one thousand
115 nine hundred eighty-six, relating to the department of
116 natural resources (hazardous waste management regu-
117 lations), are authorized.

118 (n) The legislative rules filed in the state register on
119 the seventh day of August, one thousand nine hundred
120 eighty-six, relating to the director of the department of
121 natural resources (procedures for transporting and
122 dealing in furbearing animals), are authorized.

123 (o) The legislative rules filed in the state register on
124 the thirtieth day of December, one thousand nine
125 hundred eighty-six, relating to the department of
126 natural resources (WV/NPDES program for coal mines
127 and preparation plants, and the refuse and waste
128 therefrom), are authorized with the amendments set
129 forth below:

130 On page four, §1.9.1.a by inserting the words "five
131 thousand dollars or" after the words "'significant
132 portion of income' means."

133 And,

134 On page four, §1.9.1.a by inserting the words "which-
135 ever is less," after the words "ten percent or more of
136 gross personal income for a calendar year."

137 (p) The legislative rules filed in the state register on
138 the fifth day of March, one thousand nine hundred
139 eighty-six, relating to the department of natural
140 resources (hazardous waste management), are
141 authorized.

142 (q) The legislative rules filed in the state register on
143 the twelfth day of August, one thousand nine hundred
144 eighty-seven, relating to the department of natural
145 resources (WV/NPDES regulations for coal mining
146 facilities), are authorized.

147 (r) The legislative rules filed in the state register on
148 the tenth day of June, one thousand nine hundred
149 eighty-seven, relating to the director of the department
150 of natural resources (outfitters and guides), are
151 authorized.

152 (s) The legislative rules filed in the state register on
153 the ninth day of January, one thousand nine hundred
154 eighty-seven, relating to the department of natural
155 resources (hazardous waste management regulations),
156 are authorized.

157 (t) The legislative rules filed in the state register on
158 the fifth day of March, one thousand nine hundred
159 eighty-seven, relating to the department of natural
160 resources (hazardous waste management regulations,
161 series 35), are authorized.

162 (u) The legislative rules filed in the state register on
163 the seventh day of December, one thousand nine
164 hundred eighty-seven, relating to the department of
165 natural resources (hazardous waste management regu-
166 lations, series 35), are authorized.

167 (v) The legislative rules filed in the state register on
168 the sixteenth day of December, one thousand nine
169 hundred eighty-seven, modified by the department of
170 natural resources to meet the objections of the legislative
171 rule-making review committee and refiled in the state
172 register on the fourteenth day of January, one thousand
173 nine hundred eighty-eight, relating to the department of
174 natural resources (solid waste management), are
175 authorized.

176 (w) The legislative rules filed in the state register on
177 the twenty-eighth day of July, one thousand nine
178 hundred eighty-seven, modified by the director of the
179 department of natural resources to meet the objections
180 of the legislative rule-making review committee and
181 refiled in the state register on the seventh day of
182 August, one thousand nine hundred eighty-seven,
183 relating to the director of the department of natural
184 resources (boating regulations), are authorized with the
185 amendment set forth below:

186 On page 16, section 6.2, line 3 by inserting following
187 the period "This regulation does not apply to licensed
188 outfitters and guides." These rules were proposed by the
189 director of the department of natural resources pursu-
190 ant to section seven, article one and section twenty-two,
191 article seven, chapter twenty of this code.

192 (x) The legislative rules filed in the state register on
193 the second day of September, one thousand nine
194 hundred eighty-eight, modified by the department of
195 natural resources to meet the objections of the legislative
196 rule-making review committee and refiled in the state
197 register on the seventeenth day of October, one thousand
198 nine hundred eighty-eight, relating to the department of
199 natural resources (hazardous waste management), are
200 authorized.

201 (y) The legislative rules filed in the state register on
202 the thirty-first day of August, one thousand nine
203 hundred eighty-eight, relating to the director of the
204 department of natural resources (boating), are
205 authorized.

206 (z) The legislative rules filed in the state register on
207 the eighth day of March, one thousand nine hundred
208 eighty-eight, modified by the director of the department
209 of natural resources to meet the objections of the
210 legislative rule-making review committee and refiled in
211 the state register on the thirtieth day of August, one
212 thousand nine hundred eighty-eight, relating to the
213 director of the department of natural resources (com-
214 mercial sale of wildlife), are authorized.

215 (aa) The legislative rules filed in the state register on

216 the twenty-seventh day of January, one thousand nine
217 hundred eighty-eight, relating to the director of the
218 department of natural resources (catching and selling
219 bait fish), are authorized.

220 (bb) The legislative rules filed in the state register on
221 the twenty-fifth day of March, one thousand nine
222 hundred eighty-eight, relating to the director of the
223 department of natural resources (West Virginia public
224 hunting and fishing areas), are authorized with the
225 following amendment:

226 On page three, section 3.8.4, by inserting after the
227 word "vehicle" the following: ", all terrain vehicle
228 (ATV)."

229 (cc) The legislative rules filed in the state register on
230 the seventeenth day of March, one thousand nine
231 hundred eighty-nine, modified by the division of natural
232 resources to meet the objections of the legislative rule-
233 making review committee and refiled in the state
234 register on the sixteenth day of January, one thousand
235 nine hundred ninety, relating to the division of natural
236 resources (solid waste management), are authorized
237 with the amendments set forth below:

238 On page 13, Section 3.2.6, by deleting the current
239 language and inserting in lieu thereof the following:

240 "3.2.6. Within two hundred (200) feet of faults that
241 have had displacement in Holocene time (i.e., during the
242 last eleven thousand years);"

243 On page 64, Section 3.14.25, by deleting the current
244 language and inserting in lieu thereof the following
245 language:

246 "3.14.25. Environmental Compliance History. The
247 chief or the director may refuse to grant any permit if
248 he has reasonable cause to believe, as indicated by
249 documented evidence, that the applicant, or any officer,
250 director or manager, thereof, or shareholder owning
251 twenty percent (20%) or more of its capital stock,
252 beneficial or otherwise, or other person conducting or
253 managing the affairs of the applicant or of the proposed
254 permitted premises, in whole or part, has exhibited a

255 pattern of violation of the environmental statutes or
256 regulations of this State, any other state, or the federal
257 government.”

258 On page 104, section 4.5.4.a, by inserting after the
259 words “at that landfill” the following:

260 “Nothing within these regulations shall be construed
261 to allow the installations of any liner or system on areas
262 not lined as of November 30, 1989, that is not in
263 conformance with section 4.5.4.a.E or 4.5.4.a.G of these
264 regulations. Landfills that do have an article 5f permit
265 and a liner installed as of November 30, 1989, may
266 install a liner as approved by the chief.”

267 And,

268 On pages 147 through 151, sections 4.11.5 and 4.11.6,
269 by deleting the current language and inserting in lieu
270 thereof the following:

271 “4.11.5. Corrective Action Program.

272 Whenever a statistically significant increase is found
273 in a Phase II or Phase III monitoring parameter, or
274 when groundwater contamination is otherwise identified
275 by the Chief at sites without monitoring programs,
276 which is determined by the Chief to have resulted in a
277 significant adverse effect on an aquifer, and which is
278 attributable to a solid waste facility, the Chief may
279 require appropriate corrective or remedial action
280 pursuant to W. Va. Code Chapter 20, article 5A, and
281 Chapter 20, article 5F to abate, remediate or correct
282 such pollution. Any such corrective or remedial action
283 order shall take into account any applicable ground-
284 water quality protection standards, the existing use of
285 such waters, the reasonable uses of such waters,
286 background water quality, and the protection of human
287 health and the environment.”

288 (dd) The legislative rules filed in the state register on
289 the seventeenth day of February, one thousand nine
290 hundred eighty-nine, relating to the director of the
291 department of natural resources (underground storage
292 tanks), are authorized.

293 (ee) The legislative rules filed in the state register on
294 the twenty-seventh day of January, one thousand nine
295 hundred eighty-nine, relating to the director of the
296 department of natural resources (transporting and
297 selling wildlife pelts), are authorized.

298 (ff) The legislative rules filed in the state register on
299 the seventeenth day of February, one thousand nine
300 hundred eighty-nine, modified by the director of the
301 department of natural resources to meet the objections
302 of the legislative rule-making review committee and
303 refiled in the state register on the ninth day of August,
304 one thousand nine hundred eighty-nine, relating to the
305 director of the department of natural resources (under-
306 ground storage tank fee assessments), are authorized.

307 (gg) The legislative rules filed in the state register on
308 the twenty-fourth day of April, one thousand nine
309 hundred eighty-nine, modified by the director of the
310 department of natural resources to meet the objections
311 of the legislative rule-making review committee and
312 refiled in the state register on the twenty-second day of
313 May, one thousand nine hundred eighty-nine, relating to
314 the director of the department of natural resources
315 (public hunting and fishing areas), are authorized.

316 (hh) The legislative rules filed in the state register on
317 the first day of December, one thousand nine hundred
318 eighty-nine, relating to the department of natural
319 resources (water pollution control permit fee schedules),
320 are authorized with the amendments set forth below:

321 On page five, section 3.3, by deleting the following:
322 "Submitted fees are not refundable."

323 On page two, after section 2.6, by inserting the
324 following:

325 "Customer" means any person that purchases waste
326 disposal services from a facility permitted under article
327 five-a, chapter twenty of the code of West Virginia, one
328 thousand nine hundred thirty-one, as amended. For the
329 purposes of these regulations, commercial and other
330 non-single family dwelling customers shall be translated
331 into customer equivalents by dividing the total daily

332 estimated volume of waste water by three hundred and
 333 fifty gallons per day." and renumbering the remaining
 334 subsections.

335 On page nine, section 7.2, by striking out the words
 336 "seven hundred fifty dollars (\$750)." and inserting in
 337 lieu thereof the following:

338 "determined using Table D, but in no case shall be less
 339 than two hundred fifty dollars (\$250)."

340 And,

341 On page thirteen, by striking out all of Table D,
 342 Schedule of Annual Permit Fees, and inserting in lieu
 343 thereof a new Table D, designated "Schedule of Annual
 344 Permit Fees", to read as follows:

345 "TABLE D	
346 SCHEDULE OF ANNUAL PERMIT FEES	
347 SEWAGE FACILITIES	
348 Number of Customers	Annual Permit Fee
349 less than 1000	\$ 250
350 1000 to 1499	\$ 500
351 1500 to 1999	\$ 750
352 2000 to 2499	\$1000
353 2500 to 2999	\$1250
354 3000 to 3499	\$1500
355 3500 to 3999	\$1750
356 4000 to 4499	\$2000
357 4500 to 4999	\$2250
358 greater than 5000	\$2500
359 INDUSTRIAL OR OTHER WASTE FACILITIES	
360 Average Discharge Volume	Annual Permit Fee
361 (gallons per day)	
362 less than 1,000	\$ 50
363 1,001 to 10,000	\$ 500
364 10,001 to 50,000	\$1000
365 greater than 50,000	\$2500"
366 (ii) The legislative rules filed in the state register on	
367 the twenty-fifth day of July, one thousand nine hundred	

368 eighty-nine, modified by the director of the department
369 of natural resources to meet the objections of the
370 legislative rule-making review committee and refiled in
371 the state register on the fifteenth day of September, one
372 thousand nine hundred eighty-nine, relating to the
373 director of the department of natural resources (revoca-
374 tion of hunting and fishing licenses), are authorized.

375 (jj) The legislative rules filed in the state register on
376 the twentieth day of December, one thousand nine
377 hundred eighty-nine, modified by the division of natural
378 resources to meet the objections of the legislative rule-
379 making review committee and refiled in the state
380 register on the twenty-fourth day of January, one
381 thousand nine hundred ninety, relating to the division
382 of natural resources (state water pollution control
383 revolving fund program), are authorized.

384 (kk) The legislative rules filed in the state register on
385 the twenty-ninth day of March, one thousand nine
386 hundred ninety, modified by the division of natural
387 resources to meet the objections of the legislative rule-
388 making review committee and refiled in the state
389 register on the thirtieth day of August, one thousand
390 nine hundred ninety, relating to the division of natural
391 resources (assessment of civil administrative penalties),
392 are authorized.

393 (ll) The legislative rules filed in the state register on
394 the sixth day of August, one thousand nine hundred
395 ninety, relating to the division of natural resources
396 (water pollution control permit fee schedules), are
397 authorized.

398 (mm) The legislative rules filed in the state register
399 on the fifteenth day of June, one thousand nine hundred
400 ninety, modified by the division of natural resources to
401 meet the objections of the legislative rule-making review
402 committee and refiled in the state register on the
403 twenty-second day of August, one thousand nine
404 hundred ninety, relating to the division of natural
405 resources (underground storage tank insurance trust
406 fund), are authorized with the amendment set forth
407 below:

408 On page four, after subsection 5.1, by inserting a new
409 subdivision 5.1.1 to read as follows:

410 "5.1.1 The fee shall be one hundred dollars per tank
411 per year (\$100/tank/year) for a period of not less than
412 one (1) year and not more than three (3) years. Second
413 and third year capitalization fees may be levied if there
414 is an inadequate surplus of funds, as determined by the
415 Board of Risk and Insurance Management, the Division
416 of Natural Resources and the Underground Storage
417 Tank Advisory Committee pursuant to W. Va. Code,
418 §20-5H-7."

419 (nn) The legislative rules filed in the state register on
420 the thirteenth day of August, one thousand nine hundred
421 ninety, modified by the division of natural resources to
422 meet the objections of the legislative rule-making review
423 committee and refiled in the state register on the second
424 day of October, one thousand nine hundred ninety,
425 relating to the division of natural resources (under-
426 ground storage tanks), are authorized with the amend-
427 ment set forth below:

428 On page four, section five, subsection 5.1, after the
429 word "requirements" by striking out the remainder of
430 the subsection and inserting in lieu thereof, the
431 following:

432 "of Title 47, Series 37 (Underground Storage Tank
433 Fee Assessments); Title 47, Series 36, Section 4 (Noti-
434 fication Requirements); and Title 47, Series 37A, Section
435 5 (Capitalization Fees) of the Code of State Regulations
436 and the owner or operator presents proof of the
437 certification to the carrier."

438 (oo) The legislative rules filed in the state register on
439 the thirteenth day of August, one thousand nine hundred
440 ninety, relating to the division of natural resources (dam
441 safety), are authorized.

442 (pp) The legislative rules filed in the state register on
443 the thirteenth day of August, one thousand nine hundred
444 ninety, modified by the division of natural resources to
445 meet the objections of the legislative rule-making review
446 committee and refiled in the state register on the

447 twenty-eighth day of November, one thousand nine
448 hundred ninety, relating to the division of natural
449 resources (hazardous waste management), are
450 authorized.

451 (qq) The legislative rules filed in the state register on
452 the first day of July, one thousand nine hundred ninety-
453 one, modified by the division of natural resources to
454 meet the objections of the legislative rule-making review
455 committee and refiled in the state register on the
456 nineteenth day of September, one thousand nine
457 hundred ninety-one, relating to the division of natural
458 resources (special motorboating regulations), are
459 authorized.

460 (rr) The legislative rules filed in the state register on
461 the first day of May, one thousand nine hundred ninety-
462 one, modified by the division of natural resources to
463 meet the objections of the legislative rule-making review
464 committee and refiled in the state register on the
465 twenty-second day of July, one thousand nine hundred
466 ninety-one, relating to the division of natural resources
467 (special fishing regulations), are authorized with the
468 amendment set forth below:

469 On page one, by striking out subsection 2.1 and
470 inserting in lieu thereof, a new subsection 2.1, to read
471 as follows:

472 "2.1 "Daylight hours" means the time period between
473 sixty minutes before sunrise and sixty minutes after
474 sunset."

475 (ss) The legislative rules filed in the state register on
476 the first day of July, one thousand nine hundred ninety-
477 one, modified by the division of natural resources to
478 meet the objections of the legislative rule-making review
479 committee and refiled in the state register on the
480 twenty-first day of November, one thousand nine
481 hundred ninety-one, relating to the division of natural
482 resources (boating regulations), are authorized.

483 (tt) The Legislature hereby authorizes and directs the
484 division of natural resources to promulgate the legisla-
485 tive rule relating to water pollution control permit fee

486 schedules, 47 CSR 26, effective the twenty-second day
487 of April, one thousand nine hundred ninety-one, with the
488 amendment set forth below:

489 On page eight, subdivision 7.4.1, at the end of the
490 subdivision by striking the period and adding the
491 following:

492 “: *Provided*, That if the chief determines that a facility
493 is in substantial compliance with its existing permit, the
494 fee is one thousand two hundred fifty dollars
495 (\$1,250.00).”

496 (uu) The Legislature hereby authorizes and directs
497 the division of natural resources to amend its rules
498 relating to water pollution control permit fee schedules
499 which were filed in the code of state regulations (47 CSR
500 26) on the thirteenth day of April, one thousand nine
501 hundred ninety-two, with the following amendments set
502 forth below:

503 On page nine, after section 7.5, by inserting the
504 following:

505 “7.6. Facilities Discharging Stormwater. The annual
506 permit fee for a facility that discharges stormwater only
507 shall be determined through the use of Table F of these
508 regulations.

509 7.7. Aquaculture facilities. The annual permit fees
510 for aquaculture facilities that are subject to the
511 provisions of the water pollution control regulations
512 shall be determined by Table G of these regulations.”

513 And after Table E, on page ten, by inserting Table
514 F, designated “Schedule of Annual Permit Fees For
515 Facilities Discharging Stormwater,” and inserting
516 Table G, designated “Schedule of Annual Permit Fees
517 For Aquaculture Facilities” to read as follows:

518

“TABLE F

519 SCHEDULE OF ANNUAL PERMIT FEES FOR
520 FACILITIES DISCHARGING STORMWATER

521 Average Discharge Volume

522 (gallons per day)

Annual Permit Fee

523	less than 5,001	\$ 50
524	5,001 to 15,000	\$125
525	15,001 to 50,000	\$250
526	50,001 to 100,000	\$500
527	greater than 100,000	\$750"

528 and

529

"TABLE G

530 SCHEDULE OF ANNUAL PERMIT FEES FOR
531 AQUACULTURE FACILITIES

532	#Feed/Month	Annual Fee	Application Fee
533			(Initial and
534			Reissuance)
535	5,000 to 9,999	\$ 250	\$ 250
536	10,000 to 14,999	\$ 500	\$ 250
537	15,000 to 19,999	\$ 750	\$ 250
538	20,000 to 24,999	\$1,000	\$ 250
539	25,000 to 29,999	\$1,250	\$ 250
540	greater than 30,000	\$1,750	\$ 250"

541 (vv) The legislative rules filed in the state register on
542 the seventeenth day of September, one thousand nine
543 hundred ninety-two, modified by the division of natural
544 resources to meet the objections of the legislative rule-
545 making review committee and refiled in the state
546 register on the sixteenth day of December, one thousand
547 nine hundred ninety-two, relating to the division of
548 natural resources (commercial sale of wildlife), are
549 authorized.

550 (ww) The legislative rules filed in the state register
551 on the ninth day of September, one thousand nine
552 hundred ninety-two, modified by the division of natural
553 resources to meet the objections of the legislative rule-
554 making review committee and refiled in the state
555 register on the seventh day of December, one thousand
556 nine hundred ninety-two, relating to the division of
557 natural resources (deer hunting), are authorized.

558 (xx) The legislative rules filed in the state register on
559 the ninth day of September, one thousand nine hundred
560 ninety-two, modified by the division of natural resources

561 to meet the objections of the legislative rule-making
562 review committee and refiled in the state register on
563 seventh day of December, one thousand nine hundred
564 ninety-two, relating to the division of natural resources
565 (defining the terms to be used concerning all hunting
566 and trapping regulations), are authorized.

567 (yy) The legislative rules filed in the state register on
568 the ninth day of September, one thousand nine hundred
569 ninety-two, modified by the division of natural resources
570 to meet the objections of the legislative rule-making
571 review committee and refiled in the state register on the
572 seventh day of December, one thousand nine hundred
573 ninety-two, relating to the division of natural resources
574 (dog training), are authorized.

575 (zz) The legislative rules filed in the state register on
576 the ninth day of September, one thousand nine hundred
577 ninety-two, modified by the division of natural resources
578 to meet the objections of the legislative rule-making
579 review committee and refiled in the state register on the
580 seventh day of December, one thousand nine hundred
581 ninety-two, relating to the division of natural resources
582 (general hunting regulations), are authorized.

583 (aaa) The legislative rules filed in the state register
584 on the ninth day of September, one thousand nine
585 hundred ninety-two, modified by the division of natural
586 resources to meet the objections of the legislative rule-
587 making review committee and refiled in the state
588 register on the seventh day of December, one thousand
589 nine hundred ninety-two, relating to the division of
590 natural resources (general trapping regulations), are
591 authorized.

592 (bbb) The legislative rules filed in the state register
593 on the ninth day of September, one thousand nine
594 hundred ninety-two, modified by the division of natural
595 resources to meet the objections of the legislative rule-
596 making review committee and refiled in the state
597 register on the seventh day of December, one thousand
598 nine hundred ninety-two, relating to the division of
599 natural resources (special migratory bird hunting
600 regulations), are authorized.

601 (ccc) The legislative rules filed in the state register on
602 the ninth day of September, one thousand nine hundred
603 ninety-two, modified by the division of natural resources
604 to meet the objections of the legislative rule-making
605 review committee and refiled in the state register on the
606 seventh day of December, one thousand nine hundred
607 ninety-two, relating to the division of natural resources
608 (prohibitions when hunting and trapping), are autho-
609 rized with the amendments set forth below:

610 "On page two, subsection 3.9., by striking out the
611 words 'No person may use portable tree stands on public
612 lands' and inserting in lieu thereof the words 'No person
613 may use tree stands, except for portable tree stands, on
614 public lands.'"

615 (ddd) The legislative rules filed in the state register
616 on the twenty-first day of April, one thousand nine
617 hundred ninety-two, modified by the division of natural
618 resources to meet the objections of the legislative rule-
619 making review committee and refiled in the state
620 register on the sixteenth day of December, one thousand
621 nine hundred ninety-two, relating to the division of
622 natural resources (revocation of hunting and fishing
623 licenses), are authorized with the amendments set forth
624 below:

625 "On page two, subsection 4.1., by striking out the word
626 'court' and inserting in lieu thereof the word
627 'commission';

628 And,

629 "On page two, subdivision 4.1.1, by striking out the
630 word 'court' and inserting in lieu thereof the word
631 'commission'."

632 (eee) The legislative rules filed in the state register on
633 the ninth day of September, one thousand nine hundred
634 ninety-two, modified by the division of natural resources
635 to meet the objections of the legislative rule-making
636 review committee and refiled in the state register on the
637 seventh day of December, one thousand nine hundred
638 ninety-two, relating to the division of natural resources
639 (special bear hunting regulations), are authorized.

640 (fff) The legislative rules filed in the state register on
641 the seventeenth day of September, one thousand nine
642 hundred ninety-two, modified by the division of natural
643 resources to meet the objections of the legislative rule-
644 making review committee and refiled in the state
645 register on the sixteenth day of December, one thousand
646 nine hundred ninety-two, relating to the division of
647 natural resources (special requirements concerning
648 boating), are authorized with the following amendment
649 set forth below:

650 On page one, after subdivision 3.1, by inserting a new
651 subdivision, designated 3.2, to read as follows:

652 3.2. The Pipestem Creek Cove portion of Bluestone
653 Lake in Bluestone State Park is designated for marina
654 use only and is restricted from fishing and other
655 recreational use not directly related to use as a marina.

656 (ggg) The legislative rules filed in the state register
657 on the ninth day of September, one thousand nine
658 hundred ninety-two, modified by the division of natural
659 resources to meet the objections of the legislative rule-
660 making review committee and refiled in the state
661 register on the seventh day of December, one thousand
662 nine hundred ninety-two, relating to the division of
663 natural resources (special waterfowl hunting regula-
664 tions), are authorized.

665 (hhh) The legislative rules filed in the state register
666 on the ninth day of September, one thousand nine
667 hundred ninety-two, modified by the division of natural
668 resources to meet the objections of the legislative rule-
669 making review committee and refiled in the state
670 register on the seventh day of December, one thousand
671 nine hundred ninety-two, relating to the division of
672 natural resources (wild boar hunting), are authorized.

673 (iii) The legislative rules filed in the state register on
674 the ninth day of September, one thousand nine hundred
675 ninety-two, modified by the division of natural resources
676 to meet the objections of the legislative rule-making
677 review committee and refiled in the state register on the
678 seventh day of December, one thousand nine hundred
679 ninety-two, relating to the division of natural resources

680 (wild turkey hunting), are authorized.

681 (jjj) The legislative rules filed in the state register on
682 the tenth day of September, one thousand nine hundred
683 ninety-two, modified by the division of natural resources
684 to meet the objections of the legislative rule-making
685 review committee and refiled in the state register on the
686 eighth day of December, one thousand nine hundred
687 ninety-two, relating to the division of natural resources
688 (West Virginia wildlife management areas), are
689 authorized.

690 (kkk) The legislative rules filed in the state register
691 on the seventeenth day of September, one thousand nine
692 hundred ninety-two, modified by the division of natural
693 resources to meet the objections of the legislative rule-
694 making review committee and refiled in the state
695 register on the twenty-fifth day of January, one
696 thousand nine hundred ninety-three, relating to the
697 division of natural resources (recycling assistance fund
698 grant program), are authorized.

§64-3-10. Water resources board.

1 (a) The legislative rules filed in the state register on
2 the sixth day of January, one thousand nine hundred
3 eighty-three, relating to the state water resources board
4 (underground injection control program), are
5 authorized.

6 (b) The legislative rules filed in the state register on
7 the fifteenth day of November, one thousand nine
8 hundred eighty-three, relating to the state water
9 resources board (special regulations), are authorized.

10 (c) The legislative rules filed in the state register on
11 the third day of August, one thousand nine hundred
12 eighty-three, relating to the state water resources board
13 (groundwater protection standards), are authorized.

14 (d) The legislative rules filed in the state register on
15 the fifteenth day of November, one thousand nine
16 hundred eighty-three, relating to the state water
17 resources board (state national pollutant discharge
18 elimination system (NPDES) program), are authorized.

19 (e) The Legislature hereby authorizes and directs the
20 state water resources board to promulgate rules relating
21 to water quality standards in exact conformity with the
22 rules relating to water quality standards tendered to the
23 secretary of state on the seventh day of March, one
24 thousand nine hundred eighty-four, by the executive
25 secretary of the state water resources board, to be
26 received and filed for inclusion in the state register by
27 the secretary of state.

28 (f) The legislative rules filed in the state register on
29 the seventeenth day of October, one thousand nine
30 hundred eighty-five, and modified by the state water
31 resources board to meet the objections of the legislative
32 rule-making review committee and refiled in the state
33 register on the twenty-fourth day of February, one
34 thousand nine hundred eighty-seven, relating to the
35 state water resources board (special regulations), are
36 authorized.

37 (g) The legislative rules filed in the state register on
38 the seventh day of January, one thousand nine hundred
39 eighty-five, modified by the water resources board to
40 meet the objections of the legislative rule-making review
41 committee and refiled in the state register on the
42 thirteenth day of February, one thousand nine hundred
43 eighty-five, relating to the water resources board (water
44 quality standards), are authorized.

45 (h) The legislative rules filed in the state register on
46 the seventeenth day of October, one thousand nine
47 hundred eighty-five, modified by the state water
48 resources board to meet the objections of the legislative
49 rule-making review committee and refiled in the state
50 register on the eighth day of January, one thousand nine
51 hundred eighty-seven, and further modified by the state
52 water resources board to meet the objections of the
53 legislative rule-making review committee and refiled in
54 the state register on the twenty-fourth day of February,
55 one thousand nine hundred eighty-seven, relating to the
56 state water resources board (water quality standards),
57 are authorized.

58 (i) The legislative rules filed in the state register on

59 the seventeenth day of October, one thousand nine
60 hundred eighty-five, modified by the state water
61 resources board to meet the objections of the legislative
62 rule-making review committee and refiled in the state
63 register on the eighth day of January, one thousand nine
64 hundred eighty-seven, and further modified by the state
65 water resources board to meet the objections of the
66 legislative rule-making review committee and refiled in
67 the state register on the twenty-fourth day of February,
68 one thousand nine hundred eighty-seven, relating to the
69 state water resources board (state national pollutant
70 discharge elimination system (NPDES) program), are
71 authorized.

72 (j) The legislative rules filed in the state register on
73 the seventeenth day of October, one thousand nine
74 hundred eighty-five, and modified by the state water
75 resources board to meet the objections of the legislative
76 rule-making review committee and refiled in the state
77 register on the twenty-fourth day of February, one
78 thousand nine hundred eighty-seven, relating to the
79 state water resources board (underground injection
80 control program), are authorized.

81 (k) The legislative rules filed in the state register on
82 the seventeenth day of October, one thousand nine
83 hundred eighty-five, and modified by the state water
84 resources board to meet the objections of the legislative
85 rule-making review committee and refiled in the state
86 register on the twenty-fourth day of February, one
87 thousand nine hundred eighty-seven, relating to the
88 state water resources board (special regulations), are
89 authorized.

90 (l) The legislative rules filed in the state register on
91 the thirtieth day of June, one thousand nine hundred
92 eighty-seven, relating to the water resources board
93 (water quality standards), are authorized.

94 (m) The legislative rules filed in the state register on
95 the fourteenth day of October, one thousand nine
96 hundred eighty-eight, relating to the water resources
97 board (water quality standards), are authorized.

98 (n) The legislative rules filed in the state register on

99 the twenty-seventh day of August, one thousand nine
100 hundred ninety, relating to the water resources board
101 (requirements governing water quality standards), are
102 authorized.

103 (o) The legislative rules filed in the state register on
104 the eighteenth day of September, one thousand nine
105 hundred ninety- two, relating to the water resources
106 board (underground injection control), are authorized
107 with the amendments set forth below:

108 "On page two, subsection §46-9-2.3. by deleting the
109 entire subsection and by renumbering the following
110 subsections.

111 "On page three, subsection §46-9-2.7. after the word
112 "means" by striking out the remainder of the sentence
113 and inserting in lieu thereof the words 'the personnel of
114 the Office of Water Resources and the personnel of the
115 Office of Oil and Gas and the Commissioner."

116 "On page three, subsection §46-9-2.11. after the word
117 "means" by striking out the remainder of the sentence
118 and inserting in lieu thereof the words "Chief of the
119 Office of Water Resources of the Division of Environ-
120 mental Protection."

121 "On page seven, subsection §46-9-2.59.b. by striking
122 out the sentence and inserting in lieu thereof the words
123 "which is not an exempted aquifer."

124 "On page eight, subsection §46-9-3.1.b.1. after the
125 words "permit application for a" by striking out the
126 words "Class II or III" and inserting in lieu thereof the
127 words "Class 2 or 3"

128 "On page nine, subsection §46-9-4.1. by striking out
129 the words "Class I" and inserting in lieu thereof the
130 words "Class 1".

131 "On page nine, subsection §46-9-4.2. by striking out
132 the words "Class II" and inserting in lieu thereof the
133 words "Class 2".

134 "On page nine, subsection §46-9-4.3. by striking out
135 the words "Class III" and inserting in lieu thereof the
136 words "Class 3."

137 "On page ten, subsection §46-9-4.4. by striking out the
138 words "Class IV" and inserting in lieu thereof the words
139 "Class 4."

140 "On page ten, subsection §46-9-4.5. by striking out the
141 definition and inserting in lieu thereof the words "Class
142 5. Injection wells not included in Classes 1, 2, 3, or 4.
143 Class 5 wells include, but are not limited to"

144 "On page eleven, subsection §46-9-4.5.r. after the word
145 "associated" by striking out the word "wit" and inserting
146 in lieu thereof the word "with".

147 "On page twelve, subsection §46-9-5.3.b. after the
148 words "possible objective method:" by striking out the
149 remainder of the subsection and inserting in lieu thereof
150 the following:

151 "Where "r" is equal to the square root of a quantity
152 which consists of a numerator divided by the denomi-
153 nator where the numerator is equal to 2.25 multiplied
154 by "K" multiplied by "H" multiplied by "t"; and, the
155 denominator is equal to "S" multiplied by 10 to the "x"
156 power. And, where "x" is equal to a numerator divided
157 by a denominator, where the numerator is equal to four
158 multiplied by "pi" multiplied by "K" multiplied by "H"
159 multiplied by the quantity equal to the product of
160 ("h(subscript w)" minus "h(subscript bo)") multiplied by
161 "S(subscript p)G(subscript b)"; and, the denominator is
162 equal to 2.3 multiplied by "Q":

163 Where "r" is equal to the radius of endangering
164 influence from injection well (length);

165 "k" is equal to hydraulic conductivity of the injection
166 zone (length/time)"

167 "H" is equal to thickness of the injection zone (length);

168 "t" is equal to time of injection (time);

169 "S" is equal to storage coefficient (dimensionless);

170 "Q" is equal to injection rate (volume/time);

171 "h(subscript bo)" is equal to observed original hydro-
172 static head of injection zone (length) measured from the
173 base of the lowermost underground source of drinking

- 174 water;
- 175 "h(subscript w)" is equal to hydrostatic head of
176 underground source of drinking water (length) mea-
177 sured from the base of the lowest underground source
178 of drinking water;
- 179 "S(subscript p)G(subscript b)" is equal to specific
180 gravity of fluid in the injection zone (dimensionless);
181 and,
- 182 "pi" is equal to 3.142 (dimensionless)."
- 183 "On page fifteen, subsection §46-9-6.2.c.1. by striking
184 out the words "Class II" and inserting in lieu thereof the
185 words "Class 2";
- 186 "On page fifteen, subsection §46-9-6.2.c.2. by striking
187 out the words "Class III" and inserting in lieu thereof
188 the words "Class 3";
- 189 "On page fifteen, subsection §46-9-7.1. after the words
190 "using any" by striking out the words "Class I" and
191 inserting in lieu thereof the words "Class 1";
- 192 "On page sixteen, subsection §46-9-7.3.b. after the
193 words "comply with the" by striking out the word
194 "requirements" and inserting in lieu thereof the word
195 "requirements";
- 196 "On page eighteen, subsection §46-9-8.2.c. after the
197 word "All" by striking out the words "Class I" and
198 inserting in lieu thereof the words "Class 1."
- 199 "On page nineteen, subsection §46-9-8.2.e. after the
200 words "construction of new" by striking out the words
201 "Class I" and inserting in lieu thereof the words "Class
202 1"
- 203 "On page twenty-five, subsection §46-9-10.2. after the
204 words "construction of" by striking out the words "Class
205 III" and inserting in lieu thereof the words "Class 3.";
- 206 "On page twenty-six, subsection §46-9-10.2.a. after the
207 words "All new" by striking out the words "Class III"
208 and inserting in lieu thereof the words "Class 3.";
- 209 "On page twenty-six, subsection §46-9-10.2.b. after the

210 words “parts of” by striking out the words “Class III”
211 and inserting in lieu thereof the words “Class 3”;

212 “On page twenty-six, subsection §46-9-10.2.c. after the
213 words “construction of the new” by striking out the
214 words “Class III” and inserting in lieu thereof the words
215 “Class 3”;

216 “On page twenty-six, subsection §46-9-10.2.c. after the
217 words “each type of” by striking out the words “Class
218 III” and inserting in lieu thereof the words “Class 3”;

219 “On page thirty, subsection §46-9-10.4.c.2. after the
220 words “Chief reported” by striking out the word “wit”
221 and inserting in lieu thereof the word “with”;

222 “On page forty, subsection §46-9-13.2.d.3. after the
223 words “than one” by striking out the word “(10” and
224 inserting in lieu thereof the word “(1)”

225 “On page forty, subsection §46-9-13.3.b. after the
226 words “application to” by striking out the word “he” and
227 inserting in lieu thereof the word “the”;

228 “On page forty-six, subsection §46-9-13.9.a. after the
229 words “drinking water” by striking out the words
230 “(‘corrective action’” by inserting in lieu thereof the
231 words “(‘corrective action’)”

232 “On page fifty-eight, subsection §46-9-13.18.a.3.ii.
233 after the words “stayed State” by striking out the word
234 “promulgation” and inserting in lieu thereof the word
235 “promulgated”

236 And,

237 “On page sixty, subsection §46-9-13.22.b.1. after the
238 word “gradient” by inserting a comma.”

239 (p) The legislative rules filed in the state register on
240 the eighteenth day of September, one thousand nine
241 hundred ninety-two, relating to the water resources
242 board (national pollutant discharge elimination system
243 (NPDES)), are authorized with the amendments set
244 forth below:

245 “On page seventy-two, subsection §46-2-14.1 after the
246 word “dischargers” by striking the remainder of the

247 sentence and inserting in lieu thereof the words "and
248 POTWs shall comply with the requirements of the Clean
249 Water Act and the regulations at 40 CFR 403 promul-
250 gated thereunder."

251 "On page seventy-two, subsection §46-2-14.1.a.5. after
252 the words "accommodate such heat." by inserting a new
253 subsection §46-2-14.1.a.6. to read as follows:

254 "6. Petroleum oil, non-biodegradable cutting oil, or
255 products of mineral oil origin in amounts that will cause
256 Interference or Pass Through."

257 (q) The legislative rules filed in the state register on
258 the eighteenth day of September, one thousand nine
259 hundred ninety- two, modified by the water resources
260 board to meet the objections of the legislative rule-
261 making review committee and refiled in the state
262 register on the sixteenth day of February, one thousand
263 nine hundred ninety-three, relating to the water
264 resources board (requirements governing groundwater
265 standards), are authorized.

266 (r) The legislative rules filed in the state register on
267 the twenty-first day of August, one thousand nine
268 hundred ninety-one, modified by the water resources
269 board to meet the objections of the legislative rule-
270 making review committee and refiled in the state
271 register on the sixteenth day of February, one thousand
272 nine hundred ninety-three, relating to the water
273 resources board (requirements governing water quality
274 standards), are authorized with the amendment set forth
275 below:

276 On page nineteen, by striking out all of subdivision
277 8.2.c. and inserting in lieu thereof a new subdivision
278 8.2.c, to read as follows:

279 "A final determination on the critical design flow for
280 carcinogens is not made in this rule, in order to permit
281 further review and study of that issue. Following the
282 conclusion of such review and study, the Legislature
283 may again take up the authorization of this rule for
284 purposes of addressing the critical design flow for
285 carcinogens: *Provided*, That until such time as the

286 review and study of the issue is concluded or until such
 287 time as the Legislature may again take up the author-
 288 ization of this rule, the regulatory requirements for
 289 determining effluent limits for carcinogens shall remain
 290 as they were on the date this rule was proposed.”

§64-3-11. Economic development authority.

1 (a) The legislative rules filed in the state register on
 2 the twenty-sixth day of May, one thousand nine hundred
 3 eighty-nine, modified by the West Virginia economic
 4 development authority to meet the objections of the
 5 legislative rule-making review committee and refiled in
 6 the state register on the twenty-fifth day of January, one
 7 thousand nine hundred ninety, relating to the West
 8 Virginia economic development authority (general
 9 administration of the West Virginia capital company act
 10 and the establishment of the application procedures to
 11 implement the act), are authorized.

12 (b) The legislative rules filed in the state register on
 13 the twentieth day of September, one thousand nine
 14 hundred ninety-one, modified by the West Virginia
 15 economic development authority to meet the objections
 16 of the legislative rule-making review committee and
 17 refiled in the state register on the twelfth day of August,
 18 one thousand nine hundred ninety-two, relating to the
 19 West Virginia economic development authority (general
 20 administration of the West Virginia capital company
 21 act: establishment of the application procedures to
 22 implement the act), are authorized.

§64-3-12. Solid waste management board.

1 (a) The legislative rules filed in the state register on
 2 the twenty-third day of October, one thousand nine
 3 hundred ninety, modified by the solid waste manage-
 4 ment board to meet the objections of the legislative rule-
 5 making review committee and refiled in the state
 6 register on the eighteenth day of January, one thousand
 7 nine hundred ninety-one, relating to the solid waste
 8 management board (development of comprehensive
 9 litter and solid waste control plans), are authorized.

10 (b) The legislative rules filed in the state register on

11 the twenty-third day of October, one thousand nine
12 hundred ninety, modified by the solid waste manage-
13 ment board to meet the objections of the legislative rule-
14 making review committee and refiled in the state
15 register on the eighteenth day of January, one thousand
16 nine hundred ninety-one, relating to the solid waste
17 management board (disbursement of loans and grants
18 to governmental agencies for the acquisition or construc-
19 tion of solid waste disposal projects), are authorized.

20 (c) The legislative rules filed in the state register on
21 the twenty-third day of October, one thousand nine
22 hundred ninety, modified by the solid waste manage-
23 ment board to meet the objections of the legislative rule-
24 making review committee and refiled in the state
25 register on the eighteenth day of January, one thousand
26 nine hundred ninety-one, relating to the solid waste
27 management board (establishment of fee schedule and
28 cost allocation applicable to the issuance of bonds by the
29 board), are authorized.

30 (d) The legislative rules filed in the state register on
31 the twenty-third day of October, one thousand nine
32 hundred ninety, modified by the solid waste manage-
33 ment board to meet the objections of the legislative rule-
34 making review committee and refiled in the state
35 register on the eighteenth day of January, one thousand
36 nine hundred ninety-one, relating to the solid waste
37 management board (development of commercial solid
38 waste facility siting plans), are authorized.

39 (e) The legislative rules filed in the state register on
40 the eighteenth day of September, one thousand nine
41 hundred ninety-two, modified by the solid waste
42 management board to meet the objections of the
43 legislative rule-making review committee and refiled in
44 the state register on the seventeenth day of February,
45 one thousand nine hundred ninety-three, relating to the
46 solid waste management board (rules and regulations
47 for the disbursement of grants to solid waste authori-
48 ties), are authorized.

**§64-3-13. Board of manufactured housing construction
and safety.**

1 (a) The legislative rules filed in the state register on
2 the twenty-third day of May, one thousand nine hundred
3 ninety, modified by the board of manufactured housing
4 construction and safety to meet the objections of the
5 legislative rule-making review committee and refiled in
6 the state register on the twenty-fourth day of Sep-
7 tember, one thousand nine hundred ninety, relating to
8 the board of manufactured housing construction and
9 safety (licensing, fees, standards, complaint handling,
10 sanctions, recovery fund, designation of board as state
11 administrative agency under the national manufactured
12 housing construction and safety standards act of 1974),
13 are authorized.

14 (b) The legislative rules filed in the state register on
15 the sixteenth day of September, one thousand nine
16 hundred ninety-two, modified by the board of manufac-
17 tured housing construction and safety to meet the
18 objections of the legislative rule-making review commit-
19 tee and refiled in the state register on the seventeenth
20 day of December, one thousand nine hundred ninety-
21 two, relating to the board of manufactured housing
22 construction and safety (West Virginia manufactured
23 housing construction and safety standards act), are
24 authorized.

§64-3-14. Division of tourism and parks.

1 (a) The legislative rules filed in the state register on
2 the twenty-sixth day of April, one thousand nine
3 hundred ninety-one, modified by the division of tourism
4 and parks to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the twenty-seventh day of September, one
7 thousand nine hundred ninety-one, relating to the
8 division of tourism and parks (public use of West
9 Virginia state parks, state forests and state hunting and
10 fishing areas under the division of tourism and parks),
11 are authorized with the amendment set forth below:

12 On page five, subsection 2.21 by striking out the words
13 "and Tomlinson Run".

14 (b) The legislative rules filed in the state register on
15 the eighteenth day of September, one thousand nine

16 hundred ninety-two, modified by the division of tourism
17 and parks to meet the objections of the legislative rule-
18 making review committee and refiled in the state
19 register on the eleventh day of December, one thousand
20 nine hundred ninety-two, relating to the division of
21 tourism and parks (public use of West Virginia state
22 parks, state forests and state hunting and fishing areas
23 under the division of tourism and parks), are authorized
24 with the amendment set forth below:

25 "On page five, section 2.21, after the words 'posted
26 signs' by striking out the period and inserting a colon
27 and the words '*Provided*, That any person, group or
28 association sponsoring a private party at the restaurant
29 at Chief Logan State Park may provide beer, wine,
30 liquor and all other alcoholic beverages for guests at the
31 private party as long as the party is not open to the
32 general public.'"

§64-3-15. Public energy authority.

1 (a) The legislative rules filed in the state register on
2 the twentieth day of December, one thousand nine
3 hundred ninety, modified by the public energy authority
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 twenty-sixth day of July, one thousand nine hundred
7 ninety-one, relating to the public energy authority
8 (establishment of rules and procedure for the exercise
9 of the powers of eminent domain for qualified projects),
10 are authorized.

11 (b) The legislative rules filed in the state register on
12 the twentieth day of December, one thousand nine
13 hundred ninety, modified by the public energy authority
14 to meet the objections of the legislative rule-making
15 review committee and refiled in the state register on the
16 twenty-sixth day of July, one thousand nine hundred
17 ninety-one, relating to the public energy authority
18 (establishment of a fee schedule and cost allocations to
19 the issuance of bonds by the West Virginia public
20 energy authority), are authorized.

21 (c) The legislative rules filed in the state register on
22 the eighteenth day of September, one thousand nine

23 hundred ninety- two, modified by the public energy
24 authority to meet the objections of the legislative rule-
25 making review committee and refiled in the state
26 register on the seventeenth day of February, one
27 thousand nine hundred ninety-three, relating to the
28 public energy authority (rules and procedures for
29 application for and environmental assessment of pro-
30 jects seeking qualification for public energy authority's
31 assistance), are authorized.

§64-3-16. Division of forestry.

1 (a) The legislative rules filed in the state register on
2 the eighteenth day of September, one thousand nine
3 hundred ninety-two, modified by the division of forestry
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 twentieth day of January, one thousand nine hundred
7 ninety-three, relating to the division of forestry (sediment
8 control during commercial timber-harvesting
9 operations - logger certification), are authorized.

10 (b) The legislative rules filed in the state register on
11 the eighteenth day of September, one thousand nine
12 hundred ninety-two, modified by the division of forestry
13 to meet the objections of the legislative rule-making
14 review committee and refiled in the state register on the
15 sixteenth day of December, one thousand nine hundred
16 ninety-two, relating to the division of forestry (sediment
17 control during commercial timber-harvesting operations
18 - licensing), are authorized with the amendment set
19 forth below:

20 On page five, by striking out all of subsection 6.7.

§64-3-17. Division of environmental protection.

1 (a) The legislative rules filed in the state register on
2 the eleventh day of October, one thousand nine hundred
3 ninety-one, modified by the division of environmental
4 protection to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the ninth day of November, one thousand
7 nine hundred ninety-two, relating to the division of
8 environmental protection (operator's designation of bona

9 fide future use of oil and gas wells - qualification for
10 inactive status), are authorized.

11 (b) The legislative rules filed in the state register on
12 the third day of September, one thousand nine hundred
13 ninety-two, modified by the division of environmental
14 protection to meet the objections of the legislative rule-
15 making review committee and refiled in the state
16 register on the nineteenth day of February, one thou-
17 sand nine hundred ninety-three, relating to the division
18 of environmental protection (oil and gas wells and other
19 wells), are authorized.

20 (c) The legislative rules filed in the state register on
21 the third day of September, one thousand nine hundred
22 ninety-two, modified by the division of environmental
23 protection to meet the objections of the legislative rule-
24 making review committee and refiled in the state
25 register on the nineteenth day of February, one thou-
26 sand nine hundred ninety-three, relating to the division
27 of environmental protection (abandoned wells), are
28 authorized.

29 (d) The legislative rules filed in the state register on
30 the eighteenth day of September, one thousand nine
31 hundred ninety-two, modified by the division of enviro-
32 nmental protection to meet the objections of the
33 legislative rule-making review committee and refiled in
34 the state register on the nineteenth day of February, one
35 thousand nine hundred ninety-three, relating to the
36 division of environmental protection (underground
37 storage tank assessment fees), are authorized.

38 (e) The legislative rules filed in the state register on
39 the eighteenth day of September, one thousand nine
40 hundred ninety-two, relating to the division of environ-
41 mental protection (underground storage tanks), are
42 authorized.

43 (f) The legislative rules filed in the state register on
44 the eighteenth day of September, one thousand nine
45 hundred ninety-two, modified by the division of enviro-
46 nmental protection to meet the objections of the
47 legislative rule-making review committee and refiled in
48 the state register on the nineteenth day of February, one

49 thousand nine hundred ninety-three, relating to the
50 division of environmental protection (hazardous waste
51 management), are authorized.

52 (g) The legislative rules filed in the state register on
53 the third day of March, one thousand nine hundred
54 ninety-two, modified by the division of environmental
55 protection to meet the objections of the legislative rule-
56 making review committee and refiled in the state
57 register on the eighteenth day of February, one thou-
58 sand nine hundred ninety-three, relating to the division
59 of environmental protection (groundwater protection act
60 fee schedule), are authorized.

**§64-3-18. Director of the office of miners' health, safety
and training.**

1 The legislative rules filed in the state register on the
2 thirteenth day of November, one thousand nine hundred
3 ninety-two, modified by the director of the office of
4 miners' health, safety and training to meet the objec-
5 tions of the legislative rule-making review committee
6 and refiled in the state register on the eighteenth day
7 of February, one thousand nine hundred ninety-three,
8 relating to the director of the office of miners' health,
9 safety and training (rules and regulations governing the
10 standards for certification of blasters for surface coal
11 mines and surface areas of underground coal mines), are
12 authorized.

**ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH
AND HUMAN RESOURCES TO PROMULGATE
LEGISLATIVE RULES.**

§64-5-1. Department of health and human resources.

1 (a) The legislative rules filed in the state register on
2 the twenty-second day of January, one thousand nine
3 hundred ninety, modified by the secretary of the
4 department of health and human resources to meet the
5 objections of the legislative rule-making review commit-
6 tee and refiled in the state register on the twenty-fifth
7 day of January, one thousand nine hundred ninety,
8 relating to the secretary of the department of health and
9 human resources (implementation of omnibus health
10 care act), are authorized.

11 (b) The legislative rules filed in the state register on
12 the twenty-second day of January, one thousand nine
13 hundred ninety, modified by the secretary of the
14 department of health and human resources to meet the
15 objections of the legislative rule-making review commit-
16 tee and refiled in the state register on the twenty-fifth
17 day of January, one thousand nine hundred ninety,
18 relating to the secretary of the department of health and
19 human resources (implementation of omnibus health
20 care act payment provisions), are authorized.

21 (c) The legislative rules filed in the state register on
22 the twentieth day of March, one thousand nine hundred
23 ninety-two, modified by the department of health and
24 human resources to meet the objections of the legislative
25 rule-making review committee and refiled in the state
26 register on the seventeenth day of November, one
27 thousand nine hundred ninety-two, relating to the
28 department of health and human resources (infectious
29 medical waste), are authorized with the amendments set
30 forth below:

31 "On page seventeen, subsection 8.2, by after the words
32 '(45) days.' by inserting the following language: 'Facil-
33 ities that treat infectious medical waste on-site shall not
34 store the infectious medical waste more than thirty (30)
35 days.';

36 On page twenty-one, subdivision 10.1.2., by after the
37 words 'disposed of' striking out the words 'as solid waste'
38 and inserting in lieu thereof the words 'in the same
39 manner as ash from solid waste incineration and as
40 provided in subdivision 10.2.5. of this rule.';

41 On page twenty-six, subsection 11.7., by after the
42 words 'permit to' inserting the words 'own, operate and';

43 On page twenty-six, subsection 11.7., by striking out
44 the word 'publish' and inserting in lieu thereof the
45 words 'announce the public hearing required by subsec-
46 tion 11.9. of this rule by publishing';

47 On page twenty-six, by further amending subsection
48 11.7. by adding thereto a new subdivision, designated
49 subdivision 11.7.1.4. to read as follows: "The announce-

50 ment of the date, time and place where the hearing is
51 to be conducted, shall be made at least fourteen (14) but
52 not more than forty-five (45) days prior to the hearing;

53 And,

54 On page twenty-six, subsection 11.9, by after the
55 words 'proposing to' inserting the words 'own, construct
56 and'.

57 (d) The legislative rules filed in the state register on
58 the third day of September, one thousand nine hundred
59 ninety-two, modified by the department of health and
60 human resources to meet the objections of the legislative
61 rule-making review committee and refiled in the state
62 register on the twenty-seventh day of January one
63 thousand nine hundred ninety-three, relating to the
64 department of health and human resources (residential
65 board and care homes), are authorized.

§64-5-2. State board of health; division of health.

1 (a) The legislative rules filed in the state register on
2 the second day of June, one thousand nine hundred
3 eighty-two, relating to the state board of health (waste
4 water treatment works operations), are authorized.

5 (b) The legislative rules filed in the state register on
6 the second day of June, one thousand nine hundred
7 eighty-two, relating to the state board of health
8 (laboratory reporting of syphilis and gonorrhea), are
9 authorized.

10 (c) The legislative rules filed in the state register on
11 the second day of June, one thousand nine hundred
12 eighty-two, relating to the state board of health (public
13 water supply operators) with the modification of §11.02
14 as presented to the legislative rule-making review
15 committee on the ninth day of November, one thousand
16 nine hundred eighty-two, are authorized.

17 (d) The legislative rules filed in the state register on
18 the twenty-second day of October, one thousand nine
19 hundred eighty-two, relating to the state board of health
20 (sewage systems) with the modification presented to the
21 legislative rule-making review committee on the sixth

22 day of December, one thousand nine hundred eighty-
23 two, are authorized except lines ten through seventeen,
24 page eight of the rules shall be stricken in their entirety
25 and the remaining paragraphs renumbered.

26 (e) The legislative rules filed in the state register on
27 the second day of June, one thousand nine hundred
28 eighty-two, relating to the state board of health
29 (approval of laboratories), are authorized.

30 (f) The legislative rules filed in the state register on
31 the twenty-fourth day of November, one thousand nine
32 hundred eighty-two, relating to the state board of health
33 (permit fees), are authorized.

34 (g) The legislative rules filed in the state register on
35 the third day of June, one thousand nine hundred eighty-
36 two, relating to the state board of health (certificate of
37 need), are authorized.

38 (h) The legislative rules filed in the state register on
39 the sixteenth day of August, one thousand nine hundred
40 eighty-two, relating to the state board of health (eyes of
41 newborn children), are authorized.

42 (i) The legislative rules filed in the state register on
43 the thirteenth day of August, one thousand nine hundred
44 eighty-two, and filed with amendments on the eleventh
45 day of January, one thousand nine hundred eighty-three,
46 relating to the state board of health (nursing home
47 licensure), are authorized with the amendment of
48 §5.15.02 of those rules as set forth below:

49 By striking the word "and" at the end of subdivision
50 (f), by changing the period at the end of subdivision (g)
51 to a semicolon, and by adding the following after
52 subdivision (g): "(h) One (1) member who represents
53 social work services."

54 (j) The legislative rules filed in the state register on
55 the twenty-fourth day of November, one thousand nine
56 hundred eighty-two, relating to the state board of health
57 (guardianship service), are authorized with the excep-
58 tion of section 9.3 of those rules which may not be
59 promulgated.

60 (k) The legislative rules filed in the state register on
61 the third day of June, one thousand nine hundred eighty-
62 two, relating to the state board of health (controlled
63 substances research program and certification), are
64 authorized.

65 (l) The legislative rules filed in the state register on
66 the fifth day of November, one thousand nine hundred
67 eighty-two, relating to the state board of health
68 (chemical test for intoxication), are authorized.

69 (m) The legislative rules filed in the state register on
70 the nineteenth day of December, one thousand nine
71 hundred eighty-three, relating to the state board of
72 health (birthing center licensure), are authorized.

73 (n) The legislative rules filed in the state register on
74 the fourteenth day of November, one thousand nine
75 hundred eighty-three, relating to the state board of
76 health (licensure of behavioral health centers), are
77 authorized with the amendment set forth below:

78 Page 45, §12.8.2. In the first sentence delete the words
79 “without delay” and insert in lieu thereof the words
80 “within twenty-four hours after receiving a report of a
81 complaint.”

82 (o) The legislative rules filed in the state register on
83 the nineteenth day of December, one thousand nine
84 hundred eighty-three, relating to the state board of
85 health (procedures for recovery of corneal tissue for
86 transplant), are authorized.

87 (p) The legislative rules filed in the state register on
88 the seventh day of September, one thousand nine
89 hundred eighty-three, relating to the state board of
90 health (well water regulations), are authorized with the
91 amendments set forth below:

92 §4.1. In the first sentence delete the word “obtaining”
93 and insert in lieu thereof the words “applying for”. In
94 the second sentence after “4.3” add “and 4.5.”

95 §4.2. At the end of the second sentence, strike the
96 period and add the words “unless emergency conditions
97 prevail as noted under §4.3.”

98 With the balance of §4.2 and create a new §4.3 with
99 the following changes: In the first sentence delete the
100 word “deadline” and insert in lieu thereof the word
101 “requirements.” Add after the first sentence the
102 sentence, “Emergency conditions and unavoidable
103 circumstances are those conditions involving acts of God,
104 water outages or disruption of water service, unsatisfac-
105 tory water quality or quantity or public health threats.”
106 In the third sentence delete the word “exceed” and insert
107 in lieu thereof the words “be made in excess of.”

108 Renumber §4.3 as §4.4 and add the following two
109 sentences at the end of the section: “Such standards shall
110 constitute the minimum standards for the installation,
111 the alteration or the deepening of water wells. Any plans
112 approved by the director pursuant to these regulations
113 shall be in substantial compliance with the heretofore
114 mentioned standards.”

115 Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7
116 as §4.8 and §4.8 as §4.9.

117 And,

118 §5.2. Delete the words “four (4)” and insert in lieu
119 thereof the words “two (2)” and delete the words “active,
120 continuous.”

121 (q) The legislative rules filed in the state register on
122 the third day of October, one thousand nine hundred
123 eighty-four, relating to the state board of health (trauma
124 center or facility designation), are authorized.

125 (r) The legislative rules filed in the state register on
126 the twenty-first day of December, one thousand nine
127 hundred eighty-four, relating to the state board of
128 health (reportable diseases), are authorized.

129 (s) The legislative rules filed in the state register on
130 the twenty-first day of December, one thousand nine
131 hundred eighty-four, relating to the state board of
132 health (licensure of medical adult day care centers), are
133 authorized.

134 (t) The legislative rules filed in the state register on
135 the third day of October, one thousand nine hundred

136 eighty-four, relating to the state board of health (retail
137 food store sanitation), are authorized.

138 (u) The legislative rules filed in the state register on
139 the seventeenth day of December, one thousand nine
140 hundred eighty-five, modified by the director of health
141 to meet the objections of the legislative rule-making
142 review committee and refiled in the state register on the
143 fifteenth day of January, one thousand nine hundred
144 eighty-six, relating to the director of health (adult group
145 home licensure), are authorized.

146 (v) The legislative rules filed in the state register on
147 the twenty-ninth day of October, one thousand nine
148 hundred eighty-five, modified by the state board of
149 health to meet the objections of the legislative rule-
150 making review committee and refiled in the state
151 register on the twenty-seventh day of December, one
152 thousand nine hundred eighty-five, relating to the state
153 board of health (licensure of hospice care programs), are
154 authorized.

155 (w) The legislative rules filed in the state register on
156 the thirty-first day of October, one thousand nine
157 hundred eighty-five, modified by the director of health
158 to meet the objections of the legislative rule-making
159 review committee and refiled in the state register on the
160 twenty-seventh day of December, one thousand nine
161 hundred eighty-five, relating to the director of health
162 (rules governing emergency medical services), are
163 authorized with the amendments set forth below:

164 On page 3, §3.9 shall read as follows:

165 “3.9 Quorum — When applied to the EMSAC, a
166 majority of the members thereof, except in the instance
167 when at any meeting of the EMSAC, where a quorum
168 is not present and the director causes to be deposited in
169 the United States mail, postage prepaid, return receipt
170 requested, to each member of the EMSAC within three
171 days, a notice calling a meeting of the EMSAC at some
172 convenient place in the state of West Virginia two weeks
173 after the meeting at which no quorum was present.
174 Quorum means any number of members of the EMSAC
175 who attend such subsequent meeting. Any member

176 missing two consecutive meetings shall be removed from
177 the EMSAC.”

178 On page 6, §4.7.1 shall be deleted in its entirety;

179 And,

180 On page 7, §4.10.1 shall read as follows:

181 “4.10.1 every applicant for certification as an EMSP
182 prior to such certification, shall demonstrate his or her
183 knowledge and ability by undergoing a written exam-
184 ination and a demonstration of skills, and by attaining
185 a passing score on the same. Passing score shall be the
186 same for all testing programs.”

187 (x) The legislative rules filed in the state register on
188 the fifth day of September, one thousand nine hundred
189 eighty-five, relating to the state department of health
190 (revising the list of hazardous substances), are
191 authorized.

192 (y) The legislative rules filed in the state register on
193 the thirteenth day of August, one thousand nine hundred
194 eighty-six, modified by the director of the department
195 of health to meet the objections of the legislative rule-
196 making review committee and refiled in the state
197 register on the sixteenth day of October, one thousand
198 nine hundred eighty-six, relating to the director of the
199 department of health (hazardous material treatment
200 information repository), are authorized.

201 (z) The legislative rules filed in the state register on
202 the seventeenth day of July, one thousand nine hundred
203 eighty-six, modified by the state board of health to meet
204 the objections of the legislative rule-making review
205 committee and refiled in the state register on the
206 sixteenth day of October, one thousand nine hundred
207 eighty-six, relating to the state board of health (methods
208 and standards for chemical tests for intoxication), are
209 authorized.

210 (aa) The legislative rules filed in the state register on
211 the twenty-first day of November, one thousand nine
212 hundred eighty-six, modified by the state board of
213 health to meet the objections of the legislative rule-

214 making review committee and refiled in the state
215 register on the twenty-third day of December, one
216 thousand nine hundred eighty-six, relating to the state
217 board of health (licensure of behavioral health centers),
218 are authorized.

219 (bb) The legislative rules filed in the state register on
220 the eighteenth day of April, one thousand nine hundred
221 eighty-six, modified by the state board of health to meet
222 the objections of the legislative rule-making review
223 committee and refiled in the state register on the
224 seventeenth day of October, one thousand nine hundred
225 eighty-six, relating to the state board of health (hospital
226 licensure), are authorized.

227 (cc) The legislative rules filed in the state register on
228 the ninth day of December, one thousand nine hundred
229 eighty-six, modified by the state board of health to meet
230 the objections of the legislative rule-making review
231 committee and refiled in the state register on the
232 twenty-third day of December, one thousand nine
233 hundred eighty-six, relating to the state board of health
234 (hospital licensure and allowing hospitals to have
235 licensed hospital professionals, other than licensed
236 physicians, on their medical staff), are authorized.

237 (dd) The legislative rules filed in the state register on
238 the ninth day of December, one thousand nine hundred
239 eighty-six, modified by the state board of health to meet
240 the objections of the legislative rule-making review
241 committee and refiled in the state register on the
242 twenty-third day of December, one thousand nine
243 hundred eighty-six, relating to the state board of health
244 (vital statistics), are authorized.

245 (ee) The legislative rules filed in the state register on
246 the eleventh day of September, one thousand nine
247 hundred eighty-seven, relating to the director of the
248 department of health (immunization criteria for
249 transfer students), are authorized.

250 (ff) The legislative rules filed in the state register on
251 the sixteenth day of November, one thousand nine
252 hundred eighty-seven, relating to the director of the
253 department of health (hazardous substances), are

254 authorized with the amendment set forth below:

255 Page 33, section 8, line 8 (unnumbered), by adding at
256 the end of section 8 the following proviso: "*Provided,*
257 That the owner's or operator's submissions are based on
258 the threshold reporting requirements contained in
259 section 5, article 31, chapter 16."

260 (gg) The legislative rules filed in the state register on
261 the eighteenth day of November, one thousand nine
262 hundred eighty-seven, relating to the director of the
263 department of health (trauma center or facility desig-
264 nation), are authorized.

265 (hh) The legislative rules filed in the state register on
266 the twenty-second day of June, one thousand nine
267 hundred eighty-eight, modified by the state board of
268 health to meet the objections of the legislative rule-
269 making review committee and refiled in the state
270 register on the fifteenth day of September, one thousand
271 nine hundred eighty-eight, relating to the state board of
272 health (licensure of hospice care programs), are
273 authorized.

274 (ii) The legislative rules filed in the state register on
275 the fifteenth day of September, one thousand nine
276 hundred eighty-eight, modified by the state board of
277 health to meet the objections of the legislative rule-
278 making review committee and refiled in the state
279 register on the third day of November, one thousand
280 nine hundred eighty-eight, relating to the state board of
281 health (water wells), are authorized with the amend-
282 ment set forth below:

283 On page 2, §3.8, shall read as follows:

284 "3.8 Water Well — Any excavation or penetration in
285 the ground, whether drilled, bored, cored, driven or
286 jetted that enters or passes through an aquifer for
287 purposes that may include, but are not limited to: A
288 water supply, exploration for water, dewatering or heat
289 pump wells, except that this definition shall not include
290 ground water monitoring activities and all activities for
291 the exploration, development, production, storage and
292 recovery of coal, oil and gas and other mineral resources

293 which are regulated under chapter 22, 22a or 22b of the
294 code.”

295 (jj) The legislative rules filed in the state register on
296 the twenty-second day of June, one thousand nine
297 hundred eighty-eight, modified by the state board of
298 health to meet the objections of the legislative rule-
299 making review committee and refiled in the state
300 register on the fifteenth day of September, one thousand
301 nine hundred eighty-eight, relating to the state board of
302 health (plumbing requirements), are authorized.

303 (kk) The legislative rules filed in the state register on
304 the twenty-second day of June, one thousand nine
305 hundred eighty-eight, modified by the state board of
306 health to meet the objections of the legislative rule-
307 making review committee and refiled in the state
308 register on the fifteenth day of September, one thousand
309 nine hundred eighty-eight, relating to the state board of
310 health (public water supply operators), are authorized.

311 (ll) The legislative rules filed in the state register on
312 the nineteenth day of October, one thousand nine
313 hundred eighty-eight, modified by the state board of
314 health to meet the objections of the legislative rule-
315 making review committee and refiled in the state
316 register on the twentieth day of December, one thousand
317 nine hundred eighty-eight, relating to the state board of
318 health (volatile synthetic organic chemicals), are
319 authorized.

320 (mm) The legislative rules filed in the state register
321 on the second day of January, one thousand nine
322 hundred ninety, modified by the division of health to
323 meet the objections of the legislative rule-making review
324 committee and refiled in the state register on the
325 seventeenth day of January, one thousand nine hundred
326 ninety, relating to the division of health (asbestos
327 abatement licensing), are authorized.

328 (nn) The legislative rules filed in the state register on
329 the thirtieth day of August, one thousand nine hundred
330 eighty-nine, modified by the division of health to meet
331 the objections of the legislative rule-making review
332 committee and refiled in the state register on the

333 seventeenth day of November, one thousand nine
334 hundred eighty-nine, relating to the division of public
335 health (AIDS-related medical testing and confidential-
336 ity), are authorized.

337 (oo) The legislative rules filed in the state register on
338 the nineteenth day of December, one thousand nine
339 hundred eighty-nine, modified by the state board of
340 health to meet the objections of the legislative rule-
341 making review committee and refiled in the state
342 register on the twenty-fourth day of January, one
343 thousand nine hundred ninety, relating to the state
344 board of health (nursing home licensure), are
345 authorized.

346 (pp) The legislative rules filed in the state register on
347 the nineteenth day of December, one thousand nine
348 hundred eighty-nine, relating to the state board of
349 health (licensure of behavioral health centers), are
350 authorized.

351 (qq) The legislative rules filed in the state register on
352 the twenty-eighth day of December, one thousand nine
353 hundred eighty-nine, relating to the state board of
354 health (methods and standards for chemical test for
355 intoxication), are authorized.

356 (rr) The legislative rules filed in the state register on
357 the twenty-third day of July, one thousand nine hundred
358 ninety, modified by the board of health to meet the
359 objections of the legislative rule-making review commit-
360 tee and refiled in the state register on the fifth day of
361 September, one thousand nine hundred ninety, relating
362 to the board of health (fees for permits), are authorized
363 with the amendments set forth below:

364 On page two, subsection 3.6, by striking out all of the
365 subsection and renumbering the subsequent subsections.

366 On page four, subsection 5.4, by striking out all of the
367 subsection and renumbering the subsequent subsections.

368 And,

369 On page six, Table 64-30c, by striking out Table 64-
370 30c and inserting in lieu thereof a new table, to read

371 as follows:

372 TABLE 64-30C.

373 Individual On-Site and Innovative Alternative Type
374 Sewage System Permit Fees

375	Type of System	Fees for Permit
376	Class I (New or Modified)	\$100
377	Class II (New or Modified)	\$100
378	Home Aeration Unit	\$100

379 (ss) The legislative rules filed in the state register on
380 the seventh day of December, one thousand nine
381 hundred ninety, modified by the board of health to meet
382 the objections of the legislative rule-making review
383 committee and refiled in the state register on the
384 twenty-second day of January, one thousand nine
385 hundred ninety-one, relating to the board of health
386 (public water systems, bottled water and laboratory
387 certification), are authorized.

388 (tt) The legislative rules filed in the state register on
389 the thirteenth day of December, one thousand nine
390 hundred ninety, modified by the board of health to meet
391 the objections of the legislative rule-making review
392 committee and refiled in the state register on the
393 twenty-second day of January, one thousand nine
394 hundred ninety-one, relating to the board of health (vital
395 statistics), are authorized.

396 (uu) The legislative rules filed in the state register on
397 the seventh day of January, one thousand nine hundred
398 ninety-one, modified by the division of health to meet the
399 objections of the legislative rule-making review commit-
400 tee and refiled in the state register on the twenty-second
401 day of January, one thousand nine hundred ninety-one,
402 relating to the division of health (fees for services), are
403 authorized.

404 (vv) The legislative rules filed in the state register on
405 the twenty-eighth day of December, one thousand nine
406 hundred ninety, modified by the division of health to
407 meet the objections of the legislative rule-making review
408 committee and refiled in the state register on the

409 twenty-sixth day of July, one thousand nine hundred
410 ninety-one, relating to the division of health (specialized
411 health procedures), are authorized.

412 (ww) The legislative rules filed in the state register
413 on the second day of January, one thousand nine
414 hundred ninety-one, modified by the division of health
415 to meet the objections of the legislative rule-making
416 review committee and refiled in the state register on the
417 sixteenth day of May, one thousand nine hundred ninety-
418 one, relating to the division of health (emergency
419 medical services), are authorized.

420 (xx) The legislative rules filed in the state register on
421 the tenth day of September, one thousand nine hundred
422 ninety-one, modified by the secretary of the department
423 of health and human resources to meet the objections of
424 the legislative rule-making review committee and
425 refiled in the state register on the third day of January,
426 one thousand nine hundred ninety-two, relating to the
427 secretary of the department of health and human
428 resources (retail food store sanitation), are authorized.

429 (yy) The Legislature hereby authorizes and directs the
430 division of health to promulgate the legislative rule
431 relating to swimming pools and bathing beaches, 64
432 CSR 16, effective the fifth day of May, one thousand nine
433 hundred eighty, with the amendment set forth below:

434 On page five, section 11.3 by striking out the period
435 following the word "beach" and adding the following:
436 "Provided, That at hotels, motels, apartment complexes,
437 or condominiums which have swimming pools of five
438 feet or less in depth at the deepest point, employment
439 of lifeguards is recommended but not mandatory,
440 whether or not the establishment charges an admission
441 fee (gate receipt, annual pass or membership dues). If
442 no lifeguards are employed, the management shall post
443 a sign in a prominent location near the swimming pool
444 stating "SWIM AT YOUR OWN RISK—ALL PER-
445 SONS UNDER THE AGE OF 14 MUST BE ACCOM-
446 PANIED BY AN ADULT."

447 (zz) The legislative rules filed in the state register on
448 the sixteenth day of September, one thousand nine

449 hundred ninety-two, modified by the division of health
450 to meet the objections of the legislative rule-making
451 review committee and refiled in the state register on the
452 seventeenth day of November, one thousand nine
453 hundred ninety-two, relating to the division of health
454 (trauma center or facility designation), are authorized.

455 (aaa) The legislative rules filed in the state register
456 on the second day of November, one thousand nine
457 hundred ninety-two, modified by the division of health
458 to meet the objections of the legislative rule-making
459 review committee and refiled in the state register on the
460 nineteenth day of February, one thousand nine hundred
461 ninety-three, relating to the division of health (primary
462 care center seed money grants), are authorized.

463 (bbb) The legislative rules filed in the state register
464 on the second day of November, one thousand nine
465 hundred ninety-two, modified by the division of health
466 to meet the objections of the legislative rule-making
467 review committee and refiled in the state register on the
468 nineteenth day of February, one thousand nine hundred
469 ninety-three, relating to the division of health (primary
470 care center uncompensated care grants), are authorized.

§64-5-3. Health care cost review authority.

1 (a) The legislative rules filed in the state register on
2 the twenty-first day of October, one thousand nine
3 hundred eighty-three, relating to the health care cost
4 review authority (limitation on hospital gross patient
5 revenue), are authorized.

6 (b) The legislative rules filed in the state register on
7 the nineteenth day of December, one thousand nine
8 hundred eighty-three, relating to the health care cost
9 review authority (freeze on hospital rates and granting
10 temporary rate increases), are authorized.

11 (c) The legislative rules filed in the state register on
12 the twenty-first day of December, one thousand nine
13 hundred eighty-four, relating to the health care cost
14 review authority (implementation of the utilization
15 review and quality assurance program), are authorized.

16 (d) The legislative rules filed in the state register on

17 the fifteenth day of August, one thousand nine hundred
18 eighty-four, relating to the health care cost review
19 authority (hospital cost containment methodology), are
20 authorized.

21 (e) The legislative rules filed in the state register on
22 the twenty-fifth day of November, one thousand nine
23 hundred eighty-five, modified by the West Virginia
24 health care cost review authority to meet the objections
25 of the legislative rule-making review committee and
26 refiled in the state register on the twenty-eighth day of
27 January, one thousand nine hundred eighty-six, relating
28 to the West Virginia health care cost review authority
29 (interim standards for lithotripsy services), are
30 authorized.

31 (f) The legislative rules filed in the state register on
32 the third day of September, one thousand nine hundred
33 eighty-seven, modified by the West Virginia health care
34 cost review authority to meet the objections of the
35 legislative rule-making review committee and refiled in
36 the state register on the twenty-seventh day of January,
37 one thousand nine hundred eighty-eight, relating to the
38 West Virginia health care cost review authority (exemp-
39 tions from certificate of need review), are authorized.

40 (g) The legislative rules filed in the state register on
41 the nineteenth day of September, one thousand nine
42 hundred eighty-eight, modified by the health care cost
43 review authority to meet the objections of the legislative
44 rule-making review committee and refiled in the state
45 register on the twenty-first day of February, one
46 thousand nine hundred eighty-nine, relating to the
47 health care cost review authority (financial disclosure),
48 are authorized.

49 (h) The legislative rules filed in the state register on
50 the fourteenth day of August, one thousand nine
51 hundred eighty-nine, modified by the West Virginia
52 health care cost review authority to meet the objections
53 of the legislative rule-making review committee and
54 refiled in the state register on the fifth day of December,
55 one thousand nine hundred eighty-nine, relating to the
56 West Virginia health care cost review authority (expe-

57 dited review for rate changes), are authorized with the
58 amendments set forth below:

59 On page 5, Section 4.1, after the words: "affected by
60 the increase." by inserting the following language: "The
61 hospital shall also reconcile any excesses in gross
62 revenue, gross patient revenue, gross inpatient revenue
63 or charges per discharge. Within fifteen days of
64 submission the Authority shall inform the hospital if it
65 accepts the justification for excesses provided by the
66 hospital."

67 And,

68 On page 6, section 4.2, after the words "the excess in
69 gross outpatient revenue" by striking the period and
70 inserting the following:

71 "or if any excesses in the above categories (1 through
72 4) have been sufficiently justified to the Authority as
73 required in Section 4.1 of this rule."

74 (i) The legislative rules filed in the state register on
75 the eleventh day of September, one thousand nine
76 hundred eighty-nine, modified by the West Virginia
77 health care cost review authority to meet the objections
78 of the legislative rule-making review committee and
79 refiled in the state register on the fifth day of December,
80 one thousand nine hundred eighty-nine, relating to the
81 West Virginia health care cost review authority (exemption
82 for conversion of acute care beds to skilled nursing
83 care beds), are authorized.

84 (j) The legislative rules filed in the state register on
85 the thirtieth day of July, one thousand nine hundred
86 ninety, modified by the health care cost review authority
87 to meet the objections of the legislative rule-making
88 review committee and refiled in the state register on the
89 twenty-fifth day of September, one thousand nine
90 hundred ninety, relating to the health care cost review
91 authority (exemption for shared services), are
92 authorized.

93 (k) The legislative rules filed in the state register on
94 the thirty-first day of July, one thousand nine hundred
95 ninety, modified by the health care cost review authority

96 to meet the objections of the legislative rule-making
97 review committee and refiled in the state register on the
98 twenty-fifth day of September, one thousand nine
99 hundred ninety, relating to the health care cost review
100 authority (health services offered by health profession-
101 als), are authorized.

102 (l) The legislative rules filed in the state register on
103 the eleventh day of September, one thousand nine
104 hundred ninety, modified by the West Virginia health
105 care cost review authority to meet the objections of the
106 legislative rule-making review committee and refiled in
107 the state register on the twenty-fourth day of January,
108 one thousand nine hundred ninety-one, relating to the
109 West Virginia health care cost review authority (conver-
110 sion of acute care beds to one hundred skilled nursing
111 care beds), are authorized.

112 (m) The legislative rules filed in the state register on
113 the twelfth day of August, one thousand nine hundred
114 ninety-one, modified by the health care cost review
115 authority to meet the objections of the legislative rule-
116 making review committee and refiled in the state
117 register on the eighth day of November, one thousand
118 nine hundred ninety-one, relating to the health care cost
119 review authority (health services offered by health
120 professionals), are authorized.

121 (n) The legislative rules filed in the state register on
122 the first day of May, one thousand nine hundred ninety-
123 one, modified by the health care cost review authority
124 to meet the objections of the legislative rule-making
125 review committee and refiled in the state register on the
126 twenty-second day of July, one thousand nine hundred
127 ninety-one, relating to the health care cost review
128 authority (review for automatic rate changes), are
129 authorized.

130 (o) The legislative rules filed in the state register on
131 the ninth day of August, one thousand nine hundred
132 ninety-one, modified by the health care cost review
133 authority to meet the objections of the legislative rule-
134 making review committee and refiled in the state
135 register on the sixteenth day of October, one thousand

136 nine hundred ninety-one, relating to the health care cost
137 review authority (certificate of need), are authorized.

138 (p) The legislative rules filed in the state register on
139 the twelfth day of August, one thousand nine hundred
140 ninety-one, modified by the health care cost review
141 authority to meet the objections of the legislative rule-
142 making review committee and refiled in the state
143 register on the sixteenth day of October, one thousand
144 nine hundred ninety-one, relating to the health care cost
145 review authority (exemption for shared services), are
146 authorized with the amendments set forth below:

147 On page six, subsection 4.4, after the words "Charles-
148 ton newspapers", by striking out the word "and" and
149 inserting in lieu thereof a comma;

150 On page six, subsection 4.4, after the words "State
151 Register" by adding the words "and a newspaper of
152 general circulation within the area of the facility.";

153 On page seven, subsection 4.5, after the words "notice
154 in the Saturday Charleston newspapers", by striking out
155 the word "and" and inserting in lieu thereof a comma;

156 On page seven, subsection 4.5, before the words "the
157 state agency shall within ten", by striking out the
158 comma and inserting the words "and a newspaper of
159 general circulation within the area of the facility";

160 And,

161 On page seven, subsection 4.5, after the words
162 "decision in the Saturday Charleston newspapers", by
163 striking out the remainder of the sentence and inserting
164 in lieu thereof the following: " the state register and a
165 newspaper of general circulation within the area of the
166 facility."

167 (q) The legislative rules filed in the state register on
168 the twenty-seventh day of June, one thousand nine
169 hundred ninety-one, modified by the health care cost
170 review authority to meet the objections of the legislative
171 rule-making review committee and refiled in the state
172 register on the twenty-third day of September, one
173 thousand nine hundred ninety-one, relating to the health

174 care cost review authority (development of life care
175 retirement centers), are authorized.

176 (r) The legislative rules filed in the state register on
177 the twenty-seventh day of June, one thousand nine
178 hundred ninety-one, modified by the health care cost
179 review authority to meet the objections of the legislative
180 rule-making review committee and refiled in the state
181 register on the twenty-third day of September, one
182 thousand nine hundred ninety-one, relating to the health
183 care cost review authority (conversion of acute care beds
184 to skilled nursing care beds), are authorized.

185 (s) The legislative rules filed in the state register on
186 the ninth day of August, one thousand nine hundred
187 ninety-one, modified by the health care cost review
188 authority to meet the objections of the legislative rule-
189 making review committee and refiled in the state
190 register on the tenth day of January, one thousand nine
191 hundred ninety-two, relating to the health care cost
192 review authority (financial disclosure), are authorized
193 with the amendment set forth below:

194 On page eighteen, after subsection 5.3, by adding
195 thereto a new subsection, designated subsection 5.4, to
196 read as follows:

197 "5.4 A covered facility which is a nonprofit, commun-
198 ity-based primary care center providing primary care
199 services without regard to ability to pay which provides
200 the board with a year-end audited financial statement
201 prepared in accordance with generally accepted audit-
202 ing standards and with governmental auditing stand-
203 ards issued by the comptroller general of the United
204 States shall be considered to have complied with the
205 disclosure requirements of sections 3 and 4 of this rule."

206 (t) The legislative rules filed in the state register on
207 the eighteenth day of September, one thousand nine
208 hundred ninety-two, modified by the health care cost
209 review authority to meet the objections of the legislative
210 rule-making review committee and refiled in the state
211 register on the twentieth day of November, one thousand
212 nine hundred ninety-two, relating to the health care cost
213 review authority (exemption for birthing centers), are

214 authorized.

215 (u) The legislative rules filed in the state register on
216 the eighteenth day of September, one thousand nine
217 hundred ninety-two, modified by the health care cost
218 review authority to meet the objections of the legislative
219 rule-making review committee and refiled in the state
220 register on the twentieth day of November, one thousand
221 nine hundred ninety-two, relating to the health care cost
222 review authority (exemption for primary care hospitals),
223 are authorized.

224 (v) The legislative rules filed in the state register on
225 the eighteenth day of September, one thousand nine
226 hundred ninety-two, modified by the health care cost
227 review authority to meet the objections of the legislative
228 rule-making review committee and refiled in the state
229 register on the twentieth day of November, one thousand
230 nine hundred ninety-two, relating to the health care cost
231 review authority (exemption for new primary care
232 services), are authorized.

233 (w) The legislative rules filed in the state register on
234 the ninth day of September, one thousand nine hundred
235 ninety-two, modified by the health care cost review
236 authority to meet the objections of the legislative rule-
237 making review committee and refiled in the state
238 register on the first day of February, one thousand nine
239 hundred ninety-three, relating to the health care cost
240 review authority (temporary approval of discount
241 contracts for border hospitals), are authorized.

§64-5-6. Workers' compensation.

1 (a) The legislative rules filed in the state register on
2 the fourteenth day of November, one thousand nine
3 hundred eighty-three, relating to the workers' compen-
4 sation commissioner (employers' excess liability fund),
5 are authorized.

6 (b) The legislative rules filed in the state register on
7 the twenty-fifth day of October, one thousand nine
8 hundred eighty-four, relating to the workers' compensa-
9 tion commissioner (time limits for the administrative
10 proceedings of adjudications and awards), are

11 authorized.

12 (c) The legislative rules filed in the state register on
13 the twenty-fifth day of October, one thousand nine
14 hundred eighty-four, modified by the workers' compen-
15 sation commissioner to meet the objections of the
16 legislative rule-making review committee and refiled in
17 the state register on the ninth day of January, one
18 thousand nine hundred eighty-five, relating to the
19 workers' compensation commissioner (self-insured
20 employers), are authorized.

21 (d) The legislative rules filed in the state register on
22 the twenty-fifth day of October, one thousand nine
23 hundred eighty-four, modified by the workers' compen-
24 sation commissioner to meet the objections of the
25 legislative rule-making review committee and refiled in
26 the state register on the fifth day of December, one
27 thousand nine hundred eighty-four, relating to the
28 workers' compensation commissioner (payment of
29 attorney's fees), are authorized.

30 (e) The legislative rules filed in the state register on
31 the sixth day of August, one thousand nine hundred
32 eighty-five, relating to the workers' compensation
33 commissioner (standards for medical examination in
34 occupational pneumoconiosis claims), are authorized
35 with the amendments set forth below:

36 On page 1, the second and third unnumbered para-
37 graphs on page one are amended to read as follows:

38 "When two or more ventilatory function tests per-
39 formed in reasonably close proximity in time produce
40 differing but acceptable results, the Commissioner, at
41 the request of the O. P. Board, may direct the parties
42 to furnish additional evidence and/or order additional
43 testing at the laboratory utilized by the O. P. Board or
44 other laboratories, all for the purpose of determining
45 whether any of the results are unreliable or incorrect
46 or are clearly attributable to some identifiable disease
47 or illness other than occupational pneumoconiosis."

48 When blood gas studies are performed and abnormal
49 values are obtained and thereafter new blood gas studies

50 are performed and normal or significantly higher values
51 are further obtained, the Commissioner, at the request
52 of the O. P. Board, may direct the parties to furnish
53 additional evidence and/or order additional studies at
54 the laboratory utilized by the O. P. Board or other
55 laboratories, all for the purpose of determining whether
56 any of the values are unreliable or incorrect or are
57 clearly attributable to some identifiable disease or
58 illness other than occupational pneumoconiosis.”

59 And,

60 On page 7, paragraph (11) is amended to read as
61 follows:

62 “(11) It is recognized that arterial blood gas studies
63 done in laboratories throughout this state are obtained
64 at different altitudes. Only by ‘standardizing’ for
65 altitude can an equitable assessment be made of
66 impairment when values of arterial oxygen are being
67 measured at remarkably different altitudes. Therefore,
68 the results reported from laboratories should include the
69 name of the laboratory and the date and time of the
70 testing, altitude of the laboratory and barometric
71 pressure at the laboratory on the day the samples were
72 collected. The O. P. Board will evaluate the arterial
73 blood gas values by converting those values to the
74 average altitude of Charleston, West Virginia. For this
75 purpose, it shall be sufficient to add 1 mmHg to each
76 arterial oxygen tension for each 300 feet or fraction
77 thereof that the testing laboratory is located above the
78 average altitude of Charleston, because the relationship
79 of barometric pressure (altitude) and alveolar oxygen is
80 approximately linear up to 4,000 feet as long as the
81 subject breathes room air.

82 As an example, Bluefield is located approximately
83 2,600 feet above sea level. Charleston is approximately
84 600 feet above sea level. Thus, arterial oxygen values
85 obtained in Bluefield should have 6.67 mmHg added to
86 them before applying the table to them to obtain
87 ‘percent impairment.’ The calculations are as follows:

88 ‘Bluefield (2,600’) minus Charleston (600’) equals
89 2,000’

90 differential 2,000' divided by 300' altitude equals 6.67
91 6.67 multiplied by 1 mmHg per 300' altitude equals
92 6.67 mmHg.'"

93 (f) The legislative rules filed in the state register on
94 the ninth day of August, one thousand nine hundred
95 eighty-five, modified by the workers' compensation
96 commissioner to meet the objections of the legislative
97 rule-making review committee and refiled in the state
98 register on the fifteenth day of January, one thousand
99 nine hundred eighty-six, relating to the workers'
100 compensation commissioner (administration of the coal-
101 workers' pneumoconiosis fund), are authorized.

102 (g) The legislative rules filed in the state register on
103 the thirtieth day of November, one thousand nine
104 hundred eighty-nine, modified by the division of
105 workers' compensation to meet the objections of the
106 legislative rule-making review committee and refiled in
107 the state register on the tenth day of January, one
108 thousand nine hundred ninety, relating to the division
109 of workers' compensation (enforcement of reporting and
110 payment requirements), are authorized.

111 (h) The legislative rules filed in the state register on
112 the sixteenth day of January, one thousand nine hundred
113 ninety, modified by the division of workers' compensa-
114 tion to meet the objections of the legislative rule-making
115 review committee and refiled in the state register on the
116 twenty-third day of January, one thousand nine hundred
117 ninety, relating to the division of workers' compensation
118 (self-insured employers), are authorized.

119 (i) The legislative rules filed in the state register on
120 the eighteenth day of September, one thousand nine
121 hundred ninety-two, modified by the workers' compen-
122 sation fund to meet the objections of the legislative rule-
123 making review committee and refiled in the state
124 register on the twenty-first day of January, one thou-
125 sand nine hundred ninety-three, relating to the workers'
126 compensation fund (self-insured employers), are
127 authorized.

128 (j) The legislative rules filed in the state register on

129 the eighteenth day of September, one thousand nine
130 hundred ninety-two, modified by the division of workers'
131 compensation to meet the objections of the legislative
132 rule-making review committee and refiled in the state
133 register on the twenty-first day of January, one thou-
134 sand nine hundred ninety-three, relating to the division
135 of workers' compensation (protocols and procedures for
136 performing medical evaluations in noise-induced hear-
137 ing loss claims), are authorized.

138 (k) The Legislature hereby authorizes and directs the
139 division of workers' compensation to amend its rules
140 relating to enforcement of reporting and payment
141 requirements which were filed in the code of state
142 regulations (85 CSR 11) on the thirtieth day of March,
143 one thousand nine hundred ninety, with the amend-
144 ments set forth below:

145 On page one, by striking out all of subsection 2.8 and
146 inserting in lieu thereof a new subsection 2.8 to read as
147 follows:

148 "2.8 The term "employer" has the meaning ascribed
149 to that term by West Virginia Code, §23-2-1, which
150 includes, but is not limited to, any individual, firm,
151 partnership, limited partnership, copartnership, joint
152 venture, association, corporation, organization, receiver,
153 estate, trust, guardian, executor, administrator, or any
154 other entity regularly employing another person or
155 persons for the purpose of carrying on any form of
156 industry, service or business in this state."; and

157 On page 3, after subsection 3.8, by inserting a new
158 subsection 3.9, to read as follows:

159 "3.9 Any person required to collect, truthfully account
160 for, and pay over to the commissioner any premium,
161 premium deposit, interest, or penalty pursuant to the
162 provisions of West Virginia Code, §23-2-1, et. seq., who
163 willfully fails to collect the premium, premium deposit,
164 interest or penalty, or truthfully account for and pay
165 over the premium, premium deposit, interest or penalty,
166 or willfully attempts in any manner to evade or defeat
167 any premium, premium deposit, interest or penalty or
168 the payment thereof, is, in addition to other penalties

169 provided by law, liable for a penalty equal to the total
170 amount of the premium, premium deposit, interest or
171 penalty evaded, or not collected, or not accounted for
172 and paid over. The penalty is a personal obligation of
173 the responsible person immediately due and owing to
174 the commissioner and, in addition thereto, is a lien
175 enforceable against all the property of the person.”

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC
SAFETY TO PROMULGATE LEGISLATIVE
RULES.

§64-6-2. Fire commission.

1 (a) The legislative rules filed in the state register on
2 the third day of January, one thousand nine hundred
3 eighty-four, relating to the state fire commission (state
4 fire code), are authorized with the amendments set forth
5 below:

6 On page 1, section 106, line 1, after the word “to” add
7 the words “personal care homes caring for five or less
8 patients or”;

9 And,

10 On page 26, section 11.06 (3) A. (3), strike the period
11 at the end of the sentence and add the words “except
12 for existing sleeping rooms owned by the state and
13 located in dormitories or state parks.”

14 (b) The legislative rules filed in the state register on
15 the first day of August, one thousand nine hundred
16 eighty-six, modified by the state fire commission to meet
17 the objection of the legislative rule-making review
18 committee and refiled in the state register on the
19 twenty-eighth day of October, one thousand nine
20 hundred eighty-six, relating to the state fire commission
21 (hazardous substance emergency response training
22 program), are authorized.

23 (c) The legislative rules filed in the state register on
24 the sixth day of September, one thousand nine hundred
25 eighty-eight, modified by the state fire commission to
26 meet the objections of the legislative rule-making review
27 committee and refiled in the state register on the eighth
28 day of December, one thousand nine hundred eighty-

29 eight, relating to the state fire commission (state
30 building code), are authorized.

31 (d) The legislative rules filed in the state register on
32 the fourteenth day of August, one thousand nine
33 hundred eighty-nine, modified by the state fire commis-
34 sion to meet the objections of the legislative rule-making
35 review committee and refiled in the state register on the
36 fifteenth day of January, one thousand nine hundred
37 ninety, relating to the state fire commission (electrician
38 licensing), are authorized with the following
39 amendment:

40 On page 6, section 3.03, by deleting all of subsection
41 (A) and inserting in lieu thereof the following:

42 “(A) Any person who performs electrical work with
43 respect to any property owned or leased by such person.
44 For purposes of this subparagraph: (1) ‘property owner’
45 includes the property owner, lessee, and his or her
46 maintenance personnel; and, (2) ‘performs electrical
47 work’ includes routine maintenance, repairs, and
48 improvements to existing structures; or.”

49 (e) The legislative rules filed in the state register on
50 the fourteenth day of August, one thousand nine
51 hundred eighty-nine, modified by the state fire commis-
52 sion to meet the objections of the legislative rule-making
53 review committee and refiled in the state register on the
54 twenty-fifth day of October, one thousand nine hundred
55 eighty-nine, relating to the state fire commission (fees
56 for services rendered), are authorized with the amend-
57 ment set forth below:

58 On page 1, section 2.1(G), by striking out the word
59 “underground.”

60 (f) The legislative rules filed in the state register on
61 the eleventh day of August, one thousand nine hundred
62 eighty-nine, modified by the state fire commission to
63 meet the objections of the legislative rule-making review
64 committee and refiled in the state register on the
65 twenty-sixth day of October, one thousand nine hundred
66 eighty-nine, relating to the state fire commission (fire
67 code), are authorized.

68 (g) The legislative rules filed in the state register on
69 the sixteenth day of July, one thousand nine hundred
70 ninety, modified by the state fire commission to meet the
71 objections of the legislative rule-making review commit-
72 tee and refiled in the state register on the fifteenth day
73 of November, one thousand nine hundred ninety,
74 relating to the state fire commission (state building
75 code), are authorized with the amendments set forth
76 below:

77 On page two, subsection 4.1 after the words "The
78 BOCA National Property Maintenance Code, Third
79 Edition, 1990" insert the following ": *Provided*, That
80 section PM-104.4 Right of Entry may be adopted or
81 rejected at the option of the local jurisdiction."

82 And,

83 On page two, subsection 4.1 by adding thereto a new
84 subdivision, designated subdivision 4.1.1 to read as
85 follows:

86 "4.1.1 The following structures shall not be subject to
87 inspection by local jurisdictions:

88 4.1.1.a Group U utility structures and storage sheds
89 comprising an area of not more than 150 square feet
90 which have no plumbing or electrical connections and
91 are utilized only for residential storage purposes.
92 (Examples include storage sheds that are for the
93 residential storage of lawnmowers, tools, bicycles or
94 furniture) Group U utility structures do not include
95 those utility structures and storage sheds which have
96 plumbing or electrical connections or are used for the
97 storage of explosives or other hazardous or explosive-
98 type materials."

99 (h) The legislative rules filed in the state register on
100 the thirteenth day of August, one thousand nine hundred
101 ninety, modified by the state fire commission to meet the
102 objections of the legislative rule-making review commit-
103 tee and refiled in the state register on the fifteenth day
104 of January, one thousand nine hundred ninety-one,
105 relating to the state fire commission (state fire code), are
106 authorized.

107 (i) The legislative rules filed in the state register on
108 the fourteenth day of August, one thousand nine
109 hundred ninety-two, modified by the state fire commis-
110 sion to meet the objections of the legislative rule-making
111 review committee and refiled in the state register on the
112 thirtieth day of November, one thousand nine hundred
113 ninety-two, relating to the state fire commission
114 (electrician licensing), are authorized.

**§64-6-3. Jail and correctional facility standards
commission.**

1 (a) The legislative rules filed in the state register on
2 the fifth day of November, one thousand nine hundred
3 eighty-seven, relating to the jail and prison standards
4 commission (West Virginia minimum standards for
5 construction, operation and maintenance of jails), are
6 authorized.

7 (b) The legislative rules filed in the state register on
8 the ninth day of May, one thousand nine hundred eighty-
9 eight, modified by the jail and prison standards
10 commission to meet the objections of the legislative rule-
11 making review committee and refiled in the state
12 register on the twenty-seventh day of February, one
13 thousand nine hundred eighty-nine, relating to the jail
14 and prison standards commission (West Virginia
15 minimum standards for construction, operation and
16 maintenance of holding facilities), are authorized.

17 (c) The legislative rules filed in the state register on
18 the eighteenth day of March, one thousand nine hundred
19 eighty-eight, modified by the jail and prison standards
20 commission to meet the objections of the legislative rule-
21 making review committee and refiled in the state
22 register on the twenty-seventh day of February, one
23 thousand nine hundred eighty-nine, relating to the jail
24 and prison standards commission (West Virginia
25 minimum standards for construction, operation and
26 maintenance of prisons), are authorized.

27 (d) The Legislature hereby authorizes and directs the
28 jail and prison standards commission to amend its rules
29 relating to West Virginia minimum standards for
30 construction, operation and maintenance of jails which

31 were filed in the code of state regulations (95 CSR 1)
32 on the fifth day of April, one thousand nine hundred
33 eighty-eight, with the following amendment set forth
34 below:

35 On page 7, §8.10 by striking out in the first sentence,
36 after the word "house", the following words: "no less
37 than four (4)" and

38 On page 30 by adding a new section 17.21 to read as
39 follows:

40 "17.21 Visitation to Home County. To the extent that
41 the previous subsections provide requirements for
42 visitation with inmates housed in regional jail facilities,
43 it is the intent that such requirements apply only to
44 visitation provided in a regional jail facility. When
45 visitation with family and friends is required to be
46 provided to a person incarcerated in a regional jail
47 facility in a location other than the regional jail, the
48 following provisions shall apply:

49 17.21.1 The regional jail need not assume the respon-
50 sibility for transportation to the home county seat of a
51 person incarcerated in the regional jail facility for
52 visitation with their family and friends unless that
53 person has had no visits from family and friends in the
54 previous three months.

55 17.21.2 In providing any transportation under subsec-
56 tion 17.21.1 the regional jail has the right to schedule
57 such transportation for visits with family and friends of
58 the person incarcerated in a manner which would utilize
59 to the utmost the regional jail's regularly scheduled
60 trips to each of the respective counties it serves,
61 including the scheduling of round-trips, so long as a
62 minimum of 30 minutes is available for visitation.

63 17.21.3 The regional jail need not assume any respon-
64 sibility for transportation under subsection 17.21.1 when
65 the distance from the regional jail to the respective
66 county seat is less than two hours driving time."

67 (e) The legislative rules filed in the state register on
68 the twentieth day of September, one thousand nine
69 hundred ninety-one, modified by the jail and correc-

70 tional facility standards commission to meet the
 71 objections of the legislative rule-making review commit-
 72 tee and refiled in the state register on the ninth day of
 73 July, one thousand nine hundred ninety-two, relating to
 74 the jail and correctional facility standards commission
 75 (minimum standards for construction, operation and
 76 maintenance of jails), are authorized, with the following
 77 amendment:

78 On page 4, section 1.1, by striking everything after the
 79 word "Scope" and inserting in lieu thereof the following:
 80 "This legislative rule establishes minimum standards
 81 and procedures for new jail facilities completed after the
 82 fifth day of April, one thousand nine hundred eighty-
 83 eight, and shall serve only as guidelines for jail facilities
 84 that were in operation prior to fifth day of April, one
 85 thousand nine hundred eighty-eight."

86 (f) The Legislature hereby authorizes and directs the
 87 jail and prison standards commission to amend its rules
 88 relating to West Virginia minimum standards for
 89 construction, operation and maintenance of holding
 90 facilities which were filed in the code of state regula-
 91 tions (95 CSR 3) on the twenty-seventh day of June, one
 92 thousand nine hundred eighty-nine, with the following
 93 amendment:

94 On page 30, by striking out all of §8.7, and renum-
 95 bering the following subsections.

§64-6-6. State emergency response commission.

1 The legislative rules filed in the state register on the
 2 ninth day of December, one thousand nine hundred
 3 ninety-one, modified by the state emergency response
 4 commission to meet the objections of the legislative rule-
 5 making review committee and refiled in the state
 6 register on the fifteenth day of December, one thousand
 7 nine hundred ninety-two, relating to the state emer-
 8 gency response commission (SERC legislative rules), are
 9 authorized.

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND
 REVENUE TO PROMULGATE LEGISLATIVE
 RULES.**

§64-7-2. Insurance commissioner.

1 (a) The legislative rules filed in the state register on
2 the eighteenth day of October, one thousand nine
3 hundred eighty-three, relating to the insurance commis-
4 sioner (excess line brokers), are authorized.

5 (b) The legislative rules filed in the state register on
6 the eighteenth day of August, one thousand nine
7 hundred eighty-six, modified by the insurance commis-
8 sioner to meet the objections of the legislative rule-
9 making review committee and refiled in the state
10 register on the twelfth day of December, one thousand
11 nine hundred eighty-six, relating to the insurance
12 commissioner (examiners' compensation, qualification
13 and classification), are authorized.

14 (c) The legislative rules filed in the state register on
15 the twentieth day of February, one thousand nine
16 hundred eighty-seven, relating to the insurance commis-
17 sioner (West Virginia essential property insurance
18 association), are authorized.

19 (d) The legislative rules filed in the state register on
20 the twenty-ninth day of May, one thousand nine hundred
21 eighty-seven, relating to the insurance commissioner
22 (medical malpractice annual reporting requirements),
23 are authorized.

24 (e) The legislative rules filed in the state register on
25 the thirty-first day of July, one thousand nine hundred
26 eighty-seven, modified by the insurance commissioner to
27 meet the objections of the legislative rule-making review
28 committee and refiled in the state register on the
29 seventh day of November, one thousand nine hundred
30 eighty-seven, relating to the insurance commissioner
31 (medical malpractice loss experience and loss expense
32 reporting requirements), are authorized.

33 (f) The legislative rules filed in the state register on
34 the thirtieth day of November, one thousand nine
35 hundred eighty-eight, modified by the insurance com-
36 missioner to meet the objections of the legislative rule-
37 making review committee and refiled in the state
38 register on the twenty-first day of February, one

39 thousand nine hundred eighty-nine, relating to the
40 insurance commissioner (transitional requirements for
41 the conversion of Medicare supplement insurance
42 benefits and premiums to conform to Medicare program
43 revisions), are authorized.

44 (g) The legislative rules filed in the state register on
45 the twenty-sixth day of May, one thousand nine hundred
46 eighty-nine, modified by the insurance commissioner to
47 meet the objections of the legislative rule-making review
48 committee and refiled in the state register on the
49 twenty-eighth day of September, one thousand nine
50 hundred eighty-nine, relating to the insurance commis-
51 sioner (insurance adjusters), are authorized.

52 (h) The legislative rules filed in the state register on
53 the second day of February, one thousand nine hundred
54 ninety, modified by the insurance commissioner to meet
55 the objections of the legislative rule-making review
56 committee and refiled in the state register on the
57 twenty-ninth day of May, one thousand nine hundred
58 ninety, relating to the insurance commissioner (accident
59 and sickness rate filing), are authorized.

60 (i) The legislative rules filed in the state register on
61 the tenth day of August, one thousand nine hundred
62 ninety, modified by the insurance commissioner to meet
63 the objections of the legislative rule-making review
64 committee and refiled in the state register on the ninth
65 day of October, one thousand nine hundred ninety,
66 relating to the insurance commissioner (group coordina-
67 tion of benefits), are authorized.

68 (j) The legislative rules filed in the state register on
69 the tenth day of August, one thousand nine hundred
70 ninety, modified by the insurance commissioner to meet
71 the objections of the legislative rule-making review
72 committee and refiled in the state register on the
73 seventeenth day of January, one thousand nine hundred
74 ninety-one, relating to the insurance commissioner
75 (AIDS regulations), are authorized.

76 (k) The legislative rules filed in the state register on
77 the third day of December, one thousand nine hundred
78 ninety, relating to the insurance commissioner (health

79 insurance benefits for temporomandibular and cranio-
80 mandibular disorders), are authorized.

81 (l) The legislative rules filed in the state register on
82 the twelfth day of August, one thousand nine hundred
83 ninety-one, modified by the insurance commissioner to
84 meet the objections of the legislative rule-making review
85 committee and refiled in the state register on the
86 thirteenth day of January, one thousand nine hundred
87 ninety-two, relating to the insurance commissioner
88 (guaranteed loss ratios as applied to individual sickness
89 and accident insurance policies), are authorized.

90 (m) The legislative rules filed in the state register on
91 the ninth day of August, one thousand nine hundred
92 ninety-one, modified by the insurance commissioner to
93 meet the objections of the legislative rule-making review
94 committee and refiled in the state register on the
95 thirteenth day of January, one thousand nine hundred
96 ninety-two, relating to the insurance commissioner
97 (examiners' compensation, qualifications and classifica-
98 tion), are authorized.

99 (n) The legislative rules filed in the state register on
100 the seventeenth day of July, one thousand nine hundred
101 ninety-one, modified by the insurance commissioner to
102 meet the objections of the legislative rule-making review
103 committee and refiled in the state register on the
104 thirteenth day of January, one thousand nine hundred
105 ninety-two, relating to the insurance commissioner
106 (permanent regulations on Medicare supplement insu-
107 rance), are authorized.

108 (o) The legislative rules filed in the state register on
109 the twelfth day of August, one thousand nine hundred
110 ninety-one, modified by the insurance commissioner to
111 meet the objections of the legislative rule-making review
112 committee and refiled in the state register on the
113 thirteenth day of January, one thousand nine hundred
114 ninety-two, relating to the insurance commissioner
115 ("tail" malpractice insurance covering certain medical
116 and allied health care providers), are authorized.

117 (p) The legislative rules filed in the state register on
118 the eighteenth day of September, one thousand nine

119 hundred ninety-two, relating to the insurance commis-
120 sioner (regulation of credit life insurance and credit
121 accident and sickness insurance), are authorized.

122 (q) The legislative rules filed in the state register on
123 the eighteenth day of September, one thousand nine
124 hundred ninety-two, modified by the insurance commis-
125 sioner to meet the objections of the legislative rule-
126 making review committee and refiled in the state
127 register on the tenth day of December, one thousand
128 nine hundred ninety-two, relating to the insurance
129 commissioner (filing fees for purchasing groups and for
130 risk retention groups not chartered in this state), are
131 authorized.

132 (r) The legislative rules filed in the state register on
133 the fourteenth day of October, one thousand nine
134 hundred ninety-two, relating to the insurance commis-
135 sioner (group coordination of benefits), are authorized
136 with the amendments set forth below:

137 "On page six, subsection 2.1.9., after the words 'If a
138 person is covered by more than one employer group
139 minimum benefits plan, the order of benefits determi-
140 nation rules of this regulation decide the order in which
141 their benefits are determined in relation to each other'
142 by inserting a colon and the words '*Provided*, That
143 under the provisions of West Virginia Code §5-16-12(a),
144 coverage issued pursuant to the Public Employees
145 Insurance Act is secondary to an employer group
146 minimum benefits plan and any other applicable health
147 insurance coverage.'"

148 (s) The legislative rules filed in the state register on
149 the eighteenth day of September, one thousand nine
150 hundred ninety-two, modified by the insurance commis-
151 sioner to meet the objections of the legislative rule-
152 making review committee and refiled in the state
153 register on the fifteenth day of January, one thousand
154 nine hundred ninety-three, relating to the insurance
155 commissioner (permanent regulations on medicare
156 supplement insurance), are authorized.

157 (t) The legislative rules filed in the state register on
158 the eighteenth day of September, one thousand nine

159 hundred ninety-two, modified by the insurance commis-
160 sioner to meet the objections of the legislative rule-
161 making review committee and refiled in the state
162 register on the fifteenth day of January, one thousand
163 nine hundred ninety-three, relating to the insurance
164 commissioner (individual and employer group minimum
165 benefits, accident and sickness insurance policies), are
166 authorized with the amendments set forth below:

167 “On page two, subsection 3.2 by striking out the period
168 and inserting the following: ‘other than coverage issued
169 pursuant to the Public Employees Insurance Act, as
170 provided in West Virginia Code §5-16-12(a).’”

171 (u) The legislative rules filed in the state register on
172 the eighteenth day of September, one thousand nine
173 hundred ninety-two, modified by the insurance commis-
174 sioner to meet the objections of the legislative rule-
175 making review committee and refiled in the state
176 register on the fifteenth day of January, one thousand
177 nine hundred ninety-three, relating to the insurance
178 commissioner (long-term care insurance), are
179 authorized.

180 (v) The legislative rules filed in the state register on
181 the eighteenth day of September, one thousand nine
182 hundred ninety-two, modified by the insurance commis-
183 sioner to meet the objections of the legislative rule-
184 making review committee and refiled in the state
185 register on the fifteenth day of January, one thousand
186 nine hundred ninety-three, relating to the insurance
187 commissioner (standards for uniform health care
188 administration), are authorized.

§64-7-3. Board of investments.

1 (a) The legislative rules filed in the state register on
2 the third day of January, one thousand nine hundred
3 eighty-four, relating to the state board of investments
4 (selection of state depositories for disbursement accounts
5 through competitive bidding), are authorized.

6 (b) The legislative rules filed in the state register on
7 the third day of January, one thousand nine hundred
8 eighty-four, relating to the state board of investments

9 (administration of the consolidated fund), are
10 authorized.

11 (c) The legislative rules filed in the state register on
12 the ninth day of January, one thousand nine hundred
13 ninety, modified by the state board of investments to
14 meet the objections of the legislative rule-making review
15 committee and refiled in the state register on the
16 twenty-fourth day of January, one thousand nine
17 hundred ninety, relating to the state board of invest-
18 ments (administration of the consolidated fund), are
19 authorized.

20 (d) The legislative rules filed in the state register on
21 the ninth day of January, one thousand nine hundred
22 ninety, modified by the state board of investments to
23 meet the objections of the legislative rule-making review
24 committee and refiled in the state register on the
25 twenty-fourth day of January, one thousand nine
26 hundred ninety, relating to the state board of invest-
27 ments (administration of the consolidated pension fund),
28 are authorized.

29 (e) The legislative rules filed in the state register on
30 the thirtieth day of November, one thousand nine
31 hundred ninety, modified by the state board of invest-
32 ments to meet the objections of the legislative rule-
33 making review committee and refiled in the state
34 register on the seventeenth day of May, one thousand
35 nine hundred ninety-one, relating to the state board of
36 investments (establishment of imprest funds), are
37 authorized.

38 (f) The legislative rules filed in the state register on
39 the thirtieth day of November, one thousand nine
40 hundred ninety, modified by the state board of invest-
41 ments to meet the objections of the legislative rule-
42 making review committee and refiled in the state
43 register on the seventeenth day of May, one thousand
44 nine hundred ninety-one, relating to the state board of
45 investments (administration of the consolidated pension
46 fund by the West Virginia state board of investments),
47 are authorized.

48 (g) The legislative rules filed in the state register on

49 the thirtieth day of November, one thousand nine
50 hundred ninety, modified by the state board of invest-
51 ments to meet the objections of the legislative rule-
52 making review committee and refiled in the state
53 register on the seventeenth day of May, one thousand
54 nine hundred ninety-one, relating to the state board of
55 investments (procedures for processing payments from
56 the state treasury), are authorized.

57 (h) The legislative rules filed in the state register on
58 the thirtieth day of November, one thousand nine
59 hundred ninety, modified by the state board of invest-
60 ments to meet the objections of the legislative rule-
61 making review committee and refiled in the state
62 register on the seventeenth day of May, one thousand
63 nine hundred ninety-one, relating to the state board of
64 investments (selection of state depositories for disburse-
65 ment accounts through competitive bidding), are
66 authorized.

67 (i) The legislative rules filed in the state register on
68 the thirtieth day of November, one thousand nine
69 hundred ninety, modified by the state board of invest-
70 ments to meet the objections of the legislative rule-
71 making review committee and refiled in the state
72 register on the seventeenth day of May, one thousand
73 nine hundred ninety-one, relating to the state board of
74 investments (administration of the consolidated fund by
75 the West Virginia state board of investments), are
76 authorized.

77 (j) The legislative rules filed in the state register on
78 the thirtieth day of November, one thousand nine
79 hundred ninety, modified by the state board of invest-
80 ments to meet the objections of the legislative rule-
81 making review committee and refiled in the state
82 register on the seventeenth day of May, one thousand
83 nine hundred ninety-one, relating to the state board of
84 investments (selection of state depositories for receipt
85 accounts), are authorized with the amendment set forth
86 below:

87 On page three, section four, by striking out the period
88 after the word "agency" and adding the words "but shall

89 select a depository in the same community or geogra-
90 phical area as the agency.”

91 (k) The legislative rules filed in the state register on
92 the thirtieth day of November, one thousand nine
93 hundred ninety, modified by the state board of invest-
94 ments to meet the objections of the legislative rule-
95 making review committee and refiled in the state
96 register on the seventeenth day of May, one thousand
97 nine hundred ninety-one, relating to the state board of
98 investments (procedures for deposit of moneys with the
99 board of investments and treasurer’s office by state
100 agencies), are authorized.

101 (l) The legislative rules filed in the state register on
102 the sixth day of November, one thousand nine hundred
103 ninety-one, modified by the state board of investments
104 to meet the objections of the legislative rule-making
105 review committee and refiled in the state register on the
106 twenty-first day of August, one thousand nine hundred
107 ninety-two, relating to the state board of investments
108 (reporting of state debt to the West Virginia state board
109 of investments), are authorized.

§64-7-5. Racing commission.

1 (a) The legislative rules filed in the state register on
2 the twenty-third day of April, one thousand nine
3 hundred eighty-two, relating to the West Virginia
4 racing commission (Rule 795), are authorized.

5 (b) The legislative rules filed in the state register on
6 the twenty-third day of April, one thousand nine
7 hundred eighty-two, relating to the West Virginia
8 racing commission (Rule 819), are authorized.

9 (c) The legislative rules filed in the state register on
10 the twenty-third day of April, one thousand nine
11 hundred eighty-two, relating to the West Virginia
12 racing commission (Rule 107), are authorized.

13 (d) The legislative rules filed with the legislative rule-
14 making review committee on the tenth day of January,
15 one thousand nine hundred eighty-three, relating to the
16 West Virginia racing commission (Rule 471), are
17 authorized.

18 (e) The legislative rules filed in the state register on
19 the tenth day of January, one thousand nine hundred
20 eighty-three, relating to the West Virginia racing
21 commission (Rule 526), are authorized.

22 (f) The legislative rules filed in the state register on
23 the twentieth day of September, one thousand nine
24 hundred eighty-three, relating to the West Virginia
25 racing commission (Rule 107) greyhound racing, are
26 authorized.

27 (g) The legislative rules filed in the state register on
28 the twentieth day of September, one thousand nine
29 hundred eighty-three, relating to the West Virginia
30 racing commission (Rule 108) greyhound racing, are
31 authorized with the amendment set forth below:

32 Following the word "Association" insert a period and
33 strike the remainder of the sentence.

34 (h) The legislative rules filed in the state register on
35 the twentieth day of September, one thousand nine
36 hundred eighty-three, relating to the West Virginia
37 racing commission (Rule 108) thoroughbred racing, are
38 authorized with the amendment set forth below:

39 Following the word "Association" insert a period and
40 strike the remainder of the sentence.

41 (i) The legislative rules filed in the state register on
42 the twentieth day of September, one thousand nine
43 hundred eighty-three, relating to the West Virginia
44 racing commission (Rule 392) greyhound racing, are
45 authorized.

46 (j) The legislative rules filed in the state register on
47 the twentieth day of September, one thousand nine
48 hundred eighty-three, relating to the West Virginia
49 racing commission (Rule 455) greyhound racing, are
50 authorized.

51 (k) The legislative rules filed in the state register on
52 the twentieth day of September, one thousand nine
53 hundred eighty-three, relating to the West Virginia
54 racing commission (Rule 609A) greyhound racing, are
55 authorized.

56 (l) The legislative rules filed in the state register on
57 the twentieth day of September, one thousand nine
58 hundred eighty-three, relating to the West Virginia
59 racing commission (Rule 627) greyhound racing, are
60 authorized.

61 (m) The legislative rules filed in the state register on
62 the twentieth day of September, one thousand nine
63 hundred eighty-three, relating to the West Virginia
64 racing commission (Rule 845) thoroughbred racing, are
65 authorized.

66 (n) The legislative rules filed in the state register on
67 the ninth day of November, one thousand nine hundred
68 eighty-four, relating to the West Virginia racing
69 commission (greyhound racing — Rule 628), are
70 authorized.

71 (o) The legislative rules filed in the state register on
72 the twenty-fifth day of September, one thousand nine
73 hundred eighty-four, relating to the West Virginia
74 racing commission (greyhound racing — Rule 672), are
75 authorized.

76 (p) The legislative rules filed in the state register on
77 the ninth day of November, one thousand nine hundred
78 eighty-four, relating to the West Virginia racing
79 commission (thoroughbred racing — Rule 808), are
80 authorized.

81 (q) The legislative rules filed in the state register on
82 the twenty-fifth day of September, one thousand nine
83 hundred eighty-four, relating to the West Virginia
84 racing commission (thoroughbred racing — Rule 843),
85 are authorized.

86 (r) The legislative rules filed in the state register on
87 the sixth day of August, one thousand nine hundred
88 eighty-four, relating to the West Virginia racing
89 commission (greyhound racing — Rule 845-I), are
90 authorized.

91 (s) The legislative rules filed in the state register on
92 the third day of September, one thousand nine hundred
93 eighty-seven, modified by the West Virginia racing
94 commission to meet the objections of the legislative rule-

95 making review committee and refiled in the state
96 register on the twenty-first day of December, one
97 thousand nine hundred eighty-seven, relating to the
98 West Virginia racing commission (greyhound racing),
99 are authorized.

100 (t) The legislative rules filed in the state register on
101 the thirty-first day of July, one thousand nine hundred
102 eighty-seven, modified by the West Virginia racing
103 commission to meet the objections of the legislative rule-
104 making review committee and refiled in the state
105 register on the eighteenth day of December, one
106 thousand nine hundred eighty-seven, relating to the
107 West Virginia racing commission (thoroughbred rac-
108 ing), are authorized with the amendment set forth
109 below:

110 On page fifty-five, Section 61.3(f), by striking all of
111 subsection (f) and inserting in lieu thereof the existing
112 provisions of subsection (f) as contained in 178 CSR 1,
113 which reads as follows:

114 "All moneys held by any licensee for the payment of
115 outstanding and unredeemed pari-mutuel tickets, if not
116 claimed within ninety (90) days after the close of the
117 horse race meeting in connection with which the tickets
118 were issued, shall be turned over by the licensee to the
119 Racing Commission within fifteen (15) days after the
120 expiration of such ninety (90) day period and the
121 licensee shall give such information as the Racing
122 Commission may require concerning such outstanding
123 and unredeemed tickets; viz. The outs ledger enumer-
124 ating all outstanding tickets at the close of each meeting,
125 to contain a record of all tickets redeemed in the ninety
126 (90) day period following, together with all redeemed
127 tickets which shall bear the stamp of the cashier(s)
128 making redemption: A stamp indicating "Outs Ticket".
129 In addition, a statement to accompany said ledger and
130 tickets, setting forth the quantity and amount of each
131 denomination redeemed in the ninety (90) day period,
132 with a grand total indicating the sum paid in "Outs".
133 This sum subtracted from the outs on the closing day
134 to equal the remittance of the Association in settlement
135 of the "Out" account for the meeting."

136 (u) The legislative rules filed in the state register on
137 the ninth day of September, one thousand nine hundred
138 eighty-eight, relating to the West Virginia racing
139 commission (thoroughbred racing), are authorized.

140 (v) The legislative rules filed in the state register on
141 the eighteenth day of January, one thousand nine
142 hundred eighty-nine, modified by the West Virginia
143 racing commission to meet the objections of the legis-
144 lative rule-making review committee and refiled in the
145 state register on the twentieth day of February, one
146 thousand nine hundred eighty-nine, relating to the West
147 Virginia racing commission (greyhound racing), are
148 authorized.

149 (w) The legislative rules filed in the state register on
150 the fourth day of March, one thousand nine hundred
151 eighty-nine, modified by the West Virginia racing
152 commission to meet the objections of the legislative rule-
153 making review committee and refiled in the state
154 register on the first day of June, one thousand nine
155 hundred eighty-nine, relating to the West Virginia
156 racing commission (thoroughbred racing), are
157 authorized.

158 (x) The legislative rules filed in the state register on
159 the twenty-second day of June, one thousand nine
160 hundred eighty-nine, relating to the West Virginia
161 racing commission (greyhound racing), are authorized.

162 (y) The legislative rules filed in the state register on
163 the tenth day of August, one thousand nine hundred
164 ninety, modified by the West Virginia racing commis-
165 sion to meet the objections of the legislative rule-making
166 review committee and refiled in the state register on the
167 fourteenth day of January, one thousand nine hundred
168 ninety-one, relating to the West Virginia racing commis-
169 sion (thoroughbred racing), are authorized.

170 (z) The legislative rules filed in the state register on
171 the twenty-ninth day of October, one thousand nine
172 hundred ninety, modified by the West Virginia racing
173 commission to meet the objections of the legislative rule-
174 making review committee and refiled in the state
175 register on the fourteenth day of January, one thousand

176 nine hundred ninety-one, relating to the West Virginia
177 racing commission (greyhound racing), are authorized
178 with the amendment set forth below:

179 On pages seventy-four-a through seventy-eight, section
180 forty-five, by striking out all of subsection 45.38.

181 (aa) The legislative rules filed in the state register on
182 the twenty-ninth day of July, one thousand nine hundred
183 ninety-one, modified by the racing commission to meet
184 the objections of the legislative rule-making review
185 committee and refiled in the state register on the
186 twentieth day of September, one thousand nine hundred
187 ninety-one, relating to the racing commission (tho-
188 roughbred racing), are authorized.

189 (bb) The legislative rules filed in the state register on
190 the fifteenth day of August, one thousand nine hundred
191 ninety-one, relating to the West Virginia racing commis-
192 sion (greyhound racing), are authorized.

193 (cc) The legislative rules filed in the state register on
194 the eighteenth day of September, one thousand nine
195 hundred ninety-two, relating to the racing commission
196 (pari-mutuel wagering), are authorized.

197 (dd) The legislative rules filed in the state register on
198 the eighteenth day of September, one thousand nine
199 hundred ninety-two, modified by the racing commission
200 to meet the objections of the legislative rule-making
201 review committee and refiled in the state register on the
202 twenty-sixth day of January, one thousand nine hundred
203 ninety-three, relating to the racing commission (tho-
204 roughbred racing), are authorized.

205 (ee) The legislative rules filed in the state register on
206 the eighteenth day of September, one thousand nine
207 hundred ninety-two, modified by the racing commission
208 to meet the objections of the legislative rule-making
209 review committee and refiled in the state register on the
210 twenty-sixth day of January, one thousand nine hundred
211 ninety-three, relating to the racing commission (grey-
212 hound racing), are authorized.

**§64-7-6. Department of tax and revenue; division of tax;
and state tax commissioner.**

1 (a) The legislative rules filed in the state register on
2 the fifth day of January, one thousand nine hundred
3 eighty-four, relating to the state tax commissioner
4 (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes), are authorized with the amendments set forth below:
5
6

7 On page 8, section 11.04(b)(2), definition of "Active
8 Mining Property," at the end of the first paragraph
9 following the period, by adding the following: "In the
10 application of the herein provided valuation formula on
11 'active mining property,' the appropriate formula
12 calculation will be based upon the actual market to
13 which the coal from that tract and seam is currently
14 being sold, whether it is 'metallurgical' or 'steam'."

15 On page 9, section 11.04(b)(3), definition of "Active
16 Reserves," at the end of the subsection, following the
17 period, by adding the following: "In the application of
18 the herein provided valuation formula on 'active
19 reserves,' the appropriate formula calculation will be
20 based upon the actual market to which the coal from
21 that tract and seam is currently being sold, whether it
22 is 'metallurgical' or 'steam'."

23 On page 11, section 11.04(b)(11), definition of "Mine-
24 able Coal," by striking the subsection and substituting
25 in lieu thereof the following: "(11) Mineable Coal. Coal
26 which can be mined under present day mining technol-
27 ogy and economics."

28 On page 25, section 11.04(c)(2)(C), entitled "Property
29 Tax Component," by striking the subsection and
30 inserting in lieu thereof the following: "(C) Property Tax
31 Component — This component will be derived by
32 multiplying the assessment rate by the statewide
33 average of tax rates on Class III property."

34 On page 30, section 11.04(c)(4), entitled "Valuation of
35 Mined-Out/Unmineable/Barren Coal Properties," by
36 striking the numbers "\$5.00" and inserting in lieu
37 thereof the following: "\$1.00."

38 On page 31, section 11.04(c)(5)(B), by striking the
39 words and numbers "Five Dollars (\$5.00)" and inserting

40 in lieu thereof the following: "One Dollar (\$1.00)."

41 On page 53, section 11.05(h) by striking the symbol
42 and figures "\$5.00" and inserting in lieu the following:
43 "\$1.00."

44 On page 73, section 11.06(h) by striking the symbol
45 and figures "\$5.00" and inserting in lieu the following:
46 "\$1.00."

47 On page 81, section 11.07(e)(15)(B)(4) at the end of the
48 second sentence remove the period after the word
49 "property" and insert the words "unless the land is used
50 for some other purpose in which case it will be taxed
51 according to its actual use."

52 On page 86, section 11.07(k) delete all of subsection
53 (k).

54 On page 110, section 11.08(c)(4) by striking the symbol
55 and figures "\$5.00" and inserting in lieu thereof the
56 following: "\$1.00."

57 On page 111, section 11.08(c)(5)(B) by striking the
58 symbol and figures "\$5.00" and inserting in lieu thereof
59 the following: "\$1.00."

60 And,

61 On page 115, section 11.09(a)(3) in the first sentence,
62 insert after the word "land" the words "excluding
63 farmland."

64 (b) The legislative rules filed in the state register on
65 the twenty-eighth day of September, one thousand nine
66 hundred eighty-four, relating to the state tax commis-
67 sioner (estimated personal income tax), are authorized
68 with the amendments set forth below:

69 55.02(a)(2)(on page 182.2) line 18, after the word
70 "profession" strike the words "on his own account" and
71 the comma(,).

72 55.12(b)(1)(page 182.35) at the end of the section,
73 change the period to a comma, and add the following
74 language: "and in the case of a court appointed agent,
75 a copy of the court order of appointment is sufficient."

76 And,

77 55.12(c)(page 182.36) after the word "for," strike the
78 word "erroneous."

79 (c) The legislative rules filed in the state register on
80 the twenty-eighth day of September, one thousand nine
81 hundred eighty-four, modified by the state tax commis-
82 sioner to meet the objections of the legislative rule-
83 making review committee and refiled in the state
84 register on the fourteenth day of November, one
85 thousand nine hundred eighty-four, and on the twenty-
86 first day of March, one thousand nine hundred eighty-
87 five, relating to the state tax commissioner (estimated
88 corporation net income tax), are authorized.

89 (d) The legislative rules filed in the state register on
90 the twelfth day of March, one thousand nine hundred
91 eighty-five, relating to the state tax commissioner
92 (identification and appraisal of farmland subsequent to
93 the base year of statewide reappraisal), are authorized
94 and directed to be promulgated with the following
95 amendments:

96 Title page, Subject; following the word "Farmland,"
97 insert the words "and of Structures Situated Thereon."

98 Page i, Subject; following the word "Farmland,"
99 insert the words "and of Structures Situated Thereon."

100 Page i, TABLE OF CONTENTS, Section 10; follow-
101 ing the words "Valuation of Farmland" add the words
102 "and of Structures Situated Thereon."

103 Page 10.1, Title; following the word "FARMLAND"
104 insert the words "AND STRUCTURES SITUATED
105 THEREON."

106 Page 10.1, Section 10, Title; following the word
107 "Farmland" add the words "and Structures Situated
108 Thereon."

109 Page 10.1, Section 10.01(b); following the word
110 "farmland" insert the words "and structures situated
111 thereon."

112 Page 10.2, Section 10.02(a), first sentence; following

113 the word "farmland" insert the words "and structures
114 situated thereon."

115 Page 10.3, Section 10.02(b), first sentence; following
116 the word "farmland" insert the words "and structures
117 situated thereon." Delete the words "for purposes of the
118 statewide reappraisal."

119 Page 10.3, Section 10.02(b), last sentence; following
120 the word "farmland" insert the words "and structures
121 situated thereon."

122 Page 10.8, Section 10.04(5)(B), last sentence; delete the
123 period and add "or the incapability to be adapted to
124 alternative uses."

125 Page 10.9, Section 10.04(6), first sentence; following
126 the words "land currently being used" insert the words
127 "as part of a farming operation."

128 Page 10.9, Section 10.04(6), following the last sent-
129 ence; add the sentence "For the purposes of this
130 definition, 'contiguous tracts' are farmlands which are
131 in close proximity, but not necessarily adjacent: *Pro-*
132 *vided*, That all such contiguous tracts are operated as
133 part of the same farm management plan."

134 Page 10.10, Section 10.04(8), is amended to read in its
135 entirety as follows:

136 "(8) Farm buildings. — The term 'farm buildings'
137 shall mean structures which directly contribute to the
138 operation of the farm, and shall include tenant houses
139 and quarters furnished farm employees without rent as
140 a part of the terms of their employment."

141 Page 10.11, Section 10.04; delete the word "No-
142 vember" and insert in lieu thereof the word "Sep-
143 tember." Delete the period following the word "valu-
144 ation" and add the words, "for the assessment year
145 beginning July first of each year."

146 Page 10.11, Section 10.04, insert the following
147 subdivision: "(12) Application Form: The application
148 form required to be filed with the assessor on or before
149 September first of each year shall require certification
150 that the farm complies with criteria set forth in Section

151 10.05(c) of these regulations, and renewal applications
152 from year to year shall be sufficient upon statement
153 certifying that no change has been made in the use of
154 farm property which would disqualify 'farm use'
155 classification for assessment purposes." Renumber the
156 subdivisions of Section 10.04 following the new
157 10.04(12); formerly 10.04(12) through 10.04(28), to
158 10.04(13) through 10.04(29), respectively.

159 Page 10.14, Section 10.04(28) (formerly 10.04(27));
160 following the words "woodland products" insert a
161 comma and the words "such as nuts or fruits harvested"
162 and add a comma following the words "human consump-
163 tion" on Page 10.15.

164 Page 10.16, Section 10.05, subsection (a), following the
165 words "land is used for farm purposes" by striking the
166 period and inserting in lieu thereof a colon and the
167 following: "*Provided*, That the true and actual value of
168 all farm used, occupied and cultivated by their owners
169 or bona fide tenants shall be arrived at according to the
170 fair and reasonable value of the property for the purpose
171 for which it is actually used regardless of what the value
172 of the property would be if used for some other purpose;
173 and that the true and actual value shall be arrived at
174 by giving consideration to the fair and reasonable
175 income which the same might be expected to earn under
176 normal conditions in the locality wherein situated, if
177 rented: *Provided, however*, That nothing herein shall
178 alter the method of assessment of lands or minerals
179 owned by domestic or foreign corporations."

180 Page 10.16, Section 10.05(b), first clause; following the
181 words "following factors shall be" insert the words
182 "indicative of but not conclusive" and delete the word
183 "considered."

184 Page 10.16, Section 10.05(b)(2); delete the period and
185 add the words "such as soil conservation, farmland
186 preservation or federal farm lending agencies."

187 Page 10.17, Section 10.05(b)(7); delete the section and
188 insert in lieu thereof the words "(7) Whether or not the
189 farmer practices 'custom farming' on the land in
190 question."

191 Page 10.17, Section 10.05(b)(9); following the word
192 "type" add a comma and insert the word "utility."

193 Page 10.17, Section 10.05(b)(11), first sentence;
194 following the word "sales" insert the words "for nonfarm
195 uses."

196 Page 10.17, Section 10.05(b)(12)(A); following the
197 words "part of" insert the words "or appurtenant to."

198 Page 10.17, Section 10.05(b)(12)(B); following the
199 words "contiguous to" insert the words "or operated in
200 common with."

201 Page 10.18, Section 10.05, subsection (c), the first
202 sentence of which is amended in its entirety to read as
203 follows: "Qualifying farmland and the structures
204 situated thereon shall be subject to farm use valuation,
205 with primary consideration being given to the income
206 which the property might be expected to earn, in the
207 locality wherein situate, if rented."

208 Page 10.18, Section 10.05(b)(12)(B); delete the semicol-
209 ons and the words "it was purchased at the same time
210 as the tract so used." Delete the period following the
211 word "purposes" and add the words "or any nonfarm
212 use."

213 Page 10.19, Section 10.05(c)(2); following the words
214 "*Provided, That no*" delete the word "reason" and insert
215 in lieu thereof the words "individual event."

216 Page 10.20, Section 10.05(c)(4)(C); following the words
217 "(1,000) minimum production value" insert the words
218 "or the small farm five hundred dollars (\$500) minimum
219 production and sale."

220 Page 10.23, Section 10.05(d)(3)(B), third sentence;
221 following the word "If" insert the words "timber from."
222 Delete the period following the word "purpose" and add
223 the words "or is being converted to farm production
224 uses."

225 Page 10.26, Section 10.05(f)(2) is amended in its
226 entirety to read as follows:

227 "(2) Farm buildings. — Rental value of farm buildings

228 and other improvements on the farmland shall be valued
229 by determining the replacement cost of the building or
230 structure by usual farm construction practices, and
231 farm labor standards and subtracting therefrom
232 depreciation.¹ Both of these determinations shall be
233 made in accordance with the tax department's real
234 property appraisal manual² as filed in the state register
235 in accordance with chapter 29A of the code of West
236 Virginia, 1931, as amended, and as it relates to
237 agricultural buildings and structures. One (1) acre of
238 land shall be assigned to all buildings as a unit situate
239 on the property, regardless of the actual acreage
240 occupied by such buildings and shall be appraised at its
241 farm-use valuation based on the highest class of
242 farmland present on the farm."

243 Page 10.28, Section 10.05(f)(3)(B)(1); following the
244 words "or more of the" insert the word "usual."

245 Page 10.28, Section 10.05(f)(3)(B)(2); following the
246 words "(50%) of the" insert the word "usual."

247 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the
248 words "(50%) or more of the" insert the word "usual."

249 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the
250 words "(50%) of the" insert the word "usual."

251 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the
252 last sentence insert the sentence "An individual em-
253 ployed other than in farming is not an unincorporated
254 business."

255 Page 10.35, Section 10.07, Title; following the word
256 "Farmland" insert the words "and Structures Situated
257 Thereon."

258 Page 10.35, Section 10.07(a), first sentence; following
259 the word "farmland" insert the words "and structures
260 situated thereon."

261 And,

262 Page 10.46, Subject; following the word "Farmland"
263 insert the words "and Structures Situated Thereon."

264 (e) The legislative rules filed in the state register on

265 the twenty-second day of May, one thousand nine
266 hundred eighty-five, relating to the state tax commis-
267 sioner (rules governing the operation of a statewide
268 electronic data processing system network, to facilitate
269 administration of the ad valorem property tax on real
270 and personal property), are authorized.

271 (f) The legislative rules filed in the state register on
272 the twenty-sixth day of March, one thousand nine
273 hundred eighty-six, relating to the state tax commis-
274 sioner (listing of interests in natural resources for the
275 first statewide reappraisal; provision for penalties), are
276 authorized.

277 (g) The legislative rules filed in the state register on
278 the twenty-sixth day of March, one thousand nine
279 hundred eighty-six, modified by the state tax commis-
280 sioner to meet the objections of the legislative rule-
281 making review committee and refiled in the state
282 register on the twelfth day of February, one thousand
283 nine hundred eighty-seven, relating to the state tax
284 commissioner (review of appraisals by county commis-
285 sions sitting as administrative appraisal review boards),
286 are authorized.

287 (h) The legislative rules filed in the state register on
288 the twenty-sixth day of March, one thousand nine
289 hundred eighty-six, modified by the state tax commis-
290 sioner to meet the objections of the legislative rule-
291 making review committee and refiled in the state
292 register on the twelfth day of February, one thousand
293 nine hundred eighty-seven, relating to the state tax
294 commissioner (review of appraisals by a circuit court on
295 certiorari), are authorized with the following
296 amendment:

297 On page 3, §18.3.1 is stricken in its entirety and a new
298 §18.3.1 is inserted in lieu thereof to read as follows:

299 "18.3.1 Who May Request Review. — The property
300 owner, Tax Commissioner, protestor or intervenor may
301 request the county commission to certify the evidence
302 and remove and return the record to the circuit court
303 of the county on a writ of certiorari. Parties to the
304 proceeding wherein review by the circuit court is sought

305 shall pay costs and fees as they are incurred: *Provided,*
306 That the circuit court upon rendering judgment or
307 making any order may award costs to any party in
308 accordance with the provisions of W. Va. Code §53-3-5."

309 (i) The legislative rules filed in the state register on
310 the twenty-sixth day of March, one thousand nine
311 hundred eighty-six, modified by the state tax commis-
312 sioner to meet the objections of the legislative rule-
313 making review committee and refiled in the state
314 register on the twelfth day of February, one thousand
315 nine hundred eighty-seven, relating to the state tax
316 commissioner (administrative review of appraisals by
317 the state tax commissioner), are authorized.

318 (j) The legislative rules filed in the state register on
319 the eighteenth day of August, one thousand nine
320 hundred eighty-six, modified by the state tax commis-
321 sioner to meet the objections of the legislative rule-
322 making review committee and refiled in the state
323 register on the twelfth day of February, one thousand
324 nine hundred eighty-seven, relating to the state tax
325 commissioner (additional review and implementation of
326 property appraisals), are authorized.

327 (k) The legislative rules filed in the state register on
328 the eleventh day of August, one thousand nine hundred
329 eighty-six, relating to the state tax commissioner
330 (guidelines for assessors to assure fair and uniform
331 personal property values), are authorized.

332 (l) The legislative rules filed in the state register on
333 the eighteenth day of August, one thousand nine
334 hundred eighty-six, modified by the state tax commis-
335 sioner to meet the objections of the legislative rule-
336 making review committee and refiled in the state
337 register on the tenth day of December, one thousand
338 nine hundred eighty-six, relating to the state tax
339 commissioner (registration of transient vendors), are
340 authorized.

341 (m) The legislative rules filed in the state register on
342 the fourth day of February, one thousand nine hundred
343 eighty-six, modified by the state tax commissioner to
344 meet the objections of the legislative rule-making review

345 committee and refiled in the state register on the
346 fourteenth day of January, one thousand nine hundred
347 eighty-seven, relating to the state tax commissioner
348 (business and occupation tax), are authorized.

349 (n) The legislative rules filed in the state register on
350 the fourteenth day of August, one thousand nine
351 hundred eighty-seven, modified by the state tax commis-
352 sioner to meet the objections of the legislative rule-
353 making review committee and refiled in the state
354 register on the fourth day of November, one thousand
355 nine hundred eighty-seven, relating to the state tax
356 commissioner (telecommunications tax), are authorized.

357 (o) The legislative rules filed in the state register on
358 the fourteenth day of August, one thousand nine
359 hundred eighty-seven, relating to the state tax commis-
360 sioner (business franchise tax), are authorized.

361 (p) The legislative rules filed in the state register on
362 the seventeenth day of August, one thousand nine
363 hundred eighty-seven, modified by the state tax commis-
364 sioner to meet the objections of the legislative rule-
365 making review committee and refiled in the state
366 register on the twenty-second day of January, one
367 thousand nine hundred eighty-eight, relating to the state
368 tax commissioner (consumers sales and service tax and
369 use tax), are authorized.

370 (q) The legislative rules filed in the state register on
371 the fourteenth day of August, one thousand nine
372 hundred eighty-seven, modified by the state tax commis-
373 sioner to meet the objections of the legislative rule-
374 making review committee and refiled in the state
375 register on the thirteenth day of January, one thousand
376 nine hundred eighty-eight, relating to the state tax
377 commissioner (appraisal of property for periodic
378 statewide reappraisals for ad valorem property tax
379 purposes), are authorized.

380 (r) The legislative rules filed in the state register on
381 the fourteenth day of August, one thousand nine
382 hundred eighty-seven, modified by the state tax commis-
383 sioner to meet the objections of the legislative rule-
384 making review committee and refiled in the state

385 register on the twelfth day of January, one thousand
386 nine hundred eighty-eight, relating to the state tax
387 commissioner (severance tax), are authorized.

388 (s) The legislative rules filed in the state register on
389 the second day of September, one thousand nine
390 hundred eighty-eight, modified by the state tax commis-
391 sioner to meet the objections of the legislative rule-
392 making review committee and refiled in the state
393 register on the twenty-fourth day of February, one
394 thousand nine hundred eighty-nine, relating to the state
395 tax commissioner (solid waste assessment fee), are
396 authorized.

397 (t) The legislative rules filed in the state register on
398 the twelfth day of August, one thousand nine hundred
399 eighty-eight, modified by the state tax commissioner to
400 meet the objections of the legislative rule-making review
401 committee and refiled in the state register on the
402 twenty-first day of September, one thousand nine
403 hundred eighty-eight, relating to the state tax commis-
404 sioner (electronic data processing system network for
405 property tax administration), are authorized.

406 (u) The legislative rules filed in the state register on
407 the nineteenth day of September, one thousand nine
408 hundred eighty-eight, modified by the state tax commis-
409 sioner to meet the objections of the legislative rule-
410 making review committee and refiled in the state
411 register on the twenty-fourth day of February, one
412 thousand nine hundred eighty-nine, relating to the state
413 tax commissioner (exemption of property from ad
414 valorem property taxation), are authorized.

415 (v) The legislative rules filed in the state register on
416 the sixteenth day of September, one thousand nine
417 hundred eighty-eight, modified by the state tax commis-
418 sioner to meet the objections of the legislative rule-
419 making review committee and refiled in the state
420 register on the thirteenth day of January, one thousand
421 nine hundred eighty-nine, relating to the state tax
422 commissioner (consumers sales and service tax and use
423 tax), are authorized.

424 (w) The legislative rules filed in the state register on

425 the twenty-third day of June, one thousand nine hundred
426 eighty-nine, relating to the state tax department
427 (personal income tax), are authorized.

428 (x) The legislative rules filed in the state register on
429 the twenty-ninth day of June, one thousand nine
430 hundred eighty-nine, relating to the state tax depart-
431 ment (severance tax), are authorized.

432 (y) The legislative rules filed in the state register on
433 the fourth day of August, one thousand nine hundred
434 eighty-nine, modified by the state tax department to
435 meet the objections of the legislative rule-making review
436 committee and refiled in the state register on the
437 eleventh day of December, one thousand nine hundred
438 eighty-nine, relating to the state tax department (solid
439 waste assessment fee), are authorized.

440 (z) The legislative rules filed in the state register on
441 the fourteenth day of August, one thousand nine
442 hundred eighty-nine, modified by the department of tax
443 and revenue to meet the objections of the legislative
444 rule-making review committee and refiled in the state
445 register on the twelfth day of December, one thousand
446 nine hundred eighty-nine, relating to the department of
447 tax and revenue (business franchise tax), are authorized.

448 (aa) The legislative rules filed in the state register on
449 the eleventh day of August, one thousand nine hundred
450 eighty-nine, modified by the department of tax and
451 revenue to meet the objections of the legislative rule-
452 making review committee and refiled in the state
453 register on the eleventh day of December, one thousand
454 nine hundred eighty-nine, relating to the department of
455 tax and revenue (business and occupation tax), are
456 authorized.

457 (bb) The legislative rules filed in the state register on
458 the fourteenth day of August, one thousand nine
459 hundred eighty-nine, modified by the department of tax
460 and revenue to meet the objections of the legislative
461 rule-making review committee and refiled in the state
462 register on the nineteenth day of January, one thousand
463 nine hundred ninety, relating to the department of tax
464 and revenue (consumers sales and service tax and use

465 tax), are authorized with the amendments set forth
466 below:

467 On page eight, Section 2.28, after the word “as” by
468 inserting the words “art, science,”.

469 On pages eight and nine, Section 2.28.1, after the word
470 “intellectual” by deleting the word “or” and inserting in
471 lieu thereof the words “physical and”.

472 On page nine, Section 2.28.2, by deleting the words “or
473 instruction.”

474 On page nine, Section 2.28.2, after the word “training”
475 by adding the word “or”.

476 On page nine, Section 2.28.2, by deleting the words “or
477 any portion of a school curriculum classified as physical
478 education.”

479 On page nine, by deleting all of Section 2.28.2.1.

480 On page nine, Section 2.28.2.2, by deleting the section
481 number.

482 On page nine, Section 2.28.2.2, by deleting the words
483 “or instruction.”

484 On page nine, Section 2.28.2.2, after the word
485 “training” by adding the word “or”.

486 On page nine, Section 2.28.2.2, after the word
487 “conditioning” by inserting a period and striking the
488 remainder of the sentence.

489 On page one hundred twelve, Section 59.2, after the
490 words “sales of the service of cremation” by adding the
491 words “sales on perpetual care trust fund deposits.”

492 And,

493 On page one hundred twenty-eight, Section 91.2, after
494 the words “include food” by inserting the following: “,
495 as defined in section 2.30 of this rule.”.

496 (cc) The legislative rules filed in the state register on
497 the eleventh day of August, one thousand nine hundred
498 eighty-nine, modified by the department of tax and
499 revenue to meet the objections of the legislative rule-

500 making review committee and refiled in the state
501 register on the eleventh day of December, one thousand
502 nine hundred eighty-nine, relating to the department of
503 tax and revenue (motor carrier road tax), are
504 authorized.

505 (dd) The legislative rules filed in the state register on
506 the eleventh day of August, one thousand nine hundred
507 eighty-nine, modified by the department of tax and
508 revenue to meet the objections of the legislative rule-
509 making review committee and refiled in the state
510 register on the eleventh day of December, one thousand
511 nine hundred eighty-nine, relating to the department of
512 tax and revenue (gasoline and special fuel excise tax),
513 are authorized.

514 (ee) The legislative rules filed in the state register on
515 the eleventh day of August, one thousand nine hundred
516 eighty-nine, modified by the department of tax and
517 revenue to meet the objections of the legislative rule-
518 making review committee and refiled in the state
519 register on the eleventh day of December, one thousand
520 nine hundred eighty-nine, relating to the department of
521 tax and revenue (corporation net income tax), are
522 authorized.

523 (ff) The legislative rules filed in the state register on
524 the eleventh day of August, one thousand nine hundred
525 eighty-nine, modified by the department of tax and
526 revenue to meet the objections of the legislative rule-
527 making review committee and refiled in the state
528 register on the eleventh day of December, one thousand
529 nine hundred eighty-nine, relating to the department of
530 tax and revenue (soft drinks tax), are authorized.

531 (gg) The legislative rules filed in the state register on
532 the twenty-first day of February, one thousand nine
533 hundred ninety-one, relating to the state tax commis-
534 sioner (business investment and jobs expansion tax
535 credit, corporations headquarters relocation tax credit,
536 and small business tax credit), are authorized.

537 (hh) The legislative rules filed in the state register on
538 the twentieth day of December, one thousand nine
539 hundred ninety, modified by the state tax commissioner

540 to meet the objections of the legislative rule-making
541 review committee and refiled in the state register on the
542 twenty-sixth day of April, one thousand nine hundred
543 ninety-one, relating to the state tax commissioner
544 (valuation of timberland and managed timberland), are
545 authorized.

546 (ii) The legislative rules filed in the state register on
547 the twenty-second day of April, one thousand nine
548 hundred ninety-one, modified by the state tax commis-
549 sioner to meet the objections of the legislative rule-
550 making review committee and refiled in the state
551 register on the sixteenth day of September, one thou-
552 sand nine hundred ninety-one, relating to the state tax
553 commissioner (bingo rules and regulations), are
554 authorized.

555 (jj) The legislative rules filed in the state register on
556 the thirty-first day of July, one thousand nine hundred
557 ninety-one, modified by the state tax commissioner to
558 meet the objections of the legislative rule-making review
559 committee and refiled in the state register on the
560 sixteenth day of September, one thousand nine hundred
561 ninety-one, relating to the state tax commissioner
562 (property transfer tax), are authorized.

563 (kk) The legislative rules filed in the state register on
564 the eighth day of August, one thousand nine hundred
565 ninety-one, modified by the division of tax to meet the
566 objections of the legislative rule-making review commit-
567 tee and refiled in the state register on the seventh day
568 of January, one thousand nine hundred ninety-two,
569 relating to the division of tax (municipal business and
570 occupation tax), are authorized with the amendments set
571 forth below:

572 On page forty-six, section 2g, by striking out all of
573 subsection 2g.3;

574 And,

575 On pages forty-six and forty-seven, by renumbering
576 the remaining subsections.

577 (ll) The legislative rules filed in the state register on
578 the eighth day of August, one thousand nine hundred

579 ninety-one, modified by the division of tax to meet the
580 objections of the legislative rule-making review commit-
581 tee and refiled in the state register on the tenth day of
582 January, one thousand nine hundred ninety-two, relat-
583 ing to the division of tax (soft drinks tax), are authorized
584 with the amendments set forth below:

585 On page six, subsection 5.2, in the section heading, by
586 striking out the word "breakfast" and inserting in lieu
587 thereof "certain bottled";

588 And,

589 On page six, subsection 5.2, after the word "mixes" by
590 inserting the words "low-alcoholic brewed beverages
591 such as near beer."

592 (mm) The legislative rules filed in the state register
593 on the eighth day of August, one thousand nine hundred
594 ninety-one, modified by the division of tax to meet the
595 objections of the legislative rule-making review commit-
596 tee and refiled in the state register on the tenth day of
597 January, one thousand nine hundred ninety-two, relat-
598 ing to the division of tax (corporation net income tax),
599 are authorized with the amendment set forth below:

600 On page twelve, subdivision 6.4.3, by striking out all
601 of subdivision 6.4.3.

602 (nn) The legislative rules filed in the state register on
603 the eighteenth day of June, one thousand nine hundred
604 ninety-one, modified by the state tax commissioner to
605 meet the objections of the legislative rule-making review
606 committee and refiled in the state register on the tenth
607 day of January, one thousand nine hundred ninety-two,
608 relating to the state tax commissioner (appraisal of
609 producing and reserve oil and natural gas property for
610 periodic statewide reappraisals for ad valorem property
611 tax purposes), are authorized.

612 (oo) The legislative rules filed in the state register on
613 the ninth day of August, one thousand nine hundred
614 ninety-one, modified by the state tax commissioner to
615 meet the objections of the legislative rule-making review
616 committee and refiled in the state register on the tenth
617 day of January, one thousand nine hundred ninety-two,

618 relating to the state tax commissioner (severance tax),
619 are authorized.

620 (pp) The legislative rules filed in the state register on
621 the eighth day of August, one thousand nine hundred
622 ninety-one, modified by the division of tax to meet the
623 objections of the legislative rule-making review commit-
624 tee and refiled in the state register on the tenth day of
625 January, one thousand nine hundred ninety-two, relat-
626 ing to the division of tax (business franchise tax), are
627 authorized.

628 (qq) The legislative rules filed in the state register on
629 the eighth day of August, one thousand nine hundred
630 ninety-one, modified by the division of tax to meet the
631 objections of the legislative rule-making review commit-
632 tee and refiled in the state register on the tenth day of
633 January, one thousand nine hundred ninety-two, relat-
634 ing to the division of tax (exceptions to confidentiality
635 of taxpayer information and disclosure of certain
636 taxpayer information), are authorized.

637 (rr) The legislative rules filed in the state register on
638 the ninth day of August, one thousand nine hundred
639 ninety-one, modified by the division of tax to meet the
640 objections of the legislative rule-making review commit-
641 tee and refiled in the state register on the thirteenth day
642 of January, one thousand nine hundred ninety-two,
643 relating to the division of tax (consumers sales and
644 service tax and use tax), are authorized with the
645 amendments set forth below:

646 On page six, by deleting all of subdivisions 2.25.2 and
647 2.25.4;

648 On page six, subsection 2.25 by renumbering the
649 remaining subdivisions;

650 On page forty-five, paragraph 8.1.1.1, after the words
651 "licensed social workers", by inserting "enrolled agents,
652 professional foresters,";

653 On page forty-five, paragraph 8.1.1.1, after the word
654 "electricians", by striking out the words "enrolled
655 agents";

656 On page forty-five, paragraph 8.1.1.1, after the word
657 “musicians” by striking out the word “auctioneers.”;

658 On page fifty-six, subdivision 9.2.19, after the word
659 “laws” by striking out the colon and inserting the
660 following “, such as, for example, sales by credit unions
661 under W. Va. Code §31-10-33 the sale of services by
662 owners, trainers or jockeys which are essential to the
663 effective conduct of a horse or dog racing meeting under
664 W. Va. Code §19-23-12, or the commission of an
665 auctioneer licensed under W. Va. Code §19-2C-1 et
666 seq.”;

667 On page one hundred five, subsection 33.5, by striking
668 out the words “child care”;

669 On page one hundred ten, subsection 38.1 after the
670 words “daily charge.”, by inserting the following
671 sentence: “The daily charge subject to the consumers
672 sales and service tax does not include complimentary
673 items such as shampoo, coffee and newspapers given to
674 guests by hotels and motels.”;

675 On page one hundred forty-three, subsection 86.1,
676 after the word “auctioneer” by inserting the following
677 “licensed under W. Va. Code §19-2C-1 et seq.”;

678 On page one hundred forty-three, subsection 86.1,
679 after the word “is” by inserting the word “not”;

680 On page one hundred forty-three, subsection 86.2 after
681 the word “tax” by inserting the following “on the full
682 sales price of the sales”;

683 On page one hundred forty-three, subsection 86.3, in
684 the last sentence after the word “services” by inserting
685 the following “by an auctioneer not licensed in accor-
686 dance with the W. Va. Code §19-2C-1 et seq.”;

687 On page one hundred forty-three, subsection 86.3, in
688 the last sentence after the word “sold” by striking out
689 the period and adding the following “: *Provided*, That
690 an auctioneer licensed in accordance with W. Va. Code
691 §19-2C-1 et seq. is not required to collect sales tax on
692 such fees or commissioners.”;

693 And,

694 On page one hundred forty-three, subsection 86.4, by
 695 striking out the first sentence and inserting, in lieu
 696 thereof, the following sentence: "An auctioneer is
 697 taxable on all of his or her purchases except purchases
 698 for resale."

699 (ss) The legislative rules filed in the state register on
 700 the eighteenth day of September, one thousand nine
 701 hundred ninety-two, relating to the division of tax
 702 (bingo), are authorized.

703 (tt) The Legislature hereby authorizes and directs the
 704 division of tax to amend its rule relating to consumers
 705 sales and service tax and use tax which were filed in
 706 the code of state regulations (110 CSR 15) on the twenty-
 707 seventy day of April, one thousand nine hundred ninety-
 708 two, with the following amendment:

709 'On page fifty-eight, by striking out all of subpara-
 710 graph 9.3.4.3.d and by renumbering the remaining
 711 subparagraph,'"; and,

712 On page one hundred eight, section 38.1, after the
 713 words "daily charge." by striking out the words "The
 714 daily charge subject to the consumer sales and service
 715 tax does not include complimentary items such as
 716 shampoo, coffee and newspapers given to guests by
 717 hotels and motels." and inserting in lieu thereof the
 718 following:

719 "Notwithstanding the fact that persons engaged in the
 720 rendering of a service are required to pay tax on their
 721 purchases for use and/or consumption in rendering such
 722 services, the purchase by hotels, motels, tourist homes
 723 and rooming houses of complimentary items such as
 724 shampoos, coffee and newspapers given to guests by
 725 such hotels, motels, tourist homes and rooming houses
 726 are not taxable."

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANS-
 PORTATION TO PROMULGATE LEGISLATIVE
 RULES.**

§64-8-2. Division of motor vehicles.

1 (a) The legislative rules filed in the state register on
 2 the second day of December, one thousand nine hundred

3 eighty-two, relating to the commissioner of motor
4 vehicles (denial of driving privileges), are authorized
5 with the amendments set forth below:

6 By inserting the words "licensed in the United States"
7 after the phrase "physician of the applicant's choice," on
8 page five, line two, and page seven, line one; and by
9 striking out the words "licensed vision specialist" and
10 inserting in lieu thereof the words "an optometrist or
11 ophthalmologist licensed in the United States," on page
12 five, line three, and on page seven, line two.

13 (b) The legislative rules filed in the state register on
14 the ninth day of November, one thousand nine hundred
15 eighty-three, relating to the commissioner of motor
16 vehicles (driving under the influence, driver's license
17 revocation administrative hearings), are authorized.

18 (c) The legislative rules filed in the state register on
19 the fifteenth day of December, one thousand nine
20 hundred eighty-three, relating to the department of
21 motor vehicles (safety and treatment program), are
22 authorized.

23 (d) The legislative rules filed in the state register on
24 the sixteenth day of June, one thousand nine hundred
25 eighty-three, relating to the commissioner of motor
26 vehicles (compulsory insurance), are authorized.

27 (e) The legislative rules filed in the state register on
28 the twentieth day of November, one thousand nine
29 hundred eighty-four, relating to the commissioner of
30 motor vehicles (titling a vehicle), are authorized.

31 (f) The legislative rules filed in the state register on
32 the tenth day of September, one thousand nine hundred
33 eighty-four, modified by the commissioner of motor
34 vehicles to meet the objections of the legislative rule-
35 making review committee and refiled in the state
36 register on the fifth day of October, one thousand nine
37 hundred eighty-four, relating to the commissioner of
38 motor vehicles (compulsory motor vehicle liability
39 insurance), are authorized.

40 (g) The legislative rules filed in the state register on
41 the fifth day of August, one thousand nine hundred

42 eighty-five, modified by the commissioner of motor
43 vehicles to meet the objections of the legislative rule-
44 making review committee and refiled in the state
45 register on the fourth day of October, one thousand nine
46 hundred eighty-five, relating to the commissioner of
47 motor vehicles (eligibility for reinstatement following
48 suspension or revocation of driving privileges), are
49 authorized.

50 (h) The legislative rules filed in the state register on
51 the fifth day of August, one thousand nine hundred
52 eighty-five, relating to the commissioner of motor
53 vehicles (the administration and enforcement of motor
54 vehicle inspections), are authorized.

55 (i) The legislative rules filed in the state register on
56 the twenty-fifth day of July, one thousand nine hundred
57 eighty-six, modified by the commissioner of motor
58 vehicles to meet the objections of the legislative rule-
59 making review committee and refiled in the state
60 register on the ninth day of October, one thousand nine
61 hundred eighty-six, relating to the commissioner of
62 motor vehicles (seizure of a driver's license and issuance
63 of a temporary driver's license), are authorized.

64 (j) The legislative rules filed in the state register on
65 the twenty-fifth day of July, one thousand nine hundred
66 eighty-six, modified by the commissioner of motor
67 vehicles to meet the objections of the legislative rule-
68 making review committee and refiled in the state
69 register on the ninth day of October, one thousand nine
70 hundred eighty-six, relating to the commissioner of
71 motor vehicles (federal safety standards inspection
72 program), are authorized.

73 (k) The legislative rules filed in the state register on
74 the seventeenth day of August, one thousand nine
75 hundred eighty-seven, modified by the commissioner of
76 motor vehicles to meet the objections of the legislative
77 rule-making review committee and refiled in the state
78 register on the twenty-second day of September, one
79 thousand nine hundred eighty-seven, relating to the
80 commissioner of motor vehicles (denial, suspension,
81 revocation or nonrenewal of driving privileges), are

82 authorized with the amendments set forth below:

83 On page 7, section 7.2 after the words "75 m.p.h.", add
84 the words "except on highways where the established
85 speed limit is 65 m.p.h., and conviction was in excess
86 of 80 m.p.h.,"

87 And,

88 On page 14, section 8.1 by inserting the words "not
89 to exceed fifteen hours" after the word "course" and in
90 section 8.2 by inserting the words "not to exceed fifteen
91 hours" after the word "course".

92 (l) The legislative rules filed in the state register on
93 the twenty-second day of November, one thousand nine
94 hundred eighty-eight, modified by the commissioner of
95 motor vehicles to meet the objections of the legislative
96 rule-making review committee and refiled in the state
97 register on the twentieth day of January, one thousand
98 nine hundred eighty-nine, relating to the commissioner
99 of motor vehicles (denial, suspension, revocation or
100 nonrenewal of driving privileges), are authorized.

101 (m) The legislative rules filed in the state register on
102 the thirteenth day of August, one thousand nine hundred
103 ninety-one, modified by the division of motor vehicles to
104 meet the objections of the legislative rule-making review
105 committee and refiled in the state register on the
106 twenty-sixth day of September, one thousand nine
107 hundred ninety-one, relating to the division of motor
108 vehicles (denial, suspension, revocation or nonrenewal of
109 driving privileges), are authorized with the amendment
110 set forth below:

111 "On page nine, after the words "Following too closely",
112 by striking out the number "3" and inserting in lieu
113 thereof the number "2".

114 (n) The legislative rules filed in the state register on
115 the fifteenth day of September, one thousand nine
116 hundred ninety-two, modified by the division of motor
117 vehicles to meet the objections of the legislative rule-
118 making review committee and refiled in the state
119 register on the seventeenth day of November, one
120 thousand nine hundred ninety-two, relating to the

121 division of motor vehicles (motor vehicle dealers,
122 wreckers/ dismantlers/ rebuilders and license services),
123 are authorized.

**ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGEN-
CIES AND BOARDS TO PROMULGATE LEGISLA-
TIVE RULES.**

§64-9-1. Commissioner of agriculture.

1 (a) The legislative rules filed in the state register on
2 the sixth day of April, one thousand nine hundred
3 eighty-three, relating to the commissioner of agriculture
4 (schedule of charges for inspection services: fruit), are
5 authorized.

6 (b) The legislative rules filed in the state register on
7 the third day of August, one thousand nine hundred
8 eighty-three, relating to the commissioner of agriculture
9 (licensing of auctioneers), are authorized.

10 (c) The legislative rules filed in the state register on
11 the eighth day of February, one thousand nine hundred
12 eighty-four, relating to the commissioner of agriculture
13 (conduct of beef industry self-improvement assessment
14 program referendum), are authorized.

15 (d) The legislative rules filed in the state register on
16 the fourth day of June, one thousand nine hundred
17 eighty-four, relating to the commissioner of agriculture
18 (feeding untreated garbage to swine), are authorized.

19 (e) The legislative rules filed in the state register on
20 the fourth day of June, one thousand nine hundred
21 eighty-four, relating to the commissioner of agriculture
22 (registration, taxation and control of dogs), are
23 authorized.

24 (f) The legislative rules filed in the state register on
25 the first day of November, one thousand nine hundred
26 eighty-four, relating to the commissioner of agriculture
27 (public markets), are authorized.

28 (g) The legislative rules filed in the state register on
29 the tenth day of September, one thousand nine hundred
30 eighty-four, relating to the commissioner of agriculture
31 (noxious weed rules), are authorized.

32 (h) The legislative rules filed in the state register on
33 the fourth day of June, one thousand nine hundred
34 eighty-four, relating to the commissioner of agriculture
35 (animal disease control), are authorized.

36 (i) The legislative rules filed in the state register on
37 the fifth day of January, one thousand nine hundred
38 eighty-four, relating to the commissioner of agriculture
39 (use of certain picloram products), are authorized.

40 (j) The legislative rules filed in the state register on
41 the eighth day of March, one thousand nine hundred
42 eighty-five, relating to the commissioner of agriculture
43 (increasing certain fees by rules and regulations), are
44 authorized.

45 (k) The legislative rules filed in the state register on
46 the thirteenth day of January, one thousand nine
47 hundred eighty-six, modified by the commissioner of
48 agriculture to meet the objections of the legislative rule-
49 making review committee and refiled in the state
50 register on the thirty-first day of January, one thousand
51 nine hundred eighty-six, relating to the commissioner of
52 agriculture (licensing of livestock dealers), are
53 authorized.

54 (l) The legislative rules filed in the state register on
55 the eighteenth day of June, one thousand nine hundred
56 eighty-six, modified by the commissioner of agriculture
57 to meet the objections of the legislative rule-making
58 review committee and refiled in the state register on the
59 fifth day of January, one thousand nine hundred eighty-
60 seven, relating to the commissioner of agriculture (West
61 Virginia pesticide use and application act), are
62 authorized.

63 (m) The legislative rules filed in the state register on
64 the eighteenth day of August, one thousand nine
65 hundred eighty-six, modified by the director of the
66 division of forestry of the department of agriculture to
67 meet the objections of the legislative rule-making review
68 committee and refiled in the state register on the fifth
69 day of January, one thousand nine hundred eighty-
70 seven, relating to the director of the division of forestry
71 of the department of agriculture (ginseng), are

72 authorized.

73 (n) The legislative rules filed in the state register on
74 the tenth day of April, one thousand nine hundred
75 eighty-seven, relating to the commissioner of agriculture
76 (schedule of charges for inspection services: fruit), are
77 authorized.

78 (o) The legislative rules filed in the state register on
79 the thirteenth day of August, one thousand nine hundred
80 eighty-seven, modified by the commissioner of agricul-
81 ture to meet the objections of the legislative rule-making
82 review committee and refiled in the state register on the
83 eighth day of September, one thousand nine hundred
84 eighty-seven, relating to the commissioner of agriculture
85 (animal disease control), are authorized.

86 (p) The legislative rules filed in the state register on
87 the fifteenth day of September, one thousand nine
88 hundred eighty-eight, relating to the commissioner of
89 agriculture (sale and distribution of commercial fertil-
90 izer), are authorized.

91 (q) The legislative rules filed in the state register on
92 the fifteenth day of September, one thousand nine
93 hundred eighty-eight, modified by the commissioner of
94 agriculture to meet the objections of the legislative rule-
95 making review committee and refiled in the state
96 register on the twenty-sixth day of October, one
97 thousand nine hundred eighty-eight, relating to the
98 commissioner of agriculture (animal disease control),
99 are authorized.

100 (r) The legislative rules filed in the state register on
101 the fifteenth day of May, one thousand nine hundred
102 eighty-nine, modified by the commissioner of agricul-
103 ture to meet the objections of the legislative rule-making
104 review committee and refiled in the state register on the
105 twenty-first day of August, one thousand nine hundred
106 eighty-nine, relating to the commissioner of agriculture
107 (production of milk and cream for manufacturing
108 purposes), are authorized.

109 (s) The legislative rules filed in the state register on
110 the seventh day of August, one thousand nine hundred

111 eighty-nine, modified by the commissioner of agricul-
112 ture to meet the objections of the legislative rule-making
113 review committee and refiled in the state register on the
114 twenty-third day of October, one thousand nine hundred
115 eighty-nine, relating to the commissioner of agriculture
116 (animal disease control), are authorized.

117 (t) The legislative rules filed in the state register on
118 the tenth day of August, one thousand nine hundred
119 ninety, modified by the commissioner of agriculture to
120 meet the objections of the legislative rule-making review
121 committee and refiled in the state register on the fifth
122 day of October, one thousand nine hundred ninety,
123 relating to the commissioner of agriculture (meat
124 inspection), are authorized.

125 (u) The legislative rules filed in the state register on
126 the tenth day of August, one thousand nine hundred
127 ninety, modified by the commissioner of agriculture to
128 meet the objections of the legislative rule-making review
129 committee and refiled in the state register on the third
130 day of October, one thousand nine hundred ninety,
131 relating to the commissioner of agriculture (agricultural
132 liming materials), are authorized.

133 (v) The legislative rules filed in the state register on
134 the tenth day of August, one thousand nine hundred
135 ninety, modified by the commissioner of agriculture to
136 meet the objections of the legislative rule-making review
137 committee and refiled in the state register on the third
138 day of October, one thousand nine hundred ninety,
139 relating to the commissioner of agriculture (public
140 markets), are authorized.

141 (w) The legislative rules filed in the state register on
142 the nineteenth day of September, one thousand nine
143 hundred ninety, modified by the commissioner of
144 agriculture to meet the objections of the legislative rule-
145 making review committee and refiled in the state
146 register on the ninth day of November, one thousand
147 nine hundred ninety, relating to the commissioner of
148 agriculture (animal disease control), are authorized.

149 (x) The legislative rules filed in the state register on
150 the eighth day of August, one thousand nine hundred

151 ninety-one, modified by the commissioner of agriculture
152 to meet the objections of the legislative rule-making
153 review committee and refiled in the state register on the
154 twenty-fourth day of September, one thousand nine
155 hundred ninety-one, relating to the commissioner of
156 agriculture (commercial feed), are authorized with the
157 amendments set forth below:

158 On page two, after subsection 3.3., by adding a new
159 subsection, designated subsection 3.4., to read as follows:

160 "3.4. The commissioner will not assess a tonnage fee
161 on any commercial feed or feed ingredients used in the
162 manufacture of poultry contract feed.";

163 On page five, after subsection 4.3.m., by adding a new
164 subsection, designated subsection 4.3.n., to read as
165 follows:

166 "4.3.n. The commissioner will consider poultry
167 contract feed to be customer-formula feed.";

168 And,

169 On page eight, after subsection 5.5., by adding a new
170 subsection, designated subsection 5.6., to read as follows:

171 "5.6. Poultry contract feed labels shall conform to the
172 requirements of W. Va. Code §19-14-8(d), except that:

173 5.6.a. The name of the grower or feeder will substitute
174 for the requirements for the name of the purchaser; and,

175 5.6.b. The net weight (avoir du pois) of the commercial
176 feed and each feed ingredient used in the feed shall not
177 be required to be listed."

178 (y) The legislative rules filed in the state register on
179 the fourth day of June, one thousand nine hundred
180 ninety-one, modified by the commissioner of agriculture
181 to meet the objections of the legislative rule-making
182 review committee and refiled in the state register on the
183 second day of August, one thousand nine hundred
184 ninety-one, relating to the commissioner of agriculture
185 (wood destroying insect treatment standards), are
186 authorized.

187 (z) The legislative rules filed in the state register on

188 the twentieth day of December, one thousand nine
189 hundred ninety, modified by the commissioner of
190 agriculture to meet the objections of the legislative rule-
191 making review committee and refiled in the state
192 register on the thirtieth day of April, one thousand nine
193 hundred ninety-one, relating to the commissioner of
194 agriculture (fee structure for the pesticide control act of
195 1990), are authorized.

196 (aa) The legislative rules filed in the state register on
197 the eighth day of August, one thousand nine hundred
198 ninety-one, modified by the commissioner of agriculture
199 to meet the objections of the legislative rule-making
200 review committee and refiled in the state register on the
201 twelfth day of November, one thousand nine hundred
202 ninety-one, relating to the commissioner of agriculture
203 (animal disease control), are authorized.

204 (bb) The legislative rules filed in the state register on
205 the eighth day of August, one thousand nine hundred
206 ninety-one, modified by the commissioner of agriculture
207 to meet the objections of the legislative rule-making
208 review committee and refiled in the state register on the
209 tenth day of September, one thousand nine hundred
210 ninety-one, relating to the commissioner of agriculture
211 (West Virginia plant pest act), are authorized.

212 (cc) The legislative rules filed in the state register on
213 the twenty-sixth day of July, one thousand nine hundred
214 ninety-one, modified by the commissioner of agriculture
215 to meet the objections of the legislative rule-making
216 review committee and refiled in the state register on the
217 sixteenth day of October, one thousand nine hundred
218 ninety-one, relating to the commissioner of agriculture
219 (licensing of pesticide businesses), are authorized.

220 (dd) The legislative rules filed in the state register on
221 the eighth day of August, one thousand nine hundred
222 ninety-one, modified by the commissioner of agriculture
223 to meet the objections of the legislative rule-making
224 review committee and refiled in the state register on the
225 second day of October, one thousand nine hundred
226 ninety-one, relating to the commissioner of agriculture
227 (certified pesticide applicators), are authorized.

228 (ee) The legislative rules filed in the state register on
229 the eighth day of August, one thousand nine hundred
230 ninety-one, modified by the commissioner of agriculture
231 to meet the objections of the legislative rule-making
232 review committee and refiled in the state register on the
233 twenty-fourth day of September, one thousand nine
234 hundred ninety-one, relating to the commissioner of
235 agriculture (assessment of civil penalties and procedures
236 for consent agreements and negotiated settlements), are
237 authorized.

238 (ff) The legislative rules filed in the state register on
239 the eighth day of August, one thousand nine hundred
240 ninety-one, modified by the commissioner of agriculture
241 to meet the objections of the legislative rule-making
242 review committee and refiled in the state register on the
243 twenty-fourth day of September, one thousand nine
244 hundred ninety-one, relating to the commissioner of
245 agriculture (aerial application of herbicides to rights-of-
246 way), are authorized.

247 (gg) The legislative rules filed in the state register on
248 the eighth day of August, one thousand nine hundred
249 ninety-one, modified by the commissioner of agriculture
250 to meet the objections of the legislative rule-making
251 review committee and refiled in the state register on the
252 twenty-fourth day of September, one thousand nine
253 hundred ninety-one, relating to the commissioner of
254 agriculture (frozen desserts and imitation frozen
255 desserts), are authorized, with the amendment set forth
256 below:

257 On page twelve, by striking out all of section 15 and
258 substituting a new section 15, to read as follows:

259 "61-4B-15. Enforcement policy.

260 15.1. The commissioner may assess a violation of W.
261 Va. Code §19-11B-1 et seq. or of these rules against the
262 manufacturer of product and/or the distributor of the
263 mix used to manufacture the product.

264 15.2. The commissioner will assess any violations of W.
265 Va. Code §19-11B-1 et seq. or of this rule to the
266 distributor for mix sampled from unopened containers.

267 The company will not be assessed additional cumulative
268 notices of violations until the commissioner has deter-
269 mined that the firm has had adequate notice of the
270 previous notice, generally 10 days from the mailing of
271 the notice of violation.

272 15.3. Whenever one of the last five consecutive official
273 product sample(s) taken on separate days within a one
274 year period are found to be adulterated or misbranded,
275 the commissioner shall send a written "First Notice" to
276 the manufacturer or distributor whichever is appropri-
277 ate. This notice shall notify the manufacturer or
278 distributor of the violation of W. Va. Code §19-11B-1 et
279 seq. or of these rules and the enforcement policy
280 established by this section of the rule.

281 15.4. Whenever two of the last five consecutive official
282 product sample(s) taken on separate days within a one
283 year period are found to be adulterated or misbranded
284 the commissioner shall send a written "Second Notice"
285 to the manufacturer or distributor whichever is
286 appropriate.

287 15.4.a. The commissioner shall collect additional
288 official product sample(s) within 21 days of the sending
289 of a Second Notice to the manufacturer or distributor,
290 but shall not collect product samples before the lapse of
291 7 days from the sending of a Second Notice.

292 15.5. Whenever three of the last five consecutive
293 official product sample(s) taken on separate days within
294 a one year period are found to be adulterated or
295 misbranded the commissioner shall send a written
296 "Third Notice" to the manufacturer or distributor
297 whichever is appropriate.

298 15.5.a. The commissioner shall collect additional
299 official product sample(s) within 21 days of the sending
300 of the Third Notice to the manufacturer or distributor,
301 but shall not collect additional product samples before
302 the lapse of 7 days from the date of sending of the notice.

303 15.6. The commissioner will issue a "Shut-down
304 Order" for a period of 24 hours to a manufacturer or
305 distributor when the record of the firm indicates that

306 effective action has not been taken to correct the causes
307 of the violations, for instance when three out of the last
308 five samples from the same machine are violative. The
309 "Shut-down Order" will normally be issued with the
310 "Third Notice". The "Shut-down Order" will give the
311 reasons for the order, state the portion of the manufac-
312 turing or distributing operation that is prohibited from
313 operating while the order is in effect, give conditions of
314 the order, state the length of time that the Shut-down
315 Order will be in effect and specify a time and place for
316 a hearing to be held in this matter. Except that in the
317 case where the public health, safety or welfare is at risk,
318 the commissioner will issue an immediate Shut-down
319 Order and give notice to the manufacturer or distributor
320 under the provisions of subdivision 15.6.a. of this rule.

321 15.6.a. The commissioner will issue an immediate
322 Shut-down Order without giving the manufacturer or
323 distributor the opportunity to be heard where there is
324 a hazard to the public health, safety or welfare. In these
325 cases, the manufacturer or distributor will be given the
326 opportunity to request a hearing before the commis-
327 sioner after the notification of the order is received by
328 the manufacturer or distributor. All Shut-down Orders
329 issued due to noncompliance with subdivisions 8.1.c.,
330 8.1.d. or 8.1.g. of this rule are considered to involve a
331 risk to the public health, safety or welfare.

332 15.6.b. The manufacturer or distributor will be
333 responsible for causing all operations covered by the
334 Shut-down Order to cease and follow all other conditions
335 of the order. At the end of the period of the order, the
336 manufacturer or distributor may resume operations
337 without further action by the commissioner.

338 15.7. If after a Shut-down Order has been issued the
339 commissioner finds that effective corrective action has
340 not been taken, he may issue a suspension of the Frozen
341 Desserts Manufacturer Permit. The suspension shall
342 state the time that the suspension will become effective,
343 give the reasons for the suspension and specify a time
344 and place for a hearing to be held in this matter. Except
345 that in the case of a summary suspension the commis-
346 sioner will give the manufacturer the opportunity to

347 request a hearing in this matter subsequent to the
348 notification of the suspension.

349 15.7.a. All suspensions due to nonconformance to
350 subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule are
351 summary suspensions.

352 15.7.b. A suspension of the Frozen Desserts Manufac-
353 turer Permit remains in effect until the manufacturer
354 submits and the commissioner accepts a written plan of
355 correction and a request for a reinstatement of the
356 permit.

357 15.7.c. The commissioner has seven days from the date
358 of receipt of this application to respond to a suspension
359 in the case of violations of subdivisions 8.1.c., 8.1.d. or
360 8.1.g. of this rule and fourteen days to respond for all
361 other violations of W. Va. Code §19-11B-1 et seq. or these
362 rules. The commissioner will accept or deny the
363 application for a reinstatement of the permit and will
364 give the terms and conditions under which the permit
365 will be reinstated.

366 15.8. If the commissioner finds that after the firm has
367 resumed production following a suspension of their
368 Frozen Desserts Manufacturer Permit that effective
369 corrective action has not been taken, then the commis-
370 sioner will hold a hearing to determine if the Frozen
371 Desserts Manufacturer Permit should be revoked.

372 15.9. Persons who manufacture a product on an
373 intermittent or infrequent basis, so that the standard
374 enforcement policy cannot apply, will enter into a
375 consent agreement with the commissioner for correction
376 of all items found to be not in conformance with W. Va.
377 Code §19-11B-1 et seq. or these rules.

378 15.10. Whenever an antibiotic or pesticide residue test
379 is found to be above tolerance, the commissioner shall
380 notify the manufacturer and/or distributor immediately
381 of this fact and shall begin an investigation to determine
382 the cause of the residue. The commissioner shall require
383 that any person found to be responsible for the residue
384 shall correct the cause of the residue prior to the
385 resumption of the manufacturing or distribution of the

386 product.

387 15.11. A person who performs a recall by voluntarily
388 removing product from sale and distribution in an
389 effective manner so as to limit the potential harm to the
390 health and well-being of the public may be eligible for
391 exemptions from the normal enforcement policy. The
392 commissioner shall consider the facts of each case when
393 making a decision on an exemption.

394 15.12. The commissioner may apply the enforcement
395 policy in a liberal manner in cases where all official
396 product sample results that involve a product in the
397 form actually sold to the public have been found to be
398 in conformance with W. Va. Code §19-11B-1 et seq. or
399 these rules.

400 15.13. The commissioner may suspend the standard
401 enforcement policy in cases where such action is
402 necessary to protect the public health, safety or welfare.

403 15.14. Resamples will only be taken from machines
404 that were shown to be producing violative product the
405 previous visit, except for resamples needed to check that
406 the nonviolative status is being maintained according to
407 the following schedule:

408 15.14.a. After a first notice and one nonviolative
409 sample, resamples will be taken between 5 to 6 months
410 after the nonviolative sample.

411 15.14.b. After a second notice and one nonviolative
412 sample, resamples will be taken between 3-4 months
413 after the nonviolative sample.

414 15.14.c. Other resamples may be considered necessary
415 to determine that the nonviolative status is being
416 maintained."

417 (hh) The legislative rules filed in the state register on
418 the eighth day of August, one thousand nine hundred
419 ninety-one, modified by the commissioner of agriculture
420 to meet the objections of the legislative rule-making
421 review committee and refiled in the state register on the
422 twenty-fourth day of September, one thousand nine
423 hundred ninety-one, relating to the commissioner of

424 agriculture (West Virginia apiary law of 1991), are
425 authorized.

426 (ii) The legislative rules filed in the state register on
427 the eighth day of August, one thousand nine hundred
428 ninety-one, modified by the commissioner of agriculture
429 to meet the objections of the legislative rule-making
430 review committee and refiled in the state register on the
431 twenty-fourth day of September, one thousand nine
432 hundred ninety-one, relating to the commissioner of
433 agriculture (disposal of dead poultry), are authorized
434 with the amendments set forth below:

435 On page two, section two, by adding a new subsection
436 to read as follows:

437 "2.8 "Disposal pit" means an opening dug in the
438 ground to a minimum depth of six feet, containing a
439 minimum capacity of 150 cubic feet, covered with a
440 minimum of 12 inches of dirt, and provided with one or
441 more openings for the introduction of poultry. The
442 openings shall be a minimum size of eight inches square
443 and equipped with tight lids. A disposal pit shall be
444 located in a site which will prevent contamination of the
445 groundwater or the surface water. This site should
446 conform to the standards established in this rule."

447 On page two, subsection 3.1 after the word "inciner-
448 ator," by adding the words "disposal pit,"

449 And,

450 On page two, by adding a new section, designated
451 section 4, to read as follows:

"§61-1C-4. Standards for Site Location for Disposal Pits.

1 4.1 No part of a disposal pit system shall be located
2 in a poorly drained or filled area, or in any area where
3 seasonal flooding occurs.

4 4.2 No part of a disposal pit system shall be located
5 within 10 feet of a building, foundation or property line.

6 4.3 No part of a disposal pit system shall be located
7 within 50 feet of a public water supply line or within
8 10 feet of a private water supply system.

9 4.4 A disposal pit shall be located at least 50 feet from
10 a private well or groundwater supply.

11 4.5 There shall be a minimum of three feet between
12 the bottom of a disposal pit and seasonal groundwater
13 or rock, shale or any other impermeable layer.

14 4.6 The evaluation of the site for installation of a
15 disposal pit shall be based upon percolation test results.
16 Percolation tests shall be performed in the following
17 manner:

18 4.6.1 Location - At least two holes shall be placed over
19 the selected site. The results of these two test holes will
20 be averaged.

21 4.6.2 Holes shall be dug or bored from six to eight
22 inches in diameter at the site where the disposal pit will
23 be installed. The holes should be at least 24 inches in
24 depth.

25 4.6.3 The bottom and sides of the holes shall be
26 scratched with a sharp pointed instrument or wire
27 brush to remove any smeared soil surfaces which
28 interfere with the absorption of water into the soil.

29 4.6.4 Loose dirt shall be removed from the bottom of
30 the test holes and two inches of coarse sand or fine
31 gravel shall be placed into the holes to prevent sealing.

32 4.6.5 An eight or ten penny nail shall be placed in the
33 wall of each hole exactly six inches above the level of
34 sand or gravel.

35 4.6.6 The test hole shall be completely filled with
36 water to ground level. Water in the hole shall be kept
37 to a depth of at least 12 inches for a minimum period
38 of four hours before beginning the percolation rate
39 measurement.

40 4.7 Percolation rate measurement - Upon completion of
41 the above, the water depth in the holes shall be adjusted
42 to the level of the nail. The number of minutes it takes
43 for this six inches of water (all the water) to be absorbed
44 into the soil shall be accurately determined. This time
45 in minutes, divided by six, gives the rate of fall per inch.
46 The average rate of fall must be between five minutes

47 and 60 minutes.”

48 (jj) The legislative rules filed in the state register on
49 the eighth day of August, one thousand nine hundred
50 ninety-one, modified by the commissioner of agriculture
51 to meet the objections of the legislative rule-making
52 review committee and refiled in the state register on the
53 twenty-fourth day of September, one thousand nine
54 hundred ninety-one, relating to the commissioner of
55 agriculture (licensing of livestock dealers), are
56 authorized.

57 (kk) The legislative rules filed in the state register on
58 the fifteenth day of September, one thousand nine
59 hundred ninety-two, modified by the commissioner of
60 agriculture to meet the objections of the legislative rule-
61 making review committee and refiled in the state
62 register on the eighteenth day of November, one
63 thousand nine hundred ninety-two, relating to the
64 commissioner of agriculture (commercial feed), are
65 authorized.

66 (ll) The legislative rules filed in the state register on
67 the fifteenth day of September, one thousand nine
68 hundred ninety-two, modified by the commissioner of
69 agriculture to meet the objections of the legislative rule-
70 making review committee and refiled in the state
71 register on the nineteenth day of February, one thou-
72 sand nine hundred ninety-three, relating to the commis-
73 sioner of agriculture (general groundwater protection
74 rules for fertilizers and manures), are authorized.

75 (mm) The legislative rules filed in the state register
76 on the fifteenth day of September, one thousand nine
77 hundred ninety-two, modified by the commissioner of
78 agriculture to meet the objections of the legislative rule-
79 making review committee and refiled in the state
80 register on the nineteenth day of February, one thou-
81 sand nine hundred ninety-three, relating to the commis-
82 sioner of agriculture (primary and secondary contain-
83 ment of fertilizers), are authorized with the amend-
84 ments set forth below:

85 “On page five, by striking out all of subsection 5.5 and
86 inserting in lieu thereof a new subsection 5.5 to read as

87 follows: "The operator or his licensed representative
88 shall sign and date each application under oath."; and

89 On page eighteen, by striking out all of subsection 14.1
90 and inserting in lieu thereof a new subsection 14.1 to
91 read as follows:

92 'All moneys for the purpose of the enforcement and
93 administration of this rule shall come from general
94 revenue funds appropriated by the legislature for that
95 purpose. The net proceeds of civil penalties collected
96 pursuant to W.Va. Code §20-5M-10a or any civil
97 administrative penalties collected pursuant to W.Va.
98 Code §20-5M-10c will be deposited in the groundwater
99 remediation fund established in W.Va. Code §20-5M-1.
100 et. seq.'"

101 (nn) The legislative rules filed in the state register on
102 the fifteenth day of September, one thousand nine
103 hundred ninety-two, modified by the commissioner of
104 agriculture to meet the objections of the legislative rule-
105 making review committee and refiled in the state
106 register on the nineteenth day of February, one thou-
107 sand nine hundred ninety-three, relating to the commis-
108 sioner of agriculture (general groundwater protection
109 rules for pesticides), are authorized.

110 (oo) The legislative rules filed in the state register on
111 the fifteenth day of September, one thousand nine
112 hundred ninety-two, modified by the commissioner of
113 agriculture to meet the objections of the legislative rule-
114 making review committee and refiled in the state
115 register on the nineteenth day of February, one thou-
116 sand nine hundred ninety-three, relating to the commis-
117 sioner of agriculture (bulk pesticide operational rules),
118 are authorized.

119 (pp) The legislative rules filed in the state register on
120 the fifteenth day of September, one thousand nine
121 hundred ninety-two, modified by the commissioner of
122 agriculture to meet the objections of the legislative rule-
123 making review committee and refiled in the state
124 register on the nineteenth day of February, one thou-
125 sand nine hundred ninety-three, relating to the commis-
126 sioner of agriculture (non-bulk pesticide rules for

127 permanent operational areas), are authorized.

§64-9-12. West Virginia state board of registration for professional engineers.

1 (a) The legislative rules filed in the state register on
2 the twenty-ninth day of November, one thousand nine
3 hundred eighty-five, modified by the West Virginia
4 state board of registration for professional engineers to
5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the
7 twenty-eighth day of January, one thousand nine
8 hundred eighty-six, relating to the West Virginia state
9 board of registration for professional engineers (legisla-
10 tive rules governing the West Virginia state board of
11 registration for professional engineers), are authorized.

12 (b) The legislative rules filed in the state register on
13 the twenty-third day of December, one thousand nine
14 hundred eighty-seven, modified by the West Virginia
15 state board of registration for professional engineers to
16 meet the objections of the legislative rule-making review
17 committee and refiled in the state register on the
18 twenty-ninth day of January, one thousand nine hundred
19 eighty-eight, relating to the West Virginia state board
20 of registration for professional engineers (rules of the
21 West Virginia state board of registration for profes-
22 sional engineers), are authorized.

23 (c) The legislative rules filed in the state register on
24 the first day of October, one thousand nine hundred
25 ninety, modified by the West Virginia board of regis-
26 tered professional engineers to meet the objections of the
27 legislative rule-making review committee and refiled in
28 the state register on the seventeenth day of January, one
29 thousand nine hundred ninety-one, relating to the West
30 Virginia board of registered professional engineers
31 (regulations governing the board of registration for
32 registered professional engineers), are authorized.

33 (d) The legislative rules filed in the state register on
34 the twelfth day of November, one thousand nine
35 hundred ninety-two, modified by the board of registra-
36 tion for registered professional engineers to meet the
37 objections of the legislative rule-making review commit-

38 tee and refiled in the state register on the twenty-third
 39 day of February, one thousand nine hundred ninety-
 40 three, relating to the board of registration for profes-
 41 sional engineers (West Virginia board of registration for
 42 professional engineers), are authorized with the amend-
 43 ment set forth below:

44 "On page thirty-five, by striking out all of subsection
 45 19.6 and inserting in lieu thereof a new subsection 19.6
 46 to read as follows:

47 "19.6 The fees for various services provided by the
 48 Board are:

	Engineer Intern	Professional Engineer
	<hr/>	<hr/>
52 Application Fee:	\$25.00	\$40.00
53 Examination Fees:		
54 Board's Administration		
55 Charge:	\$20.00	\$20.00
56 NCEES' Examination Charge:		
57 As charged by NCEES		
58 Registration Fee:		\$25.00
59 Annual Renewal Fee For:		
60 a Professional Engineer:		\$35.00
61 a Professional Engineer-Retired:		\$25.00
62 Certificate of Authorization:		
63 Application Fee for Firms or		
64 Organizations with three		
65 Professional Engineers or Less:		\$10.00
66 Renewal Fee for Firms or		
67 Organizations with three		
68 Professional Engineers or Less:		\$5.00
69 Application Fee for Firms or		
70 Organizations with more than		
71 three Professional Engineers:		\$60.00
72 Renewal Fee for Firms or		
73 Organizations with more than		

74	three Professional Engineers	\$30.00
75	Comity Application Fee:	\$120.00
76	Temporary Permit:	\$200.00
77	Roster Fee:	----\$10.00----
78	Replacement Certificates:	----\$20.00----
79	Return Check Fee:	----\$15.00----

§64-9-16. Board of medicine.

1 (a) The legislative rules filed in the state register on
 2 the twelfth day of May, one thousand nine hundred
 3 eighty-three, relating to the board of medicine (licens-
 4 ing, disciplinary and complaint procedures; podiatry;
 5 physicians assistants), are authorized with the modifica-
 6 tions set forth below:

7 "§24.12.

8 (b) It shall be the responsibility of the supervising
 9 physician to obtain consent in writing from the patient
 10 before Type A physician assistants employed in a
 11 satellite clinic may render general medical or surgical
 12 services, except in emergencies.

13 §24.16.

14 (a) No physician assistant shall render nonemergency
 15 outpatient medical services until the patient has been
 16 informed that the individual providing care is a
 17 physician assistant."

18 (b) The legislative rules filed in the state register on
 19 the twenty-sixth day of November, one thousand nine
 20 hundred eighty-five, modified by the board of medicine
 21 to meet the objections of the legislative rule-making
 22 review committee and refiled in the state register on the
 23 seventeenth day of January, one thousand nine hundred
 24 eighty-six, relating to the board of medicine (licensing,
 25 disciplinary and complaint procedures; podiatry; physi-
 26 cians assistants), are authorized.

27 (c) The legislative rules filed in the state register on
 28 the eighth day of March, one thousand nine hundred
 29 eighty-five, modified by the West Virginia board of
 30 medicine to meet the objections of the legislative rule-
 31 making review committee and refiled in the state

32 register on the eighteenth day of December, one
33 thousand nine hundred eighty-five, relating to the West
34 Virginia board of medicine (rules governing the
35 approval of medical schools not accredited by the liaison
36 committee on medical education), are authorized.

37 (d) The legislative rules filed in the state register on
38 the third day of June, one thousand nine hundred eighty-
39 seven, relating to the board of medicine (fees for services
40 rendered by the board of medicine), are authorized.

41 (e) The legislative rules filed in the state register on
42 the sixteenth day of September, one thousand nine
43 hundred eighty-eight, modified by the board of medicine
44 to meet the objections of the legislative rule-making
45 review committee and refiled in the state register on the
46 twenty-fourth day of February, one thousand nine
47 hundred eighty-nine, relating to the board of medicine
48 (dispensing of legend drugs by physicians and podia-
49 trists), are authorized with the following amendments:

50 Section 2.6 to read as follows: "Dispense means to
51 deliver a legend drug to an ultimate user or research
52 subject by or pursuant to the lawful order of a physician
53 or podiatrist, including the prescribing, packaging,
54 labeling, administering or compounding necessary to
55 prepare the drug for that delivery."

56 And,

57 Section 3.3 to read as follows: "Physicians or podia-
58 trists who are not registered with the Board as dispens-
59 ing physicians may not dispense legend drugs. However,
60 the following activities by a physician or podiatrist shall
61 be exempt from the requirements of sections 3 through
62 8 applicable to dispensing physicians:

63 a. Legend drugs administered to the patient, which
64 are not controlled substances when an appropriate
65 record is made in the patient's chart;

66 b. Professional samples distributed free of charge by
67 a physician or podiatrist or certified physician assistant
68 under his or her supervision to the patient when an
69 appropriate record is made in the patient's chart; or

70 c. Legend drugs which are not controlled substances
71 provided by free clinics or under West Virginia state
72 authorized programs, including the Medicaid, family
73 planning, maternal and child health, and early and
74 periodic screening and diagnosis and treatment pro-
75 grams: *Provided*, That all labeling provisions of section
76 8 shall be applicable except the requirements of section
77 8.3 (a).”

78 (f) The legislative rules filed in the state register on
79 the tenth day of August, one thousand nine hundred
80 ninety, modified by the board of medicine to meet the
81 objections of the legislative rule-making review commit-
82 tee and refiled in the state register on the first day of
83 October, one thousand nine hundred ninety, relating to
84 the board of medicine (fees for services rendered by the
85 board of medicine), are authorized.

86 (g) The legislative rules filed in the state register on
87 the tenth day of August, one thousand nine hundred
88 ninety, modified by the board of medicine to meet the
89 objections of the legislative rule-making review commit-
90 tee and refiled in the state register on the eleventh day
91 of January, one thousand nine hundred ninety-one,
92 relating to the board of medicine (licensing and
93 disciplinary and complaint procedures: physicians;
94 podiatrists), are authorized.

95 (h) The legislative rules filed in the state register on
96 the tenth day of August, one thousand nine hundred
97 ninety, modified by the board of medicine to meet the
98 objections of the legislative rule-making review commit-
99 tee and refiled in the state register on the eleventh day
100 of January, one thousand nine hundred ninety-one,
101 relating to the board of medicine (certification, discipli-
102 nary and complaint procedures: physician assistants),
103 are authorized.

104 (i) The legislative rules filed in the state register on
105 the tenth day of July, one thousand nine hundred ninety-
106 one, modified by the board of medicine to meet the
107 objections of the legislative rule-making review commit-
108 tee and refiled in the state register on the third day of
109 September, one thousand nine hundred ninety-one,

110 relating to the board of medicine (continuing education
111 for physicians and podiatrists), are authorized.

112 (j) The legislative rules filed in the state register on
113 the twenty-fifth day of March, one thousand nine
114 hundred ninety-two, modified by the board of medicine
115 to meet the objections of the legislative rule-making
116 review committee and refiled in the state register on the
117 nineteenth day of May, one thousand nine hundred
118 ninety-two, relating to the board of medicine (licensing,
119 disciplinary and complaint procedures: physicians,
120 podiatrists), are authorized.

121 (k) The legislative rules filed in the state register on
122 the seventeenth day of September, one thousand nine
123 hundred ninety-two, modified by the board of medicine
124 to meet the objections of the legislative rule-making
125 review committee and refiled in the state register on the
126 sixteenth day of November, one thousand nine hundred
127 ninety-two, relating to the board of medicine (certifica-
128 tion, disciplinary and complaint procedures, continuing
129 education, physician assistants), are authorized, with the
130 following amendment:

131 On page six, section 11-1B-2, subsection 2.8 (c), after
132 the words "in writing" and the comma, by striking out
133 the words "prior to" and inserting in lieu thereof the
134 words "within ten days of".

§64-9-18. Board of examiners for registered professional nurses.

1 (a) The legislative rules filed in the state register on
2 the thirteenth day of September, one thousand nine
3 hundred eighty-three, relating to the board of examiners
4 for registered professional nurses (qualifications of
5 graduates of foreign nursing schools for admission to the
6 professional nurse licensing examination), are
7 authorized.

8 (b) The legislative rules filed in the state register on
9 the third day of August, one thousand nine hundred
10 ninety, modified by the board of examiners for regis-
11 tered professional nurses to meet the objections of the
12 legislative rule-making review committee and refiled in

13 the state register on the twenty-eighth day of Sep-
14 tember, one thousand nine hundred ninety, relating to
15 the board of examiners for registered professional
16 nurses (announcement of advanced nursing practice),
17 are authorized.

18 (c) The legislative rules filed in the state register on
19 the tenth day of September, one thousand nine hundred
20 ninety-two, modified by the board of examiners for
21 registered professional nurses to meet the objections of
22 the legislative rule-making review committee and
23 refiled in the state register on the nineteenth day of
24 January, one thousand nine hundred ninety-three,
25 relating to the board of examiners for registered
26 professional nurses (limited prescriptive authority for
27 nurses in advanced practice), are authorized.

§64-9-20. Board of pharmacy.

1 (a) The legislative rules filed in the state register on
2 the second day of October, one thousand nine hundred
3 eighty-four, modified by the board of pharmacy to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the ninth
6 day of January, one thousand nine hundred eighty-five,
7 relating to the board of pharmacy (parenteral/enteral
8 compounding), are authorized.

9 (b) The legislative rules filed in the state register on
10 the twelfth day of September, one thousand nine
11 hundred eighty-nine, modified by the board of phar-
12 macy to meet the objections of the legislative rule-
13 making review committee and refiled in the state
14 register on the fifteenth day of November, one thousand
15 nine hundred eighty-nine, relating to the board of
16 pharmacy (board of pharmacy), are authorized.

17 (c) The legislative rules filed in the state register on
18 the sixth day of May, one thousand nine hundred ninety,
19 modified by the board of pharmacy to meet the objec-
20 tions of the legislative rule-making review committee
21 and refiled in the state register on the fifth day of June,
22 one thousand nine hundred ninety, relating to the board
23 of pharmacy (continuing education for the licensure of
24 pharmacists), are authorized.

25 (d) The legislative rules filed in the state register on
26 the eleventh day of March, one thousand nine hundred
27 ninety-one, modified by the board of pharmacy to meet
28 the objections of the legislative rule-making review
29 committee and refiled in the state register on the
30 twenty-fourth day of May, one thousand nine hundred
31 ninety-one, relating to the board of pharmacy (computer
32 regulations), are authorized.

33 (e) The legislative rules filed in the state register on
34 the twenty-eighth day of August, one thousand nine
35 hundred ninety-one, modified by the board of pharmacy
36 to meet the objections of the legislative rule-making
37 review committee and refiled in the state register on the
38 eighth day of January, one thousand nine hundred
39 ninety-two, relating to the board of pharmacy (licensure
40 of wholesale drug distributors), are authorized.

41 (f) The legislative rules filed in the state register on
42 the twenty-eighth day of August, one thousand nine
43 hundred ninety-one, modified by the board of pharmacy
44 to meet the objections of the legislative rule-making
45 review committee and refiled in the state register on the
46 eighth day of January, one thousand nine hundred
47 ninety-two, relating to the board of pharmacy (mail
48 order house), are authorized.

49 (g) The legislative rules filed in the state register on
50 the fifteenth day of September, one thousand nine
51 hundred ninety-two, modified by the board of pharmacy
52 to meet the objections of the legislative rule-making
53 review committee and refiled in the state register on the
54 twenty-eighth day of January, one thousand nine
55 hundred ninety-three, relating to the board of pharmacy
56 (board of pharmacy), are authorized with the amend-
57 ments set forth below:

58 On page forty-nine, subsection (f), after the words
59 'who presents a' by inserting the word 'new';

60 And,

61 On page fifty, subdivision (1), after the words 'who
62 presents a' by inserting the word 'new'".

§64-9-21. Board of examiners of psychologists.

1 (a) The legislative rules filed in the state register on
2 the twentieth day of December, one thousand nine
3 hundred eighty-four, relating to the board of examiners
4 of psychologists (examination fee), are authorized.

5 (b) The legislative rules filed in the state register on
6 the sixteenth day of September, one thousand nine
7 hundred eighty-eight, modified by the board of examiners
8 of psychologists to meet the objections of the
9 legislative rule-making review committee and refiled in
10 the state register on the twenty-third day of November,
11 one thousand nine hundred eighty-eight, relating to the
12 board of examiners of psychologists (penalties and fees),
13 are authorized.

14 (c) The legislative rules filed in the state register on
15 the first day of October, one thousand nine hundred
16 ninety-one, modified by the board of examiners of
17 psychologists to meet the objections of the legislative
18 rule-making review committee and refiled in the state
19 register on the eleventh day of December, one thousand
20 nine hundred ninety-two, relating to the board of
21 examiners of psychologists (penalties and fees), are
22 authorized.

23 (d) The legislative rules filed in the state register on
24 the first day of October, one thousand nine hundred
25 ninety-one, modified by the board of examiners of
26 psychologists to meet the objections of the legislative
27 rule-making review committee and refiled in the state
28 register on the sixth day of August, one thousand nine
29 hundred ninety-two, relating to the board of examiners
30 of psychologists (qualifications for licensure as a
31 psychologist), are authorized.

§64-9-23. Real estate commission.

1 (a) The legislative rules filed in the state register on
2 the fourth day of December, one thousand nine hundred
3 eighty-nine, modified by the real estate commission to
4 meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the eighth
6 day of January, one thousand nine hundred ninety,
7 relating to the real estate commission (renewal of license
8 - continuing education), are authorized.

9 (b) The legislative rules filed in the state register on
10 the twenty-fifth day of July, one thousand nine hundred
11 ninety-one, modified by the real estate commission to
12 meet the objections of the legislative rule-making review
13 committee and refiled in the state register on the
14 twenty-first day of November, one thousand nine
15 hundred ninety-one, relating to the real estate commis-
16 sion (requirements in licensing real estate brokers and
17 salesmen and the conduct of brokerage businesses), are
18 authorized.

19 (c) The legislative rules filed in the state register on
20 the fourth day of September, one thousand nine hundred
21 ninety-two, modified by the real estate commission to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the tenth
24 day of November, one thousand nine hundred ninety-
25 two, relating to the real estate commission (require-
26 ments in licensing real estate brokers and salesmen and
27 the conduct of brokerage business), are authorized.

§64-9-24. Secretary of state.

1 (a) The legislative rules filed in the state register on
2 the fifteenth day of April, one thousand nine hundred
3 eighty-five, modified by the secretary of state to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the eighth
6 day of October, one thousand nine hundred eighty-five,
7 relating to the secretary of state (standard size and
8 format for rules and related documents filed in the
9 secretary of state's office), are authorized.

10 (b) The legislative rules filed in the state register on
11 the seventeenth day of August, one thousand nine
12 hundred eighty-seven, modified by the secretary of state
13 to meet the objections of the legislative rule-making
14 review committee and refiled in the state register on the
15 twenty-third day of September, one thousand nine
16 hundred eighty-seven, relating to the secretary of state
17 (standard size and format for rules and procedures for
18 publication of the state register or parts of the state
19 register), are authorized.

20 (c) The legislative rules filed in the state register on

21 the first day of September, one thousand nine hundred
22 eighty-nine, modified by the secretary of state to meet
23 the objections of the legislative rule-making review
24 committee and refiled in the state register on the
25 twentieth day of November, one thousand nine hundred
26 eighty-nine, relating to the secretary of state (West
27 Virginia farm product lien central filing system), are
28 authorized.

29 (d) The legislative rules filed in the state register on
30 the thirteenth day of August, one thousand nine hundred
31 ninety, relating to the secretary of state (guidelines for
32 the use of nicknames and other designations on the
33 ballot), are authorized.

34 (e) The legislative rules filed in the state register on
35 the fourteenth day of November, one thousand nine
36 hundred ninety, relating to the secretary of state
37 (absentee voting by military voters who are members of
38 reserve units called to active duty), are authorized.

39 (f) The legislative rules filed in the state register on
40 the seventh day of October, one thousand nine hundred
41 ninety-one, modified by the secretary of state to meet the
42 objections of the legislative rule-making review commit-
43 tee and refiled in the state register on the twenty-eighth
44 day of May, one thousand nine hundred ninety-two,
45 relating to the secretary of state (filing fee for credit
46 service organizations), are authorized.

47 (g) The legislative rules filed in the state register on
48 the seventh day of October, one thousand nine hundred
49 ninety-one, modified by the secretary of state to meet the
50 objections of the legislative rule-making review commit-
51 tee and refiled in the state register on the twenty-eighth
52 day of May, one thousand nine hundred ninety-two,
53 relating to the secretary of state (combined voter
54 registration and driver licensing programs), are auth-
55 orized.

§64-9-28. West Virginia cable television advisory board.

1 (a) The legislative rules filed in the state register on
2 the twenty-eighth day of September, one thousand nine
3 hundred ninety, modified by the West Virginia cable

4 television advisory board to meet the objections of the
5 legislative rule-making review committee and refiled in
6 the state register on the twenty-second day of January,
7 one thousand nine hundred ninety-one, relating to the
8 West Virginia cable television advisory board (franchis-
9 ing procedures), are authorized.

10 (b) The legislative rules filed in the state register on
11 the twenty-eighth day of September, one thousand nine
12 hundred ninety, modified by the West Virginia cable
13 television advisory board to meet the objections of the
14 legislative rule-making review committee and refiled in
15 the state register on the twenty-second day of January,
16 one thousand nine hundred ninety-one, relating to the
17 West Virginia cable television advisory board (imple-
18 menting regulations), are authorized.

19 (c) The legislative rules filed in the state register on
20 the fourth day of December, one thousand nine hundred
21 ninety-two, modified by the West Virginia cable
22 television advisory board to meet the objections of the
23 legislative rule-making review committee and refiled in
24 the state register on the tenth day of February, one
25 thousand nine hundred ninety-three, relating to the
26 West Virginia cable television advisory board (imple-
27 menting regulations), are authorized.

**§64-9-31. Real estate appraiser licensing and certification
board.**

1 (a) The legislative rules filed in the state register on
2 the eighteenth day of July, one thousand nine hundred
3 ninety-one, modified by the real estate appraiser
4 licensing and certification board to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the eighteenth day of
7 November, one thousand nine hundred ninety-one,
8 relating to the real estate appraiser licensing and
9 certification board (rules and regulations of the real
10 estate appraiser licensing and certification board), are
11 authorized.

12 (b) The legislative rules filed in the state register on
13 the eighteenth day of July, one thousand nine hundred
14 ninety-one, modified by the real estate appraiser

15 licensing and certification board to meet the objections
16 of the legislative rule-making review committee and
17 refiled in the state register on the eighteenth day of
18 November, one thousand nine hundred ninety-one,
19 relating to the real estate appraiser licensing and
20 certification board (requirements of licensure and
21 certification), are authorized.

22 (c) The legislative rules filed in the state register on
23 the eighteenth day of July, one thousand nine hundred
24 ninety-one, modified by the real estate appraiser
25 licensing and certification board to meet the objections
26 of the legislative rule-making review committee and
27 refiled in the state register on the eighteenth day of
28 November, one thousand nine hundred ninety-one,
29 relating to the real estate appraiser licensing and
30 certification board (renewal of licensure or certifica-
31 tion), are authorized.

32 (d) The legislative rules filed in the state register on
33 the seventh day of July, one thousand nine hundred
34 ninety-two, modified by the real estate appraiser
35 licensing and certification board to meet the objections
36 of the legislative rule-making review committee and
37 refiled in the state register on the fourteenth day of
38 August, one thousand nine hundred ninety-two, relating
39 to the real estate appraiser licensing and certification
40 board (requirements of licensure and certification), are
41 authorized.

§64-9-34. Board of occupational therapy.

1 The legislative rules filed in the state register on the
2 eleventh day of September, one thousand nine hundred
3 ninety-two, modified by the board of occupational
4 therapy to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the first day of February, one thousand nine
7 hundred ninety-three, relating to the board of occupa-
8 tional therapy (administrative rules of the board of
9 occupational therapy), are authorized.

§64-9-35. Board of social work examiners.

1 The legislative rules filed in the state register on the

2 thirtieth day of October, one thousand nine hundred
3 ninety-two, modified by the board of social work
4 examiners to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the sixteenth day of February, one thousand
7 nine hundred ninety-three, relating to the board of social
8 work examiners (qualifications for licensure as a social
9 worker), are authorized.

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

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originating in the House.

Takes effect from passage.

Harold E. Nelson
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Steve Sundt
.....
President of the Senate

Paul E. Blum
.....
Speaker of the House of Delegates

The within *is approved* this the *9th*
day of *June* 1993.

Walter J. Pugh
.....
Governor



PRESENTED TO THE
GOVERNOR

Date 10/8

Time 9:19 am